

ILLICIT DRUG TRAFFICKING IN COTE D'IVOIRE

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I. HISTORICAL BACKGROUND AND CURRENT TRENDS

In 1973, the Economic and Social Council of Côte d'Ivoire was reporting of the spread of drugs in Côte d'Ivoire and highlighted the need for efficient transnational cooperation to fight against illicit drug trafficking: "The drug issue is a fairly recent phenomenon which current development must make us aware that evil exists, that we must stop it before it is too late and help each other, with our neighbours and other nations, if we want to achieve concrete results"¹.

The strategic geographical position of Côte d'Ivoire, located between the producer countries of Latin America and Asia and the consumer countries of Europe, and the presence of the most important port in West Africa, made it a drug-transit country. Then, by dint of crossing the country, drugs ended up affecting the local populations and the phenomenon of consumption has increased, taking advantage of the migratory flows and the economic growth.

Until the mid-1980s, the most common drug was cannabis, mainly grown in isolated clandestine plantations and located in forested areas.

Table A. Cannabis seizures and offenders 1969–1971

Year	Seized and destroyed quantity*	Number of offenders arrested	Ivoirians
1969	13,1	6	5
1970	8	36	7
1971	28,658	61	17

*Unit: Kilograms

Although there are no official statistics about the scope of cannabis production, studies on the issue show that its increase was due to the collapse of coffee and cocoa prices on which Côte d'Ivoire had founded its economy. After their abrupt loss of income, farmers have found a lucrative substitute through the cannabis crop, which was hidden in tens of hectares of coffee or cocoa plantations.

According to a survey undertaken by the OGD between 1994 and 1995, two thirds of cannabis farmers in the country began cultivating in response to the price collapse of cocoa and coffee. 22 Cannabis farmers earn about CFA 500,000 for a sack weighing 20 – 25 kg; CFA 20 – 25,000 per kilo. When crop yields are taken into account, a farmer who devotes 0.1 ha to cannabis cultivation can earn the equivalent of 30 – 40 ha of cocoa cultivation.²

While income seeking is the primary driver of cannabis cultivation, its growth must also be considered within the context of local consumption. In addition to domestically produced cannabis, other drugs have spread, including heroin, cocaine and amphetamine-type stimulants introduced by land, air and sea from

* Judge, Court of First Instance of Abidjan, Côte d'Ivoire.

¹ Economic and Social Council of Côte d'Ivoire, Rapport sur le problème de la drogue en Côte d'Ivoire, (Abidjan, 1973; pubd online 2017) <<http://ces.ci/accueil/saisinedetail/58>> accessed 6 Apr. 2018.

² United Nations Office for Drug Control and Crime Prevention, *The Drug Nexus in Africa*, (Austria, 1999 ; pubd online 1999) <https://www.unodc.org/pdf/report_1999-03-01_1.pdf> accessed 6 Apr. 2018.

neighbouring countries — such as Ghana and Nigeria — which are hubs of international traffic.

Table B. Drug seizures from 2010 to 2015

Year	Cannabis	Heroin	Cocaine	BZDs*	ATS	Non-specified
2010	3643,25 kg	0,637 kg	1,995 kg			84880 units
2011*	691,207 kg	0,927 kg	0,991 kg			101944 tablets
2012	3991,227 kg	45,341 kg	27,346 kg	116 316 tablets		
2013	4152,896 kg	4,33 kg	20,947 kg	3422,094 g	1254 kg	197136 tablets
2014	2,897 Tons	1,778 kg	9,77 kg	7,273 kg	0,5 kg***	12268 kg***
2015	4,02 Tons	0,78 kg	18,08 kg	3,82 kg	96,4 g	

* Benzodiazepines / ** Five months only / *** First six months

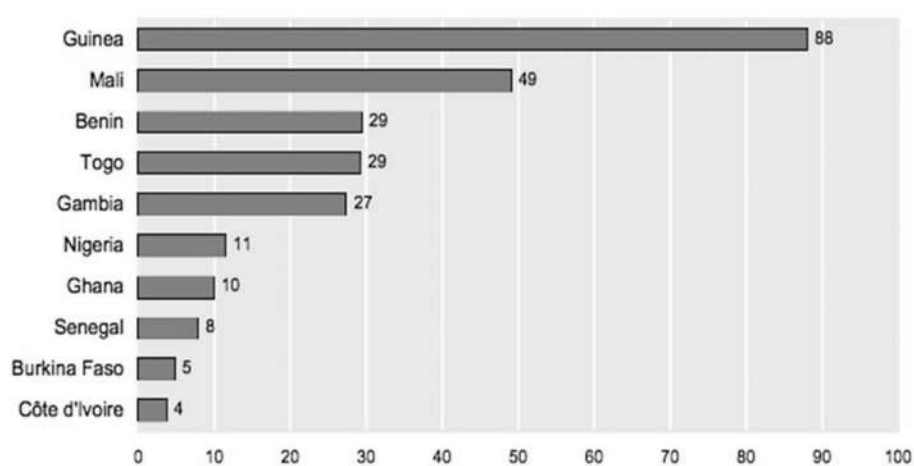
Source: *www.unodc.org*

In 2002, with the country split between a rebel-held North and a government-held South, drug trafficking actors made the most of the opportunity to implement new modes of consumption. In urban areas, makeshift shelters for narcotics and psychotropic substance consumption — called *fumoirs* — were implanted and are constantly developing. In Côte d'Ivoire there is at least one of these drug areas in each city. At least one hundred are reported to exist in Abidjan alone. Frequent police demolition operations do not seem to deter leaders of illicit drug trafficking, who find a significant financial windfall with it.

In the specific case of cocaine smuggling, Côte d'Ivoire remains a transit country that does not play a central role in the traffic.

Despite being well connected to Europe, Cote d'Ivoire is the source of very few of the couriers and has had no major seizures associated with its territory. More research would be required to determine why this country seems to be overlooked by cocaine traffickers, particularly as it was formerly a favourite point for transshipping heroin.³

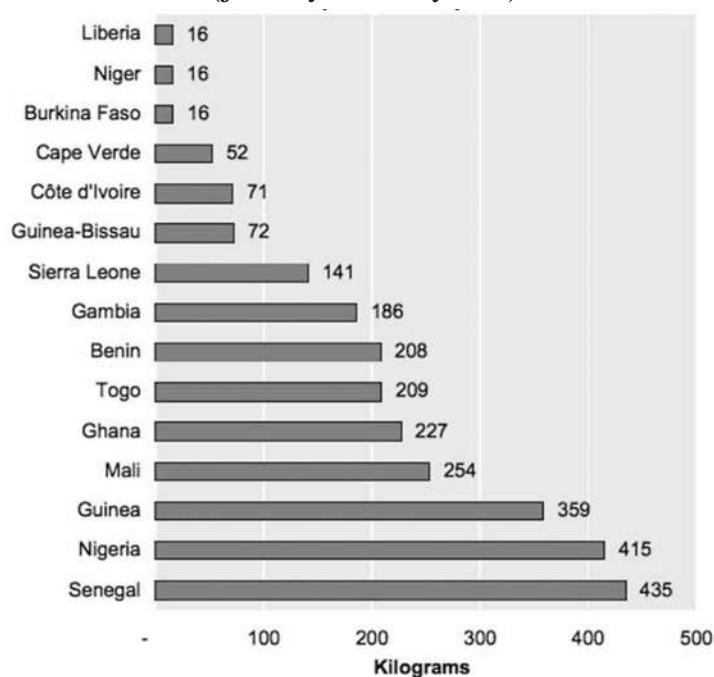
Figure 1. Detected cocaine couriers on flights to Europe per 100,000 international passengers by country of embarkation (January 2006-May 2008)



Source: *Elaborated from Interpol (COCAF); UNODC (IDS); and ICAO¹⁹*

³ United Nations Office on Drugs and Crime, *Drug Trafficking As A Security Threat In West Africa*, (pubd online November 2008) <<http://www.unodc.org/documents/data-and-analysis/Studies/Drug-Trafficking-WestAfrica-English.pdf>> accessed 8 Apr. 2018.

Figure 2. Cocaine seizure volume on flights to Europe by country of embarkation (January 2006-May 2008)



Source: COCAF/IDS database

II. LEGAL AND INSTITUTIONAL TOOLS

Until the 1980s, Decree No. 53-100 of 5 October 1953 established the Public Health Code that governed drug offences. Since the adoption of Law No. 88-686 of July 22th 1988 establishing repression against illicit traffic and use of narcotics, psychotropic substances and poisonous substances, Côte d'Ivoire has had a repressive legal tool. Also, the country has set up specialized structures and agencies to fight against illicit drug trafficking.

A. Criminal Justice System in Côte d'Ivoire

As a former French colony, Côte d'Ivoire has inherited from France the legal system of Civil Law, as opposed to the Common Law system, which is mainly found in English-speaking countries. In accordance with the principle of the right of appeal, in criminal cases as in civil cases, the judicial system is divided between the Lower Courts – which are the First Instance Courts – and the Upper Courts – or Appeal Courts. First instance and Appeal Courts judge at the same time the facts and the law, whereas the Supreme Court rules only on the legality of Lower Courts' decisions.

Criminal courts punish infringements against property, individuals and society. The Penal Code, which defines and punishes offences, and the Code of Penal Procedure, which establishes the framework of criminal procedures, distinguish three types of public offences and the relevant courts which have jurisdiction to hear such matters. Thereby, contraventions that are minor offences are punishable by a maximum term of imprisonment of 2 months and/or a fine that does not exceed CFA 360,000 (650 USD). They are referred to the *Tribunaux de simple police*. Offences punishable by more than 2 months and less than 10 years of imprisonment are called *délits* and are referred to the *Tribunaux correctionnels*. Finally, crimes that are serious felonies are heard by the *Cours d'Assises*, which are composed by three professional judges and six jury members. When minors⁴ have committed crimes or *délits*, juvenile courts and juvenile assize courts are solely competent to rule on such cases.

In some special cases such as criminal cases, or when the complexity of the case demands it, the Public

⁴ According to the Penal Code, a minor is a person who has not reached the age of 18 at the time of committing the offence.

Prosecutor requires the opening of a judicial inquiry. He then seizes an examining judge who is in charge of conducting investigation within the limits of the mandate given by the prosecutor in his initial indictment⁵. This is the inquisitorial system, as opposed to the adversarial system used in Common Law countries.

At the end of his inquiry, if the judge finds that the charges are sufficient, he sends the case to the relevant court for judgement. In Côte d'Ivoire, the principle of collegiality is applied in such a way that every hearing is presided over by one judge (called the President) who is assisted by assessors. Most drug cases are investigated directly by law enforcement agencies under the supervision of the Public Prosecutor⁶.

B. The Existing Legal Framework for Investigation and Prosecution of Drug Offences

Côte d'Ivoire is party to the main treaties and conventions in the field of drugs and international crime. Thus, it has acceded to:

- (i) The Single Convention of Narcotic Drugs, 1961;
- (ii) The Convention on Psychotropic Substances, 1971;
- (iii) The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988;
- (iv) The United Nations Convention against Transnational Organized Crime, 2000.

At the national level, the provisions of the 1988 Act punish cultivation, production, manufacture, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation and exportation of drugs.

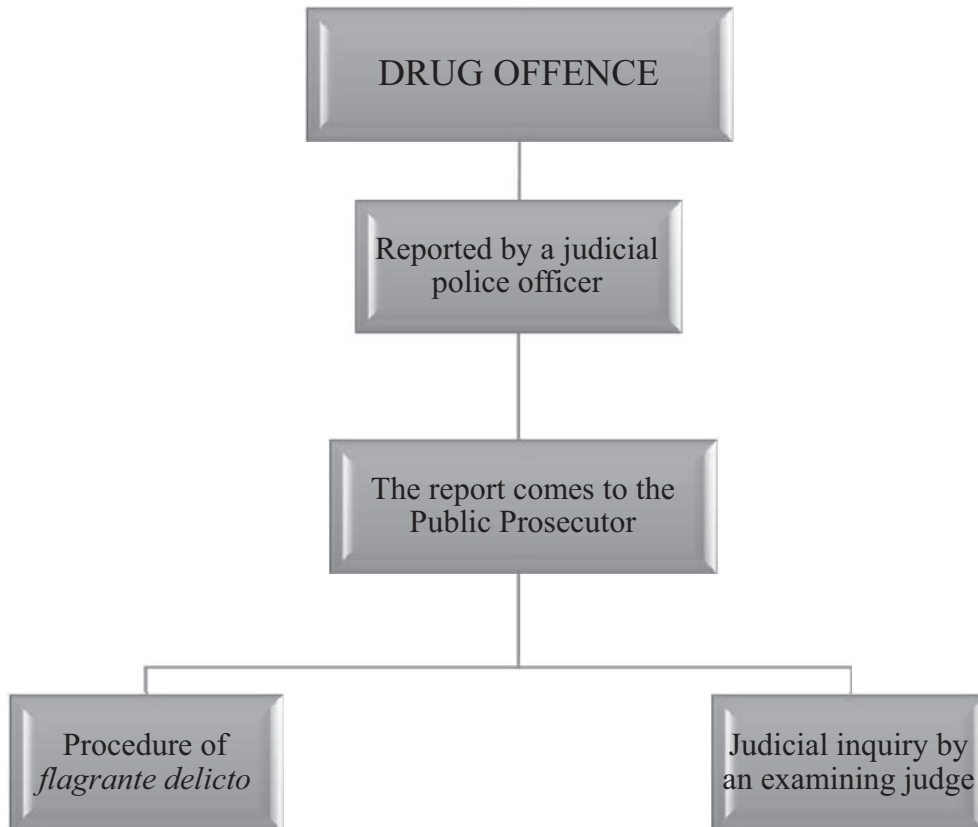
The sentences of imprisonment under this text are severe and the perpetrators of these offences cannot benefit from extenuating circumstances. For example, possession of drugs for consumption is punishable by a minimum sentence of twelve months' imprisonment and a fine of CFA 200,000 (350 USD). Similarly, possession of drugs for the purpose of sale is punishable by at least five years in prison and a fine of CFA 500,000 (900 USD).

In accordance with the Penal Code and the Code of Criminal Procedure, an investigator — who shall be a judicial police officer — reports these offences to the Public Prosecutor, who decides on the mode of prosecution. He can either choose the procedure known as *flagrante delicto* or require an investigating judge to open a judicial inquiry.

⁵ A criminal case may be brought before an investigating judge either by the Public Prosecutor as well as a victim. Even in the second situation, the judge has to open a case after the initial indictment of the prosecutor. He cannot open a criminal investigation *sua sponte*.

⁶ See paragraph B below.

Chart 1. Investigation and prosecution in drug offence cases



The cases that are referred to the Tribunal most frequently are those of consumption and narcotic sale. Insofar as these are material offences, the seizure of the drug is one of the crucial elements upon which the judge's decision rests. Therefore, the investigator's work must be meticulous.

C. Actual Drug Cases

The main cases of drug offences are those of consumption and sale. Two actual cases have been chosen to be exposed in order to illustrate the current trends. The first one concerns three individuals who were brought before the Criminal Court on charges of drug consumption. Following anonymous information, officers of the Department of Narcotics and Drugs police had apprehended those three people and seized 400 grams of cannabis in the vicinity of a *fumoir*. During the pre-trial investigation, two of them admitted being found in possession of cannabis, while the third claimed to have been arrested outside the *fumoir*. At the hearing, they all contested the charges against them. The Court found that the charge against the third defendant, on whom no drugs had been found, was insufficient, and sentenced each of the two others to twelve months' imprisonment and a CFA 200,000 (350 USD) fine, which is the minimum penalty for such cases. In most of the consumption-related cases, when several people are arrested at the same time, they often name their provider or the owner of the *fumoir*. But the investigators' task is made difficult by the lack of information, which is most often limited to a nickname.

However, the second example demonstrates the effectiveness of some investigations. In a procedure in which two persons had been sentenced for heroin and cocaine sale, the defendant was named as the owner of several *fumoires*. Following a radio message from the Police Department of Narcotics and Drugs, the suspect was arrested and interrogated. He told the investigating officers that he used to supply several drug sellers. He has been brought before the Correctional Court under the charge of possession of drugs for sale. As he had not been arrested in possession of drugs, the charge has been modified in that of facilitation to other people of the use of narcotics, and he was sentenced to 10 years' imprisonment, CFA 10,000,000 (18,000 USD) fine and his movable and immovable property was confiscated, as it was alleged to be the product of the offence or to have been used to commit it.

In these two actual cases, as well as in the most common drug-related cases, the preliminary phase led by

law enforcement agencies is crucial.

D. Governmental Structures and Specialized Agencies

The Ivorian government has set up numerous specialized agencies in charge of hunting and arresting drug offenders:

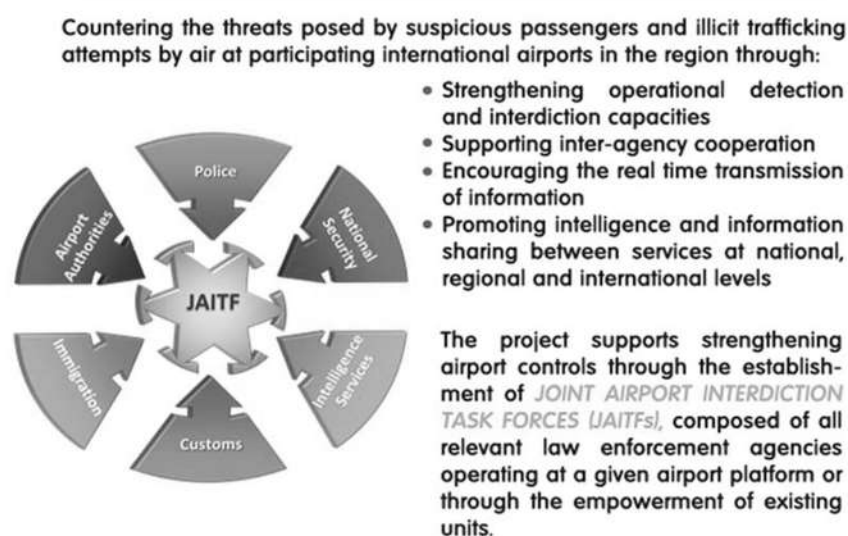
- (i) The Inter-ministerial Committee to Combat Drug Abuses (CILAD). Created by Decree No. 94-399 of July 28, 1994, this committee coordinates the action of administrations and structures involved in prevention, information, medico-social care and the repression of drug addiction. It is overseen by the Ministry of the Interior;
- (ii) The Police Department of Narcotics and Drugs (DPDS);
- (iii) The Anti-Drug Section of the National Gendarmerie;
- (iv) The Transnational Organized Crime Unit (UCT). Created by decree No. 2014-675 of November 5, 2014 and supported by the United Nations Office on Drugs and Crime, the UCT's core mission is to combat all types of trafficking, fight against corruption and money laundering as well as maritime piracy. It also has to provide the competent authorities with information for the development of control strategies and policies and to conduct investigations to gather evidence for prosecution;
- (v) The Airport Anti-Trafficking Cell. This unit gathers interministerial structures of the National Police, National Gendarmerie, Customs and Waters and Forestry. It was created as part of the AIRCOP Project⁷.

E. International Cooperation

By ratifying the main international conventions on the fight against drugs, Côte d'Ivoire has undertaken to cooperate with other States Parties. It therefore joined two major international projects.

1. Airport Communication Programme (AIRCOP)

This multi-agency project gathers the UNODC, the World Customs Organization (WCO) and the International Criminal Police Organization (INTERPOL) along with 24 countries in Africa, Latin America, Europe and the Caribbean. Funded by the European Union, Canada, Japan, Norway and the United States, it aims to facilitate joint investigations and rapid exchange of operational information between law enforcement agencies to promote intelligence-led investigations for intercepting drugs in participating countries.



Source; www.unodc.org

⁷ See Section C-1 below.

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In Côte d'Ivoire, the Joint Airport Interdiction Task Force is now operational, after several training and monitoring sessions.

2. The West Africa Coast Initiative (WACI)

At the regional level, the ECOWAS Action Plan to Address the Growing Problem of Illicit Drug Trafficking, Organized Crime and Drug Abuse in West Africa is backed by the United Nations and INTERPOL through the West Africa Coast Initiative (WACI). It is in a start-up phase in Côte d'Ivoire.

WACI is a joint technical assistance framework aimed at:

- Enhancing national enforcement and justice institutions; and to build capacity for better national, regional and international enforcement cooperation;
- Creating Transnational Organized Crime Units (TCUs) for national inter-agency enforcement coordination, information exchange and intelligence gathering, and serving as the entry and support point for regional and international enforcement operations;
- Increasing regional and national capacity-building, primarily in the vulnerable countries, as identified by ECOWAS (Côte d'Ivoire, Guinea, Guinea-Bissau, Liberia, and Sierra Leone);
- Contributing to security sector reform in the WACI countries.⁸

⁸ Presentation of the WACI <<http://www.unodc.org/westandcentralafrica/en/newrosenwebsite/TOC/waci.html>>