

MAPPING STUDY



Ombuds Institutions for the armed forces in francophone countries of sub-Saharan Africa





Ombuds Institutions for the Armed Forces in Francophone Countries of sub-Saharan Africa



DCAF
a centre for security,
development and
the rule of law

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ACRONYMS AND ABBREVIATIONS

CESOC	Economic, Social and Cultural Council (Niger)
CSO	Civil Society Organization
DCAF	Geneva Centre for the Democratic Control of Armed Forces
DRC	Democratic Republic of the Congo
FAFN	Forces Armées des Forces Nouvelles (Côte d'Ivoire)
FANCI	Forces Armées Nationales de Côte d'Ivoire
ICOAF	International Conference of Ombuds Institutions for the Armed Forces
IHL	International Humanitarian Law
IHRL	International Human Rights Law
MoD	Ministry of Defence
NCHRF	National Commission on Human Rights and Freedoms (Cameroon)
NHRC	National Human Rights Commission (Niger, Togo)
OIF	Organisation Internationale de la Francophonie
SSG	Security Sector Governance
SSR	Security Sector Reform/Security System Reform

Foreword

This mapping study on ombuds institutions for the armed forces in francophone sub-Saharan African states is a project initiated under the aegis of the Organisation Internationale de la Francophonie (OIF) in collaboration with the Geneva Centre for the Democratic Control of Armed Forces (DCAF), in the framework of the OIF programme “Providing Support to Peacekeeping and Peacebuilding”. The mapping study is the continuation of extensive research conducted within the context of a first project entitled “Ombuds Institutions for the Armed Forces in Francophone Africa: Burkina Faso, Burundi and Senegal” (the report of this was published by DCAF in 2013 – see Bibliography), and aims to highlight the significance of such institutions as mechanisms strengthening democratization, good governance and security sector reform (SSR), thus promoting democratic transition processes.

The OIF supports states in post-conflict contexts and democratic transition in order to restore constitutional order and strengthen political institutions. The Bamako Declaration (3 November 2000) has led the francophone community to consolidate the rule of law as an area of priority attention. The objective is establishing the rule of law in times of peacebuilding through the adoption of institutional reforms aimed at restoring political stability and democracy, and also promoting the protection and respect of human rights and fundamental

freedoms. In the framework of its programme “Providing Support to Peacekeeping and Peacebuilding”, the OIF encourages strengthening state capacity and promoting the principles of the rule of law, which involves the establishment of mediation processes, counselling and awareness campaigns for governments and their populations. Democratic governance of the security sector is becoming one of the key objectives to support and strengthen the functions of a state in post-conflict settings. Initiatives implemented in OIF member states and designed to strengthen the peace process have demonstrated that mediation between civil personnel and security sector members is crucial: it constitutes a means of peaceful settlement of disputes and is an essential tool for the prevention of future conflicts. The establishment of sustainable peace in countries emerging from an armed conflict or a violent context involves the implementation of the principles of good governance and the adoption of SSR measures.

DCAF is fully engaged in supporting and promoting ombuds institutions for the armed forces, and supports the International Conference of Ombuds Institutions for the Armed Forces. These ombuds institutions play a key role in promoting and respecting the principles of the rule of law and respect for human rights. They promote dialogue and act as intercessors between security sector members and the civilian population, and thus help strengthen mutual trust and the effectiveness of activities carried out by security forces. DCAF’s commitment to and cooperation with ombuds institutions for the armed forces have three main objectives: to formulate policy recommendations aimed at strengthening the functioning of these institutions; to support international cooperation between existing ombuds institutions; and to promote the exchange of best practices and experiences among these institutions.

Ambassador Ridha Bouabid
Permanent Representative of
the OIF to the United Nations in
Geneva

Ambassador Theodor H. Winkler
Director, DCAF

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This research project would not have been possible without the participation and essential contribution of numerous ombuds institutions: the Ombudsman of Burundi, the National Commission on Human Rights and Freedoms of Cameroon, the Mediator of Madagascar, the Mediator of the Republic of Niger, the Mediator of the Republic of Senegal and the National Human Rights Commission of Togo. DCAF would like to thank all the individuals and organizations of these countries who took the time and effort to provide information and insights for the mapping study.

In this study, DCAF organized interviews and discussions with several national and international representatives, and would like to thank Colonel Jean-Pierre Bayala (judicial adviser and international multidisciplinary consultant on issues of security sector reform), Judge Kassoum Kambou (magistrate and first Secretary General of the Mediator of Burkina Faso), Djely Karifa Samoura (adviser to the Ombudsman of the Republic of

Guinea), Alima Déborah Traoré-Diallo (Mediator of Burkina Faso) and Alexis Ahonzo (director of the Civil and Military Cabinet of the Minister to the President of the Republic of Côte d'Ivoire, in charge of defence).

The DCAF Research Division is grateful to Mary McFadyen, the Ombudsman and Public Interest Disclosure Commissioner for the province of Saskatchewan, for the review of the study. As well as all DCAF colleagues who shared their expertise, and would like to thank the following people for their input and support: Benjamin S. Buckland, Armelle Vessier, Kim Piaget, Nargiz Arupova, Yasmine Saedi, Riina Turtio, Mpako Foaleng and General Guy de Haynin.

Executive Summary

This mapping study project on ombuds institutions for the armed forces in francophone countries in sub-Saharan Africa draws on extensive research undertaken as part of a previous OIF-DCAF research project in 2013 entitled “Ombuds Institutions for the Armed Forces in Francophone Africa: Burkina Faso, Burundi and Senegal”. The mapping study includes all OIF francophone countries in sub-Saharan Africa. The results of the study are based on survey replies, interviews and discussions with representatives of the ombuds institutions concerned, as well as national and international experts.

The objectives of the mapping study are to develop a comprehensive analysis of the activities and role of the ombuds institutions; to identify factors that may facilitate or hinder the establishment and functioning of such institutions; to encourage ombuds institutions to deal with the armed forces and to improve the functioning and effectiveness of existing institutions; and to involve the ombuds institutions of the states concerned in the global process of exchanging good practice and experience between existing ombuds institutions.

Five out of the 12 states examined in this study do have general ombuds institutions whose mandates include military matters, or institutions performing the same functions (e.g. national human rights commission):

Burkina Faso, Cameroon, Niger, Senegal and Togo. Another five states have established general ombuds institutions, but without jurisdiction over the armed forces: Burundi, Côte d'Ivoire, Republic of Guinea, Madagascar and Mali. Two states have no ombuds institution: Comoros and the Democratic Republic of the Congo.

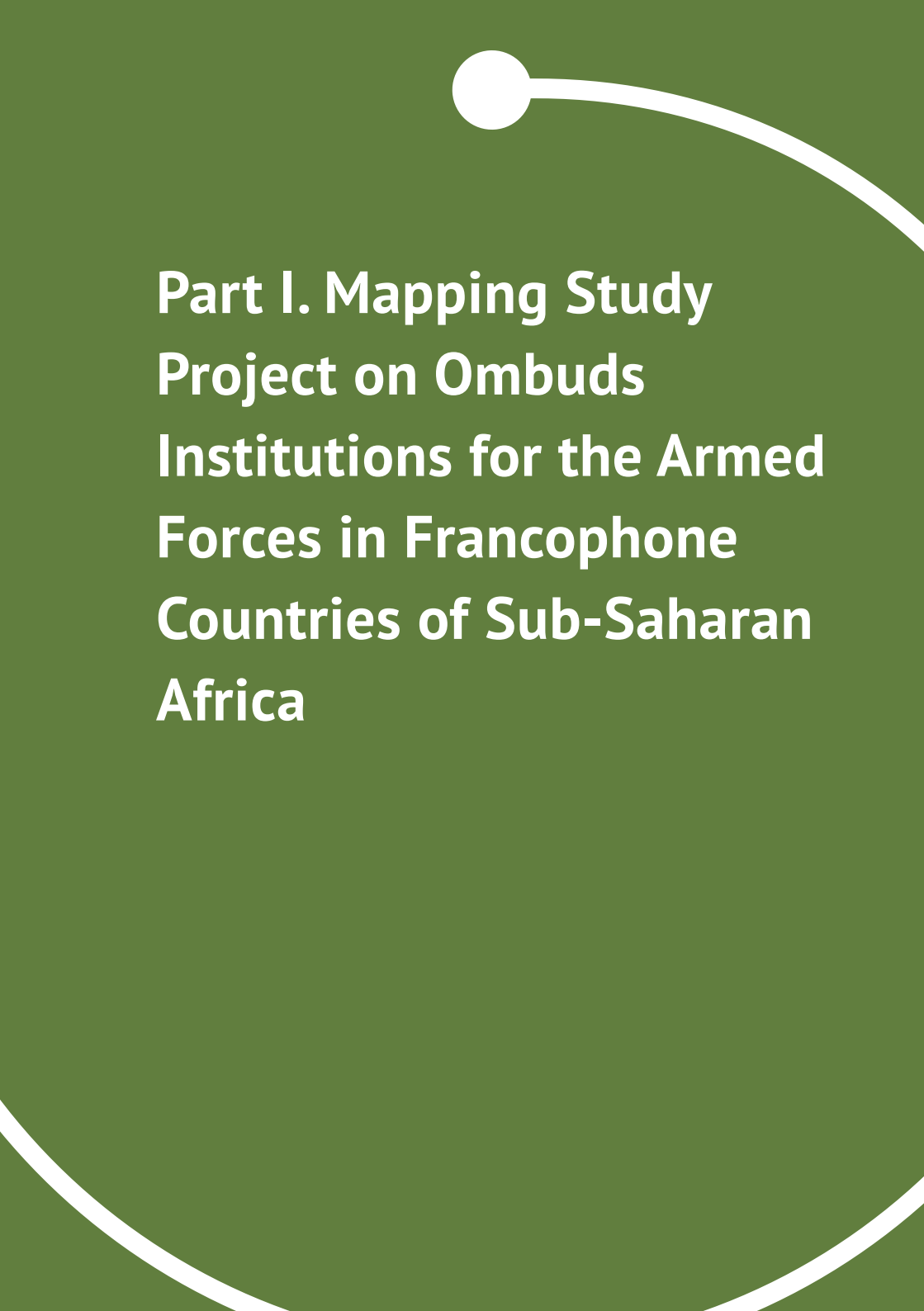
General ombuds institutions in the French-speaking countries of sub-Saharan Africa that were examined in this study share several common characteristics.

1. In general, the ombuds institutions are involved in handling cases related to human rights violations and maladministration in the context of relations between individuals and public authorities. In some countries, ombuds institutions are not mandated to deal with the armed forces.
2. Issues of governance and security sector reform in francophone countries of sub-Saharan Africa are not well documented.
3. There are, strictly speaking, no ombuds institutions for the armed forces that are specifically responsible for cases relating to members of the security forces or armed forces in the examined countries, outside parliamentary oversight mechanisms and oversight mechanisms integrated within the armed forces (as is the case, for example, of the Inspector General of the Armed Forces in Senegal, and the Inspector General of the Armed Forces in Niger).
4. Ombuds institutions are located outside the hierarchy of the government agencies, including the armed forces that they are suppose to oversee. This institutional set-up strengthens the independence and impartiality of ombuds institutions *vis-à-vis* the government and armed forces.
5. Through its power of recommendation, the ombuds institution's mission is to promote and propose institutional, legal or social reforms. In countries where the ombuds institution is responsible for cases involving military personnel, it ensures that members of the armed forces behave according to human rights and international humanitarian law standards. However, in a majority of cases the ombuds institution does not have the power of a court and relies on the willingness of the government and armed forces to implement recommendations.

6. Communication tools (reports, media communication channels) enable ombudspersons to make their role better known to citizens and members of the security forces, and thus contribute to improving the effectiveness and legitimacy of their mission. The majority of ombuds institutions in francophone countries in sub-Saharan Africa have also developed communication programmes and campaigns to raise public awareness about the protection and promotion of human rights and principles of the rule of law.

As will be examined in the mapping study, the main challenges are related to strengthening the mandate of the ombuds institution to receive and investigate complaints involving relations among or between the security forces and the population. Visibility, information and communication are also aspects that can be improved, as well as communication and the sharing of information with the armed forces. Financial and personnel resources play a significant role in functioning and efficiency, and should be focused on when establishing an ombuds institution.

These challenges can be overcome, as demonstrated by the establishment of an ombuds institution with exclusive jurisdiction over the armed forces (e.g. Cote d'Ivoire), the extension of the mandate of general ombuds institutions to the armed forces (e.g. Burkina Faso, Cameroon, Niger, Senegal, Togo), improving relations and the sharing of information between ombuds institutions and the armed forces, and training of an ombuds institution's personnel.



**Part I. Mapping Study
Project on Ombuds
Institutions for the Armed
Forces in Francophone
Countries of Sub-Saharan
Africa**

Chapter 1. Overview of the Mapping Study

1. PRESENTATION AND OBJECTIVES OF THE STUDY

This mapping study on ombuds institutions for the armed forces in francophone countries in sub-Saharan Africa draws on extensive research undertaken as part of a previous OIF-DCAF research project entitled “Ombuds Institutions for the Armed Forces in Francophone Africa: Burkina Faso, Burundi and Senegal”.¹ The mapping study includes all OIF francophone countries in sub-Saharan Africa.

The mapping study aims to:

- develop a comprehensive analysis of the operation and activities of ombuds institutions for the armed forces in francophone sub-Saharan African countries.
- identify the factors that may facilitate or hinder, in certain circumstances, the establishment and functioning of such institutions in the countries covered by the study.
- encourage the establishment of ombuds institutions to deal exclusively with the armed forces – or a specialized office within ombuds institutions with a general mandate – as well as to improve the functioning and effectiveness of existing institutions.
- involve the ombuds institutions of the states concerned in the global process of exchanging good practice and experience between existing ombuds institutions.

The mapping study is part of DCAF's programme on Ombuds Institutions for the Armed Forces, which aims to formulate policy recommendations to strengthen the functioning of these institutions on the basis of policy-oriented research, and to support international cooperation between these institutions in various countries.

DCAF is committed to promoting ombuds institutions for the armed forces, and supports the International Conference of Ombuds Institutions for the Armed Forces (ICOAF), which brings together representatives of ombuds institution from around the world and contributes to a better understanding of their role and functions. Several francophone African countries - including Burkina Faso, Burundi, Cameroon, Cote d'Ivoire, Madagascar, Mali, Niger, Senegal and Togo, supported by DCAF – took part in the discussions during the fourth ICOAF conference held in Ottawa (2012),² the fifth ICOAF in Oslo (2013), the sixth ICOAF in Geneva (2014), and the seventh ICOAF in Prague (2015).⁴

2. METHODOLOGY

The mapping study project was based on three successive stages.

The first step consisted of selecting the countries that would be part of the study and thoroughly investigating the existence, operation and/or possible malfunctions of ombuds institutions in these countries. The states covered by the mapping study are **francophone countries in sub-Saharan Africa**,⁵ including Benin, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Comoros, Democratic Republic of the Congo (DRC), Republic of the Congo, Côte d'Ivoire, Djibouti, Equatorial Guinea, Gabon, Republic of Guinea, Madagascar, Mali, Mauritania, Mauritius, Niger, Rwanda, Senegal, Seychelles and Togo. The states studied should be **members of the OIF**, which is the case for the majority of the aforementioned states.⁶

The second stage involved devising a questionnaire that was submitted to the ombuds institutions of the countries in question, in order to facilitate comparative assessment. The aim was to understand the different approaches taken by ombuds institutions in francophone sub-Saharan

Africa; identify and share experiences and best practices; and enable institutions to strengthen their capacity and improve their effectiveness in the control they may exert over armed forces. This process highlights on the one hand the elements explaining the absence, in some cases, of an ombuds institution with a specific mandate over armed forces, and on the other hand the elements that might play in favour of the establishment of such an institution.

The third and final stage centred mainly on an audit process to verify the validity of the results obtained, particularly through interviews with independent national and international experts. The interviews focused especially on aspects related to the independence, legitimacy and effectiveness of the ombuds institutions. The third step was designed to complement the ombuds institutions' responses to the questionnaire with the answers provided by the experts, in order to get an objective view of the surveyed countries and be able to confirm or refute the existence and effectiveness of ombuds institutions.

3. POTENTIAL OBSTACLES AND DIFFICULTIES ENCOUNTERED DURING THE RESEARCH

The difficulties encountered in implementing the project were primarily related to the selection of states and the unavailability and/or inaccessibility of some founding legal texts and other relevant documents.

In accordance with the selection criteria laid down above, the states likely to be concerned by the mapping study were divided into two main categories: first, those with an ombuds institution, namely Benin, Burkina Faso, Burundi, Central African Republic, Chad, Republic of the Congo, Côte d'Ivoire, Djibouti, Gabon, Republic of Guinea, Madagascar, Mali, Mauritania, Mauritius, Niger, Senegal and Seychelles; and second, states with an institution performing similar functions, such as Cameroon (National Commission on Human Rights and Freedoms – NCHRF), Rwanda (National Commission for Human Rights) and Togo (National Human Rights Commission – NHRC). However, several states were difficult to classify with respect to the selection criteria. This was the case, more specifically,

of Mali (suspended from the OIF during the research period because of the volatile security situation in the country); the Central African Republic (experiencing internal disturbances and violence); Madagascar (suspended from the OIF); and lastly the DRC, Equatorial Guinea and Comoros (these countries have no ombuds institution or national human rights commission exercising the same kind of mandate as that of an ombuds institution). Ultimately, the states selected for the study were **Burkina Faso, Burundi, Cameroon, Comoros, Côte d'Ivoire, Republic of Guinea, Madagascar, Mali, Niger, the DRC, Senegal and Togo.**

The reasons for this choice are directly related to the information received by DCAF through the questionnaire. It is important to note that relatively few states submitted answers to the questionnaire (see **Table 1**). DCAF would like to emphasize that contributions made by ombuds institutions from Burundi, Cameroon, Madagascar, Niger, Senegal and Togo in their questionnaire responses proved to be invaluable in establishing the comparative study. Some ombuds institutions which had expressed interest in the process of drafting the study were included by DCAF in the mapping study. This is the case, for example, of Mali and the Republic of Guinea. National experts from Burkina Faso and Côte d'Ivoire have also contributed to this project.

While researching this mapping study, DCAF had difficulty in gaining access to laws, other legal texts and relevant documents, as they sometimes existed only in hard copy and thus were not accessible online. The lack of access to key documents and texts led DCAF to contact the relevant institutions and/or national experts directly to obtain the information needed to conduct the study. DCAF also called upon the OIF and the Association of Ombudsmen and Mediators of La Francophonie to obtain contact details for countries where information was missing.

DCAF would like to underline the fact that the analysis of information has been limited to ombuds institutions' responses, some of which were partial or incomplete. Any information that is not explicitly referenced is drawn from the survey responses. Where appropriate, publicly available information (internet, annual activity reports, etc.) was incorporated to provide some background, especially for the member countries that did not answer the survey.

Chapter 2. Comparative Analysis of the Results Achieved

1. CLARIFICATIONS OF TERMINOLOGY AND RESPONSES RECEIVED

Terminology

For the purpose of this study, an **ombudsperson** or **mediator** is “an independent person who acts in dealing with the citizens’ complaints concerning injustice or cases of bad administration committed by state organs. After an elaborate and impartial examination, he [or she] determines if the complaint is justified and makes recommendations in aid of the organisation to resolve the problem. Some ombudsmen have the power to conduct lawsuits.”⁷ Two key features characterize the role of the ombudsperson: independence and impartiality.

The ombuds institution for the armed forces is a mechanism of independent of the military command structure that exercises oversight of the defence sector and helps to ensure that it observes the principles and practice of good governance. The military ombudsman addresses complaints about abusive behaviour in the military as well as shortcomings in military procedures, and formulates recommendations for corrective action.⁸ The institution must be an authority independent of political and military powers in order to allow effective and objective democratic control over security sector staff. Its objectives are, *inter alia*, to ensure respect for the rule of law in the armed forces, promote transparency and accountability in defence structures, enhance the efficiency and effectiveness of the

defence sector by formulating recommendations in particular on security sector reform (SSR), and strengthen the confidence of both the public and defence sector personnel in the military. There are different models of ombuds institutions for the armed forces: integrated within the armed forces; exclusive jurisdiction over the armed forces; and general ombuds institutions whose mandates include military and civilian matters.⁹

According to the report of the Secretary-General of the United Nations “Securing peace and development: The role of the United Nations in supporting security sector reform”, **SSR** “describes a process of assessment, review and implementation as well as monitoring and evaluation led by national authorities that has as its goal the enhancement of effective and accountable security for the State and its peoples without discrimination and with full respect for human rights and the rule of law”.¹⁰ Moreover, SSR highlights the need for security arrangements that take into account the linkages between the different actors. Equally, SSR underscores that effectiveness, accountability and democratic governance are mutually reinforcing elements of security.¹¹

Responses received

The comparative analysis of relevant legal texts,¹² as well as the review of the responses by ombuds institutions to the survey, led to the conclusion that issues of governance and SSR in francophone countries of sub-Saharan Africa are not well documented and there is, strictly speaking, no ombuds institution for the armed forces that is specifically responsible for cases relating to members of the security forces or armed forces in the examined countries, outside parliamentary oversight mechanisms and oversight mechanisms integrated within the armed forces (as is the case, for example, of the Inspector General of the Armed Forces in Senegal and the Inspector General of the Armed Forces in Niger).

For the purpose of the study, the states are separated into three groups:

- states with general ombuds institutions whose mandates include military matters, or institutions performing the same functions (e.g. national human rights commission).

- states with general ombuds institutions with no jurisdiction over the armed forces.
- states with no ombuds institution.

Table 1. Summary information on the results achieved

		Questionnaire	Extensive research	Interview
Institutions with jurisdiction over the armed forces	Burkina Faso		✓	✓
	Cameroon	✓	✓	
	Niger	✓	✓	
	Senegal	✓	✓	
	Togo	✓	✓	
Institutions with no jurisdiction over the armed forces	Burundi	✓	✓	
	Côte d'Ivoire		✓	✓
	Republic of Guinea		✓	✓
	Madagascar	✓	✓	
	Mali		✓	
No ombuds institution	Comoros		✓	
	DRC		✓	

2. COMPARATIVE ANALYSIS OF THE STUDIED NATIONAL CONTEXTS

This section presents and compares the models of ombuds institutions in the states selected for the mapping study. The executive summary and comparative tables give an overview of the existing ombuds institutions in francophone countries in sub-Saharan Africa through their mandates, functions and powers, their independence *vis-à-vis* political and military powers, and, finally, the possibility for these institutions to make recommendations and monitor their implementation.

Models of ombuds institutions

The questionnaire was sent to ombuds institutions in Benin, Burkina Faso, Burundi, Central African Republic, Chad, Congo, Côte d'Ivoire, Djibouti, Gabon, Republic of Guinea, Mauritius, Madagascar, Mali, Mauritania, Niger, Senegal and Seychelles. The questionnaire was also sent to states with institutions whose functions are similar to that of an ombuds institution, such as Cameroon (NCHRF), Rwanda (National Human Rights Commission) and Togo (NHRC). The DRC and Comoros have also been included in the study, although they have no ombuds institution, in order to understand the reasons for the lack of an ombuds institution.

Of the six states that responded to the questionnaire, four have an ombuds institution, or another institution performing the same functions, with a general jurisdiction including a mandate to deal with military affairs: Cameroon, Niger, Senegal and Togo.

Research and interviews with national experts revealed that among the other examined states, only one has a civil ombudsperson whose mandate can be extended to cases involving members of the armed and security forces: Burkina Faso. In all the other states that were selected in the project, the institution is civil in nature and is not intended to deal with cases involving military personnel or members of the security sector. This is the case of Burundi, Côte d'Ivoire, Republic of Guinea, Madagascar and Mali.

Table 2. Models of ombuds institution

General ombuds institution, or any other institution with the same functions, with jurisdiction over the armed forces	General ombuds institution with no jurisdiction over the armed forces	Countries with no ombuds institutions
Burkina Faso	Burundi	Comoros
Cameroon	Côte d'Ivoire	DRC
Niger	Republic of Guinea	
Senegal	Madagascar	
Togo	Mali	

Table 3. Establishment of ombuds institutions

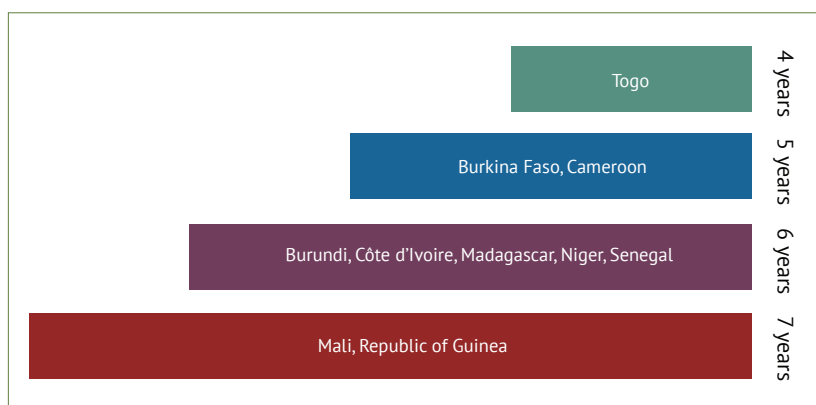
Timeline of the creation of ombuds institutions	
1991	Senegal
1992	Madagascar, Togo
1996	Burkina Faso
1997	Mali
2000	Burundi, Côte d'Ivoire
2004	Cameroon
2008	Niger*
2010	Republic of Guinea

* The post of Mediator, established for the first time in 2008, was subsequently abolished during the state of emergency, and reinstated by the Law n°2011-18 of 8 August 2011.

Mandate, functions and powers of ombuds institutions

In the majority of cases the ombudsperson is appointed for a non-renewable six-year term. This is the case in Burundi, Côte d'Ivoire, Madagascar, Niger and Senegal. In other cases, the term varies from four (Togo) to seven years (Republic of Guinea, Mali) (Table 4).

Table 4. Duration of the term



To understand the role and functions of ombuds institutions better, current prevailing opinion identifies **two essential elements**. Firstly, these institutions must provide **guarantees of independence, impartiality and fairness**. Secondly, they must, within their mandate, **investigate complaints, issue opinions and/or recommendations, propose reforms and make public**, in annual or thematic reports, the **results of activities** undertaken to strengthen the rule of law and human rights.

Table 5. Functions of the ombudsperson

	BURKINA FASO	BURUNDI	CAMEROON	CÔTE D'IVOIRE	GUINEA	MADAGASCAR	MALI	NIGER	SENEGAL	TOGO
Jurisdiction over the armed/security forces	✓		✓	✓*				✓	✓	✓
Own-motion investigation	✓		✓	✓	✓				✓	✓
Investigation	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Recommendation, implementation and monitoring	✓	✓	✓		✓	✓	✓	✓	✓	✓
Independence	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Annual and/or thematic report	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

* Ongoing process (see Part II, Chapter 4 – Côte d'Ivoire).

General ombuds institutions in the French-speaking countries of sub-Saharan Africa that were examined in this study share several characteristics:

- In general, these institutions are involved in the specific area of relations between individuals and public authorities, but they may sometimes also handle cases involving relations among or between the security forces and the population.¹³ In most cases, thus, when

the general ombuds institution has no jurisdiction over the armed forces, the institution mediates between the government and the population and aims at contributing to the proper functioning of the public administration.¹⁴ The overall mission of the ombudsperson is to exercise a regulatory function designed to ensure in particular the role of institutional intercessor, to settle disputes amicably and to prevent the recurrence of public services malfunction.¹⁵

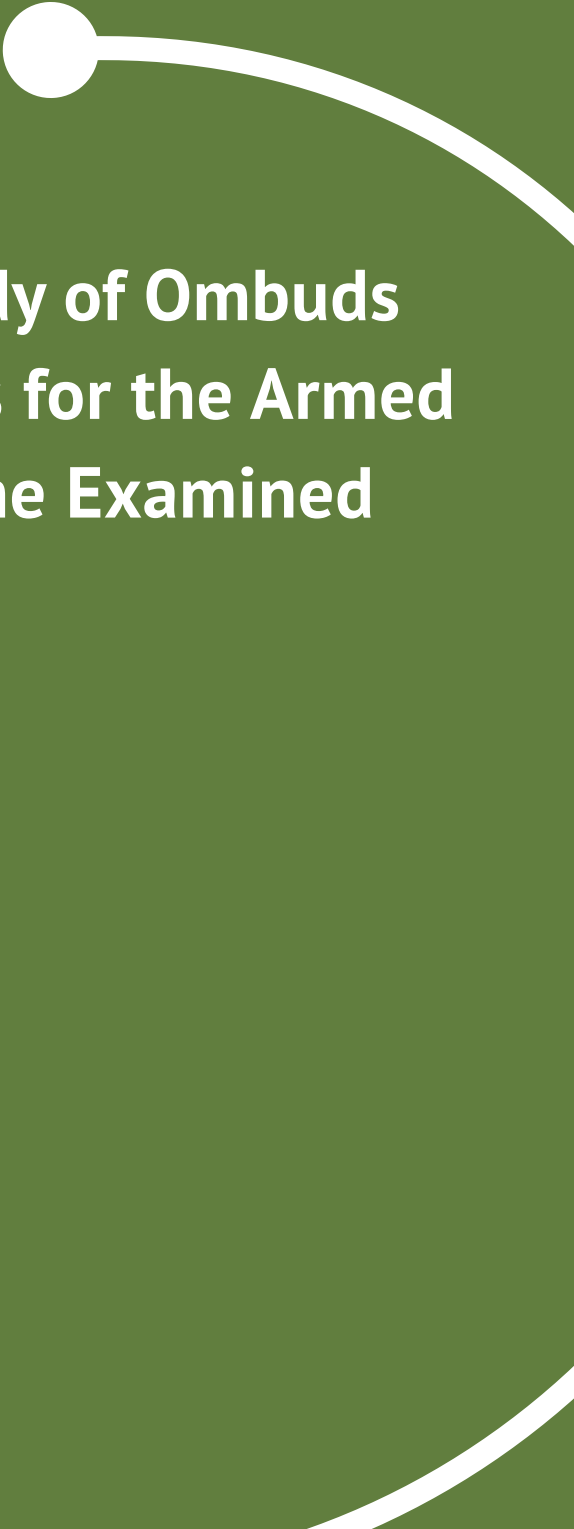
- Ombuds institutions provide, in general, guarantees of their independence from the government. Indeed, when processing claims submitted by the administration or the public, they must take decisions and make recommendations that are fair and impartial.¹⁶ In terms of guarantees of independence and impartiality, ombuds institutions established in sub-Saharan francophone countries must ensure that citizens claiming to have been wronged by the administration have easier access to their services. “Good practices”¹⁷ indicate that these institutions could also assert their impartiality in respect of the legislative and executive powers by establishing conditions for appointing the head of the institution and adopting internal regulations, which is not always the case in some of the states studied.
- Generally, ombuds institutions have investigative powers¹⁸ to address complaints filled by citizens, the public or members of the armed and security forces,¹⁹ and may also, in certain circumstances, have the power to examine cases brought to their attention *proprio motu*.²⁰
- Through its power of recommendation, the ombuds institution’s mission is to promote and propose institutional, legal or social reforms. Note that in cases where the institution is responsible for cases involving military personnel, it also promotes the protection and respect of human rights²¹ by ensuring that members of the armed forces behave according to human rights and international humanitarian law (IHL) standards. However, in a majority of cases the ombuds institution cannot intervene in cases if the matter has been referred to a court.²²
- Communication tools (reports, media communication channels) enable ombudspersons to make their role better known to citizens

and members of the security forces, and thus contribute to improving the effectiveness and legitimacy of their mission. The majority of ombuds institutions in francophone countries in sub-Saharan Africa have developed communication programmes and campaigns to raise public awareness of respect for and promotion of human rights and principles of the rule of law.²³

Best practices and recommendations

Ombuds institutions play a key role in improving public services, strengthening and consolidating the principles of the rule of law, and fostering relations between the administration and citizens. Several “best practices”²⁴ for identifying the function and role of the mediator have thus been established.

- General ombuds institutions aim to uphold the principles of justice and equity through supervision and control of the legality and regularity of the acts of the administration. This allows them to ensure respect for and protection of citizens’ rights and to make recommendations to the government for the adoption of fair and equitable measures.
- An ombud institution is mandated to receive and investigate complaints from civilians and armed forces personnel about human rights violations and maladministration within or by the armed forces.
- An ombuds institution has all necessary powers to fulfil its mandate, including powers to conduct investigations, to hear officials and witnesses under oath, and to have access to premises and documents of the armed forces.
- While most ombuds institutions do not have the power of a court to enforce implementation, they monitor the follow-up of their recommendations by the government and/or armed forces.
- Ombuds institutions ensure communication and transparency in public institutions, including through thematic and/or annual reports, to ensure that citizens have a better understanding of the administration’s operation and activities.



Part II. Study of Ombuds Institutions for the Armed Forces in the Examined Countries

Chapter 3. General Ombuds Institutions, or any other institution with similar functions, with jurisdiction over the Armed Forces: Burkina Faso, Cameroon, Niger, Senegal and Togo

BURKINA FASO²⁵

1. NATIONAL CONTEXT AND SECURITY SECTOR

National context, political system and human rights situation

Burkina Faso, a landlocked sub-Saharan country with an estimated population of 16.93 million,²⁶ gained independence from France in August 1960. The country has lived through 11 regimes and six heads of state over the last 52 years, of whom only one was a civilian: Maurice Yaméogo (1960–1966). The political and social environment in Burkina Faso has been contentious following the establishment of the Senate, which created a schism in national politics. Consultations are held with the various stakeholders, including religious communities, in order to preserve social peace. In terms of human rights, according to the Fédération internationale des ligues des droits de l'Homme, there is a degree of public mistrust and fear due to the persistence of torture and ill treatment, maintenance of the death penalty in the national legislation and inhuman and degrading conditions of detention.²⁷ The government of Burkina Faso has made several commitments to protect human rights

better, including the adoption of a number of measures in its national legislation to honour its international commitments, although more sustained efforts are needed, in particular *vis-à-vis* the effectiveness and implementation of economic, social and cultural rights.

Overview of the security sector, SSR and key challenges

The security forces include the army, the police and the gendarmerie. The armed forces are under the control of the executive branch, with a mandate to protect people and goods. However, according to Colonel Jean-Pierre Bayala, they tend primarily to protect the authorities.²⁸ There are two main categories within the Burkinabese security forces: the armed forces – responsible for the state’s external security – and the internal security forces – including the police, gendarmerie, municipal police, the fire brigade and other paramilitary forces heavily involved in national security (e.g. the customs service, the water and forestry service and prison guards), local authority officers and private security companies; and other military forces may be requisitioned on an *ad hoc* basis.²⁹ The first security sector governance (SSG) framework was established by Act No. 032-2003/AN of 14 May 2003 on internal security.

Regarding SSR and SSG, the Parliamentary Committee on Defence and Security was established within the National Assembly to ensure operational control of security sector members’ activities and coordination between services, and to organize Burkina Faso’s national security strategy. There is also the General Inspectorate of the Armed Forces, which is responsible for the enforcement of laws and regulations resulting from the decisions of the Ministry of Defence (MoD), and which can control the ability of forces to accomplish the missions assigned to them.³⁰ The inspectorate is headed by a general officer or senior officer titled Inspector General of the National Armed Forces and appointed by decree of the Council of Ministers.³¹ The Inspector General can also investigate the operational functioning of services, although, according to Colonel Bayala, his role is limited in practice. A military court, which is a special court of the regular court system, is not attached to the executive but is part of the judiciary. The court constitutes a means of deterrence and law enforcement as a last resort, in cases of serious misconduct.

Colonel Bayala considers that the existing civilian oversight mechanisms over the armed forces do not always meet the criteria of independence and impartiality.³² It is therefore necessary to implement comprehensive reforms to establish and comply with the principles of good governance and rule of law.

According to Colonel Bayala, there is an increase in delinquency and crime, organized banditry and corruption which dangerously blights the state apparatus.³³ The major challenges to the security sector, according to Judge Kassoum Kambou,³⁴ are poor governance, corruption and lack of public trust in the security forces, especially because of the arbitrary arrest of some civilians by these same forces. In the view of the two commentators, abuses against civilians are frequently committed by the military, such as physical or property damage, which prevent the military and civilians from living in harmony. Thus soldiers are providers of insecurity instead of protecting and promoting the security of the state and its people.³⁵ Within the security forces, several cases of unfair dismissal and difficulties related to the reintegration of former members of the armed forces into society have been observed. Corruption, theft and breach of the hierarchy are obstacles to the proper functioning of the internal security forces.³⁶ In the course of 2011, Burkina Faso experienced a series of mutinies in various military garrisons.³⁷ These mutinies resulted in the arrest and detention in June 2011 of more than 300 soldiers, who have been detained since that date awaiting trial, creating a situation that undermines the right to a fair trial delivered in a reasonable time.

2. THE MEDIATOR OF BURKINA FASO

Presentation of the institution

Origins and legal basis

The origins of the Mediator of Burkina Faso can be traced back to the adoption of Recommendation No. 6 of the first Annual Conference on Public Administration of Burkina Faso that was held in September 1993, in response to the need for a mechanism to protect citizens' rights and

interests.³⁸ Following this recommendation, the Mediator of Burkina Faso was established by Organic Act No. 22/94/ADP of 17 May 1994. Two years were necessary for the institution to become operational, and it began operating on 17 May 1996. Decree No. 95-293/PRES on the organization, functioning and competencies of the Mediator of Burkina Faso (31 July 1995) and Order No. 20106491/MEDIA-FA/CAB establishing administrative divisions of the Mediator and defining its territorial scope provide a framework of the activities, functions and powers of the ombuds institution.

The current Mediator is Alima Déborah Traoré-Diallo (fourth Mediator of Burkina Faso, in office since June 2006).

Mandate and functions

The Mediator of Burkina Faso is appointed by decree of the president (after consultation with the prime minister and the presidents of the National Assembly and the Constitutional Council) for a non-revocable and non-renewable five-year term. S/he has a general jurisdiction to deal with civilian and military complaints filed against arbitrary action perpetrated by the administration and other government agencies. The Mediator cannot intervene in disputes between private natural persons or legal entities; political problems of a general nature; or matters that are already under the jurisdiction of a court or that challenge a court decision.

Between 2007 and 2014 the Mediator of Burkina Faso received 176 complaints related to the MoD, 77 requests for information and 99 informal complaints (for 93 of them, the Mediator was competent; for six of them, she was not).³⁹ Generally, complaints are related to careers, rehabilitation, working conditions, pensions, reparation, health insurance and protection. During the period 2007–2014 the Mediator received four complaints from civil society (three individual complaints; one collective complaint).

Independence

The independence of the Mediator is strengthened by the fact that she cannot be prosecuted, arrested, detained or judged in respect of any

opinion she may voice or any act she may accomplish in the performance of her duties. According to the founding texts of the institution, in order to avoid conflict of interest, the Mediator shall only perform the duties and tasks defined in her mandate and may not hold any other office or engage in any other employment unless expressly authorized by the President of Burkina Faso. The Mediator's term of office may only be terminated before her mandate expires if she is permanently unable to fulfil her duties, as established by the Constitutional Council after the matter has been referred to the Constitutional Council by the President of Burkina Faso.

Mandate over the armed forces

In Burkina Faso, as mentioned above, cases concerning the armed forces are processed by the Mediator, which has general jurisdiction over civil and military complaints filed against arbitrary action committed by the administration and other government agencies. The advantage of this model is that both civilians and members of the armed forces are likely to receive equal treatment and protection of their rights. However, an ombuds institution with a general mandate can also be inconvenient, especially in the absence of a civil ombudsperson to oversee armed forces' activities and given the fact that the armed and security forces are generally reluctant to establish such an ombuds institution.⁴⁰

Assessment and recommendations

Oversight powers

The Mediator of Burkina Faso is endowed with the power of auditing and investigating; the power of accessing information; the power of sanctioning; the power of issuing injunctions (when the claim involves breach of a court order); and a power of recommending reforms. Moreover, the Mediator has the power to make recommendations, and may request the competent authority to initiate disciplinary proceedings against any harmful official or, where appropriate, refer a complaint to the criminal court.

Challenges

Due mainly to the civil mediator's lack of an effective role in receiving and investigating complaints related to the armed forces, the role of the Mediator in military affairs is limited. Furthermore, the fact that the security forces seem to be rather averse to the development of an institution that would monitor their activities is hampering the functioning of the Mediator. According to Colonel Bayala, the main obstacle to the functioning of an ombuds institution dealing specifically with military affairs is essentially the mistrust felt by the military authority towards any control of its members' actions.⁴¹ The Mediator of Burkina Faso has indicated that the main challenges are the mandate and the complexity of military matters which are very specific, and also the lack of communication with the armed forces.⁴² The strategy adopted by the Mediator is to communicate with armed forces personnel through a special representative appointed by the MoD whose role is to facilitate communication between the Mediator and the MoD.⁴³

Recommendations

It needs to be noted that further improving the effective handling of complaints related to the armed forces depends on the wider state of affairs concerning SSR and SSG in Burkina Faso, including civilian accountability mechanisms and (further) institutionalizing awareness of and compliance with the rule of law and respect for human rights among both the broader public and members of the armed forces specifically.

Within this context, it is important to underline that the Mediator has jurisdiction over the armed forces, as opposed to many other countries included in this mapping study where either the ombuds institution does not have a mandate to receive and investigate complaints related to the armed forces or no ombuds institution exists at all. Therefore, it is an important conclusion that in Burkina Faso the legal mandate as well as the investigatory and other legal powers of the ombuds institution are in place to deal with the armed forces.

Further improvement could pertain to improving the current Mediator's office or, alternatively, to setting up a special ombuds office for dealing with the armed forces. Should a special ombuds institution for the armed

forces be established, according to Colonel Bayala and Judge Kambou the preferred model would be that of an independent military mediator with a strong personality, who must be older than and senior to the military chief of staff.⁴⁴ He or she must be a former soldier and should enjoy authority grounded in the constitution. An institution of mixed composition could also be considered: civilian staff could ensure the public's trust, and military staff the necessary expertise. The established institution should be independent, specialized in military affairs, and have the same powers as the Mediator with general jurisdiction, namely the powers to initiate investigations and issue requisitions.

CAMEROON⁴⁵

1. NATIONAL CONTEXT AND SECURITY SECTOR

National context, political system and human rights situation

Cameroon is a democratic country with a semi-presidential form of government, with a clear separation of the executive, legislative and judicial powers according to the constitution. The Constitution of 18 January 1996 provides for the independence of the judiciary, which is exercised by the Supreme Court, courts of appeal and tribunals. It states that the Republic of Cameroon is “one and indivisible, secular, democratic and dedicated to social service”.⁴⁶ However, according to the National Commission on Human Rights and Freedoms, despite the government's efforts, in particular as regards the training and specialization of judges, much remains to be done. Regarding the independence of the judiciary, a key challenge is the fact that judicial appointments are made on the recommendation of the High Council of the Judiciary to the President of the Republic. Furthermore, according to the NCHRF, on the structural level there are difficulties related to the lack of courts and qualified personnel, and from an operational viewpoint slow judicial processes as well as bribery⁴⁷ and influence peddling have been observed.

Cameroon has ratified most of the legal instruments on the protection and promotion of human rights,⁴⁸ which are also integrated into national law through provisions in its constitution.⁴⁹ The NCHRF is an independent institution for the promotion and protection of human rights, established in 2004⁵⁰ and dedicated, among other things, to receiving denunciations relating to violations of human rights, conducting enquiries and carrying out all the necessary related investigations. To facilitate and improve coordination of government actions for the protection of human rights, the Department of Human Rights and International Cooperation has been formed within the Ministry of Justice. There are also many civil society organizations (CSOs) whose goal is to defend and promote human rights. The government, the NCHRF and different CSOs publish annual reports on the situation of human rights in Cameroon. The primary role of the Cameroon Red Cross is to promote IHL, in cooperation with the International Committee of the Red Cross and Federation of the Red Cross offices in Cameroon.

Overview of the security sector, SSR and key challenges

The security sector is divided in three categories of forces: gendarmerie and police; armed forces; and special units. The police fall under the responsibility of the General Delegation for National Security, which is attached to the office of the President of the Republic. The gendarmerie, for its part, is the responsibility of the Secretary of State for Defence attached to the Ministry of National Defence. Finally, the armed forces, under the Ministry of National Defence, are attached to the office of the President of the Republic. Thus the president has direct control over the police and the armed forces. Cameroon has a national police academy (ENSP) and a joint military school (EMIA) based in Yaoundé. In addition, the regional International School for Security Forces (EIFORCES) and a higher international defence course (ICAD) – open to representatives of the security sector from other countries – have contributed to the training of security personnel. Moreover, several legislative instruments regulate the professional conduct of members of the security sector and armed forces, in particular Decree No. 2012/546 of 19 November 2012 establishing a code of ethics for national security officers. In addition,

the gendarmerie and the armed forces have their own codes of conduct and ethics.

The function of the armed forces is to protect the state security and territorial integrity of the Republic of Cameroon from all forms of abuse at all times and in all circumstances, while preserving national sovereignty and complying with international agreements. Nevertheless, according to the NCHRF there have been some abuses, particularly in the context of policing public demonstrations. These abuses have resulted, in some cases, in a general feeling of distrust about the security forces. Responses to the questionnaire submitted to the NCHRF show that women and people from ethnic or religious minorities are not discriminated against within the armed forces. Former members of the armed forces are assisted by a veterans' association, which ensures that they are entitled to pension benefits and allows the implementation of programmes of rehabilitation, reintegration and education and support to family members.⁵¹

According to the NCHRF, SSR was limited to improving the operational dimension of the security sector in Cameroon. In particular, the national authorities have promoted the creation of special police units (a quick-response taskforce and special operations group) and special gendarmerie units (the gendarmerie strike group) responsible for the repression of organized crime. A rapid intervention battalion (BIR) was also established to oversee operations fighting organized crime and border protection. Parliament and Senate committees exist, as well as direct control by the executive branch, and can play a role regarding civilian oversight of security sector and armed forces' members. Control and oversight mechanisms are also integrated into the armed forces themselves. Furthermore, members of the armed forces receive training in several areas, including human rights and IHL. Topics covered in these training programmes include sexual violence and/or violence against women, and the functioning of complaint procedures at the violation of citizens' rights.

According to the NCHRF, the security sector in Cameroon faces serious challenges, including corruption, fraud, embezzlement, drug trafficking and arms trafficking. A high rate of crime has also been observed, along with endemic violence, which has resulted in many difficulties, especially

in incidents of mob justice or when security forces have to police public demonstrations. Armed forces personnel are affected by tough working conditions and experience material difficulties, which sometimes lead to corruption cases in the armed forces. In certain circumstances, according to the NCHRF, the absence of a military culture that promotes the protection of human rights and IHL as well as the lack of military ethics has led to violence and abuse committed by members of the armed forces against civilians. According to the NCHRF, civilians suffer from cruel, inhuman and degrading treatment by the armed forces as well as arbitrary arrest and detention. The NCHRF did not report on cases of violation of soldiers' rights within barracks. It should also be noted that since the outbreak of the crisis in the Central African Republic (spring 2013), insecurity is growing in eastern Cameroon, and it has been the target of violent assaults by armed groups that have injured several victims.

2. THE NATIONAL COMMISSION ON HUMAN RIGHTS AND FREEDOMS

Presentation of the institution

The NCHRF is an independent institution whose primary mission is the promotion and protection of human rights. There is no general ombuds institution with broad jurisdiction or a specific mandate to deal with complaints relating to the armed forces in Cameroon, but the NCHRF may, under certain circumstances, deal with cases involving military members. The NCHRF is currently chaired by Dr Divine Chemuta Banda.

Origins and legal basis

Act No. 2004/016 of 22 July 2004 on the establishment, organization and functioning of the National Commission on Human Rights and Freedoms and Act No. 2010/004 of 13 April 2010, amending and supplementing Act No. 2004/016, constitute together the legal basis of the ombuds institution.

Mandate and functions

The president, vice-president and members of the NCHRF are appointed for a five-year term, renewable once. The NCHRF handles complaints relating to human rights violations, and also has the power to initiate investigations on its own initiative in cases of human rights violations. Its power to investigate enables its members to conduct inspections of prisons and police and gendarmerie stations, in the presence of the public prosecutor or his representative. Following these visits, a report may be issued to the relevant authorities. The NCHRF may also summon any parties and/or witnesses to a hearing and can ask the competent authorities to carry out searches and request the submission of any document or evidence. In addition, it has the power to make recommendations and may issue opinions. It can also formulate proposals to the public authorities for actions to be taken in the area of human rights and freedoms.

Independence

The NCHRF has an independent legal personality and enjoys financial autonomy. It draws its resources from national budget provisions each year, with additional support from national and international partners as well as donations and bequests.

Mandate over the armed forces

In principle, the NCHRF can accept cases referred to it by any natural or legal person or by any public authority on simple request or report, including members of the armed forces. It has also the power to initiate investigations on its own initiative in cases concerning alleged human rights violations. The NCHRF plays a mediating role in all matters relating to human rights, including those relating to the armed forces. It uses mediation and conciliation between the parties concerned when processing complaints for violations of human rights, including by the security forces.

Assessment and recommendations⁵²

Oversight powers

According to the NCHRF, the most important ombuds functions are increasing awareness of human rights protection and IHL among the public, as well as training members of the government and armed forces. Monitoring respect for human rights among soldiers was seen as one of the least important ombuds functions.

Challenges

According to the NCHRF, several material and operational difficulties tend to constitute barriers to independent handling of complaints related to the armed forces. First, the lack of financial resources and qualified personnel makes it impossible to ensure or monitor effectively the implementation of recommendations in the long term. Furthermore, there is a risk related to a lack of will – and therefore lack of cooperation – on the part of the armed forces, as they refuse to have their actions monitored by an independent oversight mechanism, separate from the military's hierarchical command system, in particular because of the claimed confidentiality of such actions. On the other hand, complainants may fear reprisals, and this constitutes an obstacle to the lodging of complaints, whether by civilians or by members of the security sector. Finally, the NCHRF expects that the rank and file of the armed forces are not sufficiently aware of the purpose, benefit and functioning of independent complaints handling.

Recommendations

Firstly, it must be considered that the functioning and, for that matter, improving of external handling of complaints related to the armed forces depends on the wider reform and governance of the security sector in Cameroon, and particularly reform of democratic institutions, civilian oversight, and respect for human rights and the rule of law.

Within this context, the foremost important conclusion is that in Cameroon the NCHRF is legally mandated to deal with complaints related to human rights violations and maladministration concerning the armed forces.

Furthermore, the NCHRF has a wide network at its disposition to promote human rights protection in Cameroon, including 500 associations and CSOs. It might be interesting to consider consulting and using the NCHRF network in the promotion and protection of human rights of soldiers and civilians affected by activities of the armed forces.

Further improvement of independent complaints handling can be found in either the strengthening of the NCHRF itself in dealing with the armed forces or in the establishment of a special ombuds institution mandated to address complaints related to the armed forces.

In any case, external complaints handling may benefit from training for members of the security and armed forces on issues relating to the protection of human rights, IHL and discrimination (religious, ethnic or gender), as well as more specific topics such as sexual violence in the armed forces, and how and who can make a complaint. This would help to raise awareness among members of the armed forces of the ombudsperson's tasks and ensure that they cooperate in good faith with the institution, in particular in investigation proceedings and follow-up of the institution's recommendations. It is important to note that the publication of annual or thematic reports would also contribute to making the missions of the ombuds institution better known. These strategies to raise awareness and human rights training among the people, the government and security forces would contribute to fewer complaints in the first place. While the NCHRF has the necessary technical capacities and human resources to conduct such campaigns as part of its activities to promote human rights, because of its low budget it does not have sufficient financial resources to conduct awareness campaigns on a regular basis.

NIGER⁵³

1. NATIONAL CONTEXT AND SECURITY SECTOR

National context, political system and human rights situation

Niger is a large country (1,267,000km²) with a population of around 17 million, prone to political instability and natural crises – notably droughts, floods and locust infestation – all contributing to chronic food insecurity.⁵⁴ A military coup (February 2010) prevented former President Mamadou Tandja running for a third term. After 13 months of military transition, a new constitution was adopted by referendum and parliamentary and local elections, considered transparent and fair, were organized. In April 2011 socialist Mahamadou Issoufou was elected President of the Republic of Niger. New democratic institutions were established, such as the Economic, Social and Cultural Council (CESOC) and the High Court of Justice – attached to the National Assembly, this institution can judge persons protected by immunity (deputies, ministers, president).⁵⁵ Niger is a semi-presidential democratic system, with a clear separation of executive, legislative and judicial powers. The judiciary performs its functions effectively and independently. Since gaining independence from France in 1960, Niger has made significant progress in democratizing its governance structures, particularly as of 1990.⁵⁶

According to the responses to the questionnaire submitted by the office of the Mediator of Niger, human rights are generally respected in the country. The National Human Rights Commission (NHRC), the Nigerien Red Cross and CSOs are engaged in the promotion and protection of human rights and IHL.

Overview of the security sector, SSR and key challenges

In Niger the security sector is composed of several bodies, including the army (Nigerien Armed Forces), the gendarmerie, the police and the

National Guard. The responses to the survey indicate that the armed forces do not discriminate against women or ethnic and religious minorities (women and ethnic and religious minorities are included in military personnel). Existing veterans' associations offer guarantees to veterans and their families, including the ability to receive pensions.

Institutions that carry out oversight activities for the security sector's actors are the Ministry of Interior, Security, Decentralization and Religious Affairs, the Ministry of National Defence, the Ministry of Justice, the Ministry for the Promotion of Women and the Protection of Children, the High Council for National Defence and the National Commission on Human Rights and Fundamental Freedoms.⁵⁷ Furthermore, external oversight is exercised by the Parliamentary Commission for Defence and Security, while internal oversight is exercised by the Inspector General of the Armed Forces and Gendarmerie, as well as the Inspector General of Police and Military Justice.

The security sector in Niger faces serious challenges, including drug trafficking, arms trafficking, fraud and embezzlement. The armed forces are also affected by corruption. Other main challenges for the armed forces are related to poor working conditions and the lack of material resources. Research conducted as part of the mapping study revealed that personnel of the armed forces had perpetrated abuses against civilians, including cruel, inhuman and degrading treatment and torture.

2. THE MEDIATOR OF THE REPUBLIC

Presentation of the institution

The Mediator of the Republic is an independent administrative authority designated by the President of the Republic from among individuals whose moral integrity, competence and experience in the economic, political and social fields is recognized.⁵⁸ The current Mediator of the Republic of Niger (since 2011) is Cheiffou Amadou, former prime minister during the first democratic transition and former president of CESOC.

Origins and legal basis

The post of Mediator was first formally established by Law No. 2008-36 of 10 July 2008. Mamane Oumarou was then appointed Mediator of the Republic of Niger. During the transition from the Djibo Salou state of emergency this function was abolished, and then restored by Law No. 2011-18 of 8 August 2011. Law No. 2013-30 of 17 June 2013 amended and supplemented Law No. 2011-18, establishing the Mediator.

Mandate, functions, expertise

The Mediator is appointed by the Council of Ministers for a non-renewable term of six years. In the exercise of its power of investigation, the Mediator of the Republic may summon and question members of the public and government employees. The ministers and any public authority must facilitate the Mediator's task, and must communicate to it any document or file relating to the matter under investigation. The secret or confidential nature of the evidence that it is requesting cannot serve as grounds for refusal to provide such information, except when this relates to judicial institutions, national defence, state security or foreign policy.⁵⁹

Based on the information contained in responses to the questionnaire, the model that exists in Niger is an institution with a general mandate to receive and investigate complaints from, within or relating to the armed forces.

In addition, the Mediator of the Republic may request the competent authority to initiate disciplinary proceedings against any official responsible of serious misconduct, or, where appropriate, refer the matter to the criminal court. If no further action is taken, the Mediator may request the launch of an appropriate procedure.

Independence

In exercising its functions, the office of the Mediator does not receive instructions from any authority. It cannot be prosecuted, investigated, arrested, detained or tried for opinions expressed or acts accomplished in the performance of its official duties.

Challenges

Some difficulties, mainly related to the mistrust of the army with respect to any external scrutiny, are an obstacle to the functioning of the Mediator.

Assessment and recommendations⁶⁰

Oversight effectiveness

As mentioned above, the Mediator of Niger is an institution with a general mandate to receive and investigate complaints from, within or relating to the armed forces. The security context and civil-military relations in Niger do not ensure that the armed forces will accept systematic external oversight of their activities (in particular for security reasons). The Mediator of the Republic has appointed a senior officer in charge of liaising with the Department of National Defence. The mission of the liaison officer is to support the work of the ombuds office, in particular in the management of cases related to the armed forces. In addition, it is important to note that Law No. 2013-30 of 17 June 2013 allows the ombudsperson to appoint civil servants from the legal, civil and military sectors who can give advice to the Mediator of the Republic in these areas.⁶¹

Recommendations

Firstly, as in other countries under study, it needs to be considered that the functioning and, for that matter, improving of external handling of complaints related to the armed forces depends on the wider reform and governance of the security sector in Niger, in particular reform of democratic institutions, civilian oversight and respect for human rights and the rule of law.

Within this context, the foremost important conclusion is that in Niger the Mediator is legally mandated to deal with complaints concerning human rights violations and maladministration related to the armed forces.

Further strengthening of the functioning of the Mediator may lie in the following areas:

- Strengthening the capacity of the institution to receive and investigate complaints related to the armed forces, i.e. training of staff and additional resources.
- Furthermore, deepening the relationship between the mediator and the armed forces might be considered, in order to increase acceptance of the Mediator by the armed forces.
- Lastly, setting up a specific ombuds institution for the armed forces might be considered.

SENEGAL⁶²

1. NATIONAL CONTEXT AND SECURITY SECTOR

National context, political system and human rights situation

Senegal is regarded as a country with a longstanding democratic tradition, as elections are regularly held and it has never experienced a military coup.⁶³ The institutions of the republic are the President of the Republic, the National Assembly, the government, the Economic, Social and Environmental Council, the Constitutional Council, the Supreme Court, the Court of Auditors and the courts. The executive, legislative and judicial powers – which perform their duties efficiently and independently – are separated.

Concerning the protection and promotion of human rights, the rights, freedoms and principles that guarantee the rule of law are protected by the Senegalese Constitution and several legislative provisions. Basic individual freedoms and civil and political liberties are proclaimed and guaranteed, embodying the foundation of a democratic and egalitarian society.⁶⁴ The National Human Rights Commission, human rights CSOs and the Mediator are also responsible for the promotion of human rights and IHL.

Overview of the security sector, SSR and key challenges

The scope of the armed and security forces is determined by the Constitution of Senegal, Law No. 70-23 of 6 June 1970 on the Organization of the National Defence, the Code of Criminal Procedure, the Penal Code, the Code of Military Justice and the Regulations on General Discipline. Respect for the rule of law is reflected in the composition of the armed forces, where no discrimination is applied with respect to gender or ethnicity and/or religion. Veterans' associations offer former members of the armed forces and their families the opportunity to benefit from several advantages in terms of pensions and access to medical care and/or psychological treatment, as well as the implementation of programmes of rehabilitation and reintegration, and services dedicated to families (burial, financial support, widow's pension, etc.).

Several formal mechanisms exercise supervision and control over actors in the security and armed forces. These mechanisms – which can take the form of parliamentary and Senate committees, commissions within the MoD, direct monitoring by the executive or control procedures integrated within the armed forces (such as the Inspector General of the Armed Forces⁶⁵) – offer guarantees of independence and neutrality and use, under certain circumstances, methods of mediation, conciliation or preventive conflict resolution to resolve disputes under their jurisdiction (examples are institutional mediation, equitable intervention and adoption of a systematic and preventive approach). Furthermore, military personnel are trained in IHL and human rights during their initial training.

In its responses to the survey, the ombuds institution indicates that the Senegalese armed forces enjoy a positive image among populations and participate as legitimate actors in national life. Senegal provides a model for SSG, even though it is still facing challenges such as drugs and arms trafficking. Within the armed forces more precisely, most frequently observed wrongdoings concern disability or retirement pensions – deemed too low – and the hearing of disabled soldiers before the Reform Commission. Difficulties of reintegration and return to civilian life have also been observed.

2. THE MEDIATOR OF THE REPUBLIC

Presentation of the institution

There is no military ombudsperson in Senegal, and thus it falls to the Mediator to intervene in and regulate the existing disputes within the military and those between the army and other administrations or Senegalese citizens and foreign residents in Senegal. Serigne Diop is the current Mediator of the Republic of Senegal (in office since 2009). Oversight of the armed forces is exercised by the executive as well as by the Inspector General of the Armed Forces.

Origins and legal basis

The Mediator of the Republic of Senegal is an independent administrative authority established by Law No. 99-04 of 29 January 1999, repealing and replacing Law No. 91-14 of 11 February 1991 (first Mediator: Ousmane Camara, February 1991 to February 1997).

Mandate, functions, expertise

The Mediator is appointed by decree for a non-renewable period of six years. His/her overall mission is to exercise a regulatory function designed to ensure in particular the role of institutional intercessor, to settle disputes amicably and to prevent the recurrence of public services' malfunction (with a mission of promoting reforms).

The Mediator may intervene in matters, conflicts and disputes between natural persons; between a natural person and a legal person governed by private law; between a natural person and a legal person or a representation of institutions with an immunities regime at international level; or between a natural or legal person and a foreign government. The Mediator of the Republic may not issue injunctions to the administration or take decisions in its place, intervene in any proceedings brought before a court, nor question the soundness of a court decision. Referral to a court does not prevent it, however, from reaching an amicable settlement of a dispute brought to its attention.⁶⁶

As part of its duties, the Mediator has the power to investigate and a right of access to any relevant information. Ministries of government and all public authorities must facilitate the task of the Mediator. They must authorize officials under their jurisdiction to answer questions from and appear before the Mediator. Supervision or inspection bodies are required to carry out, in the framework of their competencies, audits and investigations requested by the Mediator, and to answer or refer them to other agencies.

The Mediator is empowered to make recommendations (for the timely settlement of claims) to the competent authorities, and proposals, by amending or modifying the rules or methods of operation or behaviour of those responsible for services or organizations in question, and the standards themselves. The Mediator is also allowed to denounce inertia of relevant authorities and may note the inadequacy of their response (the information is forwarded to the President of the Republic and also appears in the annual report).

Independence

The Office of Mediator of the Republic is an independent body of a *sui generis* nature and distinct from the three main branches of government: legislative, executive and judicial. The Mediator enjoys immunity from prosecution in respect of any opinions he may voice or any acts he may accomplish in the performance of his duties. The independence of the Mediator takes many forms: he is independent from the authorities he is mandated to oversee, but also from citizens, since he is not a lawyer in the narrow sense of the term. Lastly, he enjoys institutional independence from the authorities to which he is mandated to report, and financial independence.⁶⁷

Mandate over the armed forces

The Mediator has the power to exercise control over actions of security forces' personnel and members of the armed forces, and can regulate disputes with or between the armed forces themselves. The Mediator exercises its powers effectively on all military and paramilitary groups conducting activities in Senegal. The judiciary is not subject to the

supervision of the Mediator, the latter enjoying independence from the other branches of powers. Disputes between the armed forces and its military and civilian personnel, or between the army and other administrative authorities or citizens – Senegalese or foreign – fall within the scope of the Mediator's remit.⁶⁸

Assessment and recommendations⁶⁹

Oversight effectiveness

Cooperation between the Mediator of the Republic and the armed forces is excellent, and the Mediator carries out regulation properly. The armed forces cooperate in good faith with him, and the establishment of a military ombuds institution should not pose any particular problems as regards the armed forces' acceptance of control over their actions. The preferred model of ombuds institution for the armed forces corresponds to a general ombuds institution with the competence to receive complaints directed against or from members of the armed forces and conduct investigations.

Malfunctions, possible difficulties

Based on the answers to the questionnaire, it was not possible to determine any difficulties or obstacles that might arise from the establishment of an ombuds institution for the armed forces. This is probably due to the fact that the Mediator of the Republic of Senegal already performs functions that are usually attributed to military ombudspersons. There is no particular objection to the implementation of independent oversight over the actions of the security forces. The institution is responsible for mediating among and between these forces and the population, and proposes security sector reforms supporting the rule of law.

Recommendations

If an ombuds institution is established to deal with cases relating to relations among or between members of the security forces and citizens, individuals should have the ability to make a complaint to the institution – in particular physical or legal persons that have been victims of abuse, active and former members of the armed forces and their families, and

associations or groups acting on behalf of several plaintiffs (collective complaints). National civilians living in the country as well as foreign civilians and nationals residing abroad should also be able to file a complaint to the military ombudsperson.

The ombuds institution should be entitled to sufficient resources⁷⁰ to be able to organize awareness campaigns for the public and the armed forces, and to provide the possibility for the latter to participate in training programmes, with particular reference to human rights (national and international), IHL and issues related to gender discrimination and sexual violence against women. If awareness campaigns are actually set up, the focus should be, in priority order, on establishing training programmes to be conducted within the administration, the armed forces and the population, and the organization of these campaigns in remote or disadvantaged provinces. Other organs or complaint mechanisms may also be involved in the implementation of such programmes, and use the means of communication at their disposal (internet or traditional media channels) to make populations and members of the armed and security forces more sensitive to these issues.

Should discussions be initiated to create an ombuds institution for the armed forces, the Mediator and the Senegalese Human Rights Committee shall be consulted and involved in the discussions.

TOGO⁷¹

1. NATIONAL CONTEXT AND SECURITY SECTOR

National context, political system and human rights situation

Togo, a coastal country in West Africa with a current population of 6.2 million, is a republic whose political organization is governed by the Constitution of 14 October 1992, establishing a clear separation of the executive, legislative and judicial powers and providing for a semi-

presidential form of government. The political situation is characterized by a constant struggle between the authorities in power and the opposition to manage the country. Togo is emerging from a long socio-political crisis which has weakened the independence of the judiciary, often criticized by the public following several cases of corruption. To address these difficulties, the government launched the Programme National de Modernisation de la Justice⁷² in 2005.

As regards the protection of human rights and public freedoms, it is important to highlight that the death penalty has been abolished since 2009, and efforts have been made in areas related to freedom of expression and opinion, the press, and public association, assembly and peaceful demonstration. However, some prisons in the country are overcrowded and cases of abusive pre-trial detention and ill treatment have occurred in some detention facilities. Several institutions are responsible for ensuring compliance with human rights and IHL, including the National Human Rights Commission (NHRC), the Togolese Red Cross and the Office of the UN High Commissioner for Refugees, which is responsible for protection of the rights of refugees.

Overview of the security sector, SSR and key challenges

The armed forces ensure the defence of Togo's territorial integrity; the police and gendarmerie are responsible for maintaining order and security at the national level. They are under the control of the executive branch of the government. Decree No. 2013-013/PR of 6 March 2013 on regulations for the maintenance and restoration of law and order regulates the activities of members of the security forces. Responses to the questionnaire submitted by the NHRC of Togo indicate that the Togolese army does not discriminate against women or ethnic and religious minorities. An association of veterans allows former members of the military to benefit from certain warranties, especially in terms of provision of pensions and health insurance.

National authorities have taken measures to reform the security sector, by granting a special status to the Togolese armed forces. Other measures are planned according to the Togolese Criminal Code. Committees within

the MoD carry out oversight of the activities of armed forces' members. The executive branch of the government also exercises oversight of their activities. Members of the armed forces receive training on the protection of human rights and IHL (promotion of national and international legal instruments).

Violations of human rights committed by the military against civilians have been reported, including cases of cruel, inhuman and degrading treatment, torture, and arbitrary arrests and/or detention. The greatest challenges faced by the armed forces are the practice of unfair dismissals, poor remuneration of staff, lack of material resources and lack of a legal culture in the field of human rights and IHL.

2. THE NATIONAL HUMAN RIGHTS COMMISSION OF TOGO

Presentation of the institution

In Togo, the Mediator of the Republic is responsible for regulating non-judicial disputes between citizens and public administration.⁷³ However, the position of Mediator has been vacant since the death of its last incumbent about ten years ago. The NHRC of Togo - established in 1987 by the head of state - handles complaints that fall under the Mediator of the Republic's jurisdiction, in addition to its task of protecting human rights. The current president of the NHRC is Alilou Sam-Dja Cissé.

Origins and legal basis

Articles 151–153 of the Constitution of the Fourth Republic,⁷⁴ as well as dispositions of Law No. 96-12 of 11 December 1996, as amended and supplemented by Organic Law No. 2005-004 of 9 February 2005 on the membership, organization and operation of the NHRC, provide the legal basis for the existence, operation and mandate of the NHRC.

Mandate, functions, expertise

The term of office of NHRC members is four years, renewable. The NHRC's

mission is to promote and protect human rights as well as verify cases of human rights violations throughout Togolese territory. In addition, it has the power to receive complaints against the government, the police and the military,⁷⁵ and investigative powers. An auditor or a special rapporteur (appointed from among NHRC members) conducts enquiries and may use all available means to put an end to the violation that is the subject of a request. When making recommendations, the NHRC passes to the public authorities all proposals related to human rights in order to have them adopted, and gives opinions in the field of the protection of human rights.

Independence

The NHRC is an independent body⁷⁶ and enjoys administrative and financial autonomy. Its resources consist of subventions, gifts and bequests, and funds coming from resources generated by its activities. In addition, appropriations necessary for the functioning of the NHRC are included in the general state budget.

Assessment and recommendations⁷⁷

Oversight effectiveness

The ombuds institution could maximize its cooperation with the armed forces by helping them understand the rationale behind its actions. To this end, according to the responses to the questionnaire, an independent ombuds institution dealing exclusively with the armed forces is the preferred model, in light of the specific national context.

Malfunctions, possible difficulties

The temporary absence and the lack of awareness of the Mediator's role as well as the assimilation of its missions within those of the NHRC are the main challenges that could potentially jeopardize the proper functioning of the institution.

Recommendations

Encouraging and making functional the Mediator of the Republic with jurisdiction over the armed forces seems a priority today to implement SSR and promote the establishment of the rule of law and principles

of good governance. Beyond the need for greater transparency in the conduct of the armed forces, such an institution could act as a deterrent and preventive mechanism for human rights and IHL violations, and also aim to support initiatives for the promotion and defence of human rights and IHL. The Mediator would be both a way to avoid judicial proceedings and an alternative to the lack of parliamentary oversight: ultimately, the existence and proper functioning of the institution could have a positive impact on relations between the authorities, security actors and the public.

If an ombuds institution is established to deal with cases relating to relations among or between members of the security forces and citizens, its main missions would be to assume the role of mediator between the complainant and the armed forces, receive complaints and carry out investigations of acts perpetrated by the armed forces. When conducting investigations, the ability to require the attendance of any witness and the production of any document deemed relevant is a key aspect underpinning the effectiveness of the institution. The ombuds institution for the armed forces should exert a degree of control over compliance with IHL and international human rights law (IHRL), military regulations and principles by the armed forces. These standards should also apply to members of the administration and be better known and disseminated among the population through awareness campaigns. To ensure effective control, the ombuds institution should in addition have the power to make recommendations, to refer cases to the executive or judiciary branches of the government in the absence of cooperation of the concerned institutions, and to make investigations on its own initiative (own-motion investigations).

Moreover, the ombuds institution for the armed forces would be more effective due to its the ability to control the activities of various security sectors: land, air and naval forces, the military police, paramilitary forces, the MoD, coastguards, military intelligence and the military justice system. Other sectors could also be included, especially the police, prison services, immigration services, border control and members of the judiciary.

Some initiatives, in particular campaigns carried out in remote or disadvantaged provinces, and public awareness campaigns conducted on

the internet or through traditional media channels, would give a greater understanding of the role and missions of the military ombudsman. The implementation of training programmes conducted for the administration, the armed forces and the population on IHRL (in particular the prohibition of torture),⁷⁸ IHL and issues related to gender discrimination and sexual violence in the armed forces, and the dissemination of information related to complaint procedures should also be encouraged.

Table 6. Functions and powers of ombuds institutions (Burkina Faso, Cameroon, Niger, Senegal, Togo)

	BURKINA FASO	CAMEROON	NIGER	SENEGAL	TOGO
Jurisdiction over the armed/security forces	✓	✓	✓	✓	✓
Own-motion investigation	✓	✓	✓	✓	✓
Investigation	✓	✓	✓	✓	✓
Making, implementing and monitoring recommendations	✓	✓	✓	✓	✓
Independence	✓	✓	✓	✓	✓
Annual and/or thematic report	✓	✓	✓	✓	✓

Chapter 4. General Ombuds Institution with no jurisdiction over the Armed Forces: Burundi, Côte d'Ivoire, Republic of Guinea, Madagascar and Mali

BURUNDI⁷⁹

1. NATIONAL CONTEXT AND SECURITY SECTOR

National context, political system and human rights situation

Burundi is a democratic country based on the principle of separation of powers. The judiciary branch of government carries out its functions effectively and independently but requires capacity building, in both qualitative and quantitative terms. Indeed, Burundi is emerging from a long period of conflict and endemic poverty. Since the Arusha Agreements in 2000, peace and internal security have been restored, the socio-political climate has stabilized and the standards of living of the Burundian people have improved.⁸⁰

In terms of human rights, fundamental rights and freedoms are generally respected. Education and health care for children under five years are free, and freedom of association and expression is enjoyed without hindrance. The Independent National Human Rights Commission and the Ministry of National Solidarity, Human Rights and Gender are responsible for monitoring and promoting respect for human rights. Security and law

enforcement bodies are mostly favourably assessed by the Burundian population.⁸¹ But despite the progress towards peace, relations between civil society and security actors could be improved to achieve genuine social harmony.⁸²

Overview of the security sector, SSR and key challenges

Collaboration and coordination of the various forces involved – namely the national police, the armed forces, the national intelligence service and citizens themselves – have allowed the arrest of criminals, and several organized gangs, which were responsible for prolonging insecurity after the end of the civil war, were thus neutralized. The armed forces ensure the protection of national sovereignty and territory. The Military Penal Code, the Military Criminal Procedure Code, the Regulation of Discipline and the Rules of the Order guide the behaviour of members of the armed forces and, more generally, the organization of the armed forces. According to the respondents, there is no discrimination against women or people from ethnic or religious minorities within the Burundian armed forces. There is also a veterans' association that oversees anything related to pensions and access to medical care and psychological treatment, as well as the implementation of programmes of rehabilitation, reintegration and education. In addition, members of the armed forces receive specific training on human rights and IHL.

In terms of governance and SSR, the army and police's ethnic composition was reviewed in accordance with the Peace and Reconciliation Agreement for Burundi signed in Arusha (Tanzania) in 2000, which helped professionalize the security and defence forces. To ensure democratic control over the armed forces, the national action plan for control and management of small arms and light weapons and civilian disarmament has been updated and implemented, and the national defence policy and strategic security plan are being reviewed, with the establishment of transparent internal and external communication mechanisms.⁸³ Training programmes on capacity building are financed by a number of partners, including the Netherlands Development Cooperation. Parliamentary committees and commissions within the MoD carry out democratic control of the activities of the armed forces' members. There is also direct

control by the executive branch of government and control mechanisms integrated into the security forces. The mechanisms set up for democratic control provide guarantees of independence and neutrality, and may resort, in some circumstances, to mediation and preventive conflict resolution to resolve disputes under their jurisdiction.

The security sector constantly faces problems of corruption, fraud and embezzlement. In addition, members of the armed forces are experiencing difficult working conditions and unfair dismissals; housing, food and security are not always guaranteed.

2. THE OMBUDSMAN OF BURUNDI

Presentation of the institution

Origins and legal basis

The initiative to establish the Ombudsman stems from the Arusha Agreements of 28 August 2000. Articles 237–239 of the Constitution of 18 March 2005 are devoted to the creation of this institution. Law No. 1/03 of 25 January 2010 establishing the organization and operation of the Office of the Ombudsman implements these instruments. The current Ombudsman is Mohamed Rukara (since November 2011).

Mandate, functions, expertise

The Ombudsman is elected by three-quarters of the members of the National Assembly (election must be approved by two-thirds of the Senate) for a non-renewable period of six years. The Ombudsman's mission is to mediate between the administration and citizens and between the ministries and the administration, and to observe the functioning of the administration. The President of the Republic may also assign special rapprochement and reconciliation missions to the Ombudsman on general issues concerning relations with social and political forces.

The Ombudsman hears complaints and conducts enquiries relating to mismanagement and infringements of human rights committed by members of the public administration, the judiciary, local authorities,

public institutions or any public service organization. He has the power to make recommendations to the competent authorities. The Ombudsman may not intervene in the functioning of the administration, cases under appeal or review, and cases questioning the soundness of a court's ruling.

Independence

The Ombudsman does not receive instructions from any other authority. He enjoys immunity from jurisdiction for any acts he may accomplish in the performance of his duties, and shall not be prosecuted, investigated, arrested, detained or tried in respect of opinions expressed or acts accomplished in the course of his official duties. However, such immunity is not absolute, as the Ombudsman can be removed from office for gross misconduct.

Assessment and recommendations⁸⁴

Oversight effectiveness

Results based on the survey submitted to the ombuds institution and extensive research indicate that the armed forces would likely accept systematic oversight of their activities and would cooperate in good faith with the ombuds institution responsible for this oversight, especially through the establishment of permanent contact and open collaboration. The institutional model that might be envisaged would be a general ombuds institution with broad jurisdiction to receive complaints, including those directed against or coming from the armed forces, and conduct investigations.

Malfunctions, possible difficulties

The lack of financial resources, the potential lack of freedom to take action, and practical difficulties – mainly related to the lack of cooperation and political will of the government – could pose an obstacle to the establishment of an ombuds institution for the armed forces.

Recommendations

The benefits of establishing an institution that has the ability to handle cases involving members of the armed forces are many: first and foremost,

to strengthen and facilitate the process of democratic transition, and to improve the security environment. In this context, the ombuds institution could promote the rule of law and good governance principles, including through the promotion and defence of human rights and IHL. Such an institution would also aim to ensure the implementation of a transparent accountability mechanism for members of the armed forces, which would have a deterrent and preventive effect on human rights and IHL violations. Lastly, by enhancing the effectiveness and legitimacy of the armed forces, the military ombuds institution would contribute to improving relations between the authorities, security actors and civilians.

Beyond its traditional role of mediator between complainants and the army, the ombuds institution should, as part of its duty, have the ability to receive complaints; conduct investigations; control and ensure compliance with laws, military regulations and IHL and IHRL standards by the armed forces; and make proposals for reforms concerning practices and procedures in the armed forces. The institution should also exercise oversight with respect to the impartiality, effectiveness and functioning of complaint mechanisms integrated into the armed forces.

The ombuds institution with jurisdiction over the armed forces must have wide powers, equivalent to those of the civilian ombudsman, insofar as these are necessary to carry out the tasks entrusted to it. It should thus be able to conduct investigations of complaints received⁸⁵ (and initiate own-motion investigations on its own initiative), formulate recommendations and ensure their monitoring and implementation. Its role is active, as it must both refer cases, in the absence of cooperation of the concerned institutions, to the executive or the judiciary and impose sanctions to administrations refusing to implement its recommendations. The publication of an annual report of activities would raise awareness of its functioning, thereby encouraging agreement of the army on the need for and usefulness of such an institution.

The different bodies under the control of the institution could include land, air and naval forces, the military police, intelligence services and the military justice system, the minister of defence and MoD, coastguards and border control services.

The ability to submit a complaint to the ombuds institution should be available to any natural and/or legal person who has suffered harm; active and former members of the armed forces and their families; associations or groups acting on behalf of several complainants; and national civilians resident in Burundi.

As well as providing training on the basic standards of human rights⁸⁶ and IHL to members of the armed forces, the institution should be able to develop strategies to raise public awareness of the need for an ombuds institution, including through awareness campaigns.⁸⁷ Often, financial and logistic resources are lacking and pose a challenge to the implementation of such campaigns. Finally, it seems essential that representatives of various faiths are included and consulted during the process of setting up an ombuds institution for the armed forces.

CÔTE D'IVOIRE⁸⁸

1. NATIONAL CONTEXT AND SECURITY SECTOR

National context, political system and human rights situation

Côte d'Ivoire is a West African state which has been independent since 1960. The country is recovering from a post-election crisis in 2010 and a long socio-political crisis (1999–2011), which greatly undermined the stability of public institutions and the foundation of the social and economic fabric. The security situation has generally improved,⁸⁹ although the environment remains fragile. On the political level, significant progress has been made in national reconstruction,⁹⁰ particularly with the provisional release in August 2013 of 14 former pro-Gbagbo detainees, including the Secretary-General of the Ivorian Popular Front (Front populaire ivoirien).⁹¹ The government faces many challenges, mainly related to the security environment, reintegration of former combatants, strengthening social cohesion and restoring the civilian population's trust in the armed and security forces.

In terms of human rights, several attacks launched by unidentified armed combatants against military targets have led to civilian and military casualties and resulted in ethnic and political tensions between security services and the civilian population. The attacks intensified from June 2013, when seven UN Operation in Côte d'Ivoire (ONUCI) peacekeepers and ten civilians were killed in the southwest of the country.⁹² Cases of torture, arbitrary detention and human rights violations and abuses – committed in particular in the western part of the country – were observed.

Overview of the security sector, SSR and key challenges

In Côte d'Ivoire the Forces Armées Nationales de Côte d'Ivoire (FANCI), including land, air and naval forces, are charged with protecting and defending territorial integrity, and others (gendarmerie, police, customs) are charged with internal security. There are also private security forces, whose proliferation led to the creation of self-defence militias in some working-class neighbourhoods, and private military companies recruited to ensure the safety of citizens.⁹³

A national programme for disarmament, demobilization and reintegration, supported by the Integrated Command Centre under the authority of the chiefs of staff of FANCI and the Forces Armées des Forces Nouvelles (FAFN), was established to facilitate the assembly and reintegration of ex-combatants. It is necessary to continue reforms aimed at restoring some cohesion within the armed forces, by developing, for example, awareness campaigns for the administration, the military and the civilian population. Efforts are made to protect the security sector institutionally against any attempts at intimidation or manipulation by political forces.⁹⁴

As part of SSR, the MoD in 2012 developed several documents pertaining to defence policy, the force employment concept and military planning law. These documents helped the MoD to contribute to the drafting of the national SSR strategy (August 2012). Urgent reforms in this national strategy were aimed primarily at providing all police and gendarmerie units with minimum weapons means, mobility and transmission to restore a minimum operational capacity, and reorganizing the structure

of chiefs and introducing essential coherence between them. It is also important to reorganize the system of civil protection. All these reforms aim to re-establish harmonious relationships between citizens and the security sector.

In light of the major challenges the security forces are facing in Côte d'Ivoire, it was noted that "indiscipline, frustration with mismanagement, partisan positions, ethnic and religious divisions, massive and uncontrolled flows of weapons of war from hot zones and/or neighbouring countries (Liberia, Sierra Leone) and the desertion of many soldiers have led to the total disintegration of cohesion in the defence and security forces".⁹⁵ There is a distrust by civilian populations of defence and security forces, whether FAFN or FANCI, which remained loyal to Laurent Gbagbo. Persons who carry weapons inspire more fear than trust in the population, and it seems essential to encourage measures intended to reconcile the civilian population with the security forces. In addition, the amount of logistical and financial resources available is not always enough to meet the requirements of the security situation in Côte d'Ivoire.

2. MEDIATOR OF THE REPUBLIC AND PROPOSED ESTABLISHMENT OF AN OMBUDS INSTITUTION FOR THE ARMED FORCES

Presentation, mandate and functions of the Mediator of the Republic

The office of the Mediator of the Republic of Côte d'Ivoire is an independent administrative authority with a public service role. The current Mediator is N'golo Coulibaly (since July 2011). The ombuds institution has no mechanism to settle disputes involving the military.

Origins and legal basis

The institution of the Mediator of the Republic was established by Law No. 2000-513 (1 August 2000) on the Constitution of the Second Republic of Côte d'Ivoire (Title XI). Originally there was a presidential mediation body (OPREM), established by Decree No. 95-816 (29 September 1995).

This legal instrument did not give the structure full authority and was repealed. Conversely, the Mediator of the Republic has been established by legislation: its functions, organization and operation were established by Organic Law No. 2007-540 of 1 August 2007.

Mandate, functions, expertise

The Mediator of the Republic is appointed by the President of the Republic, after consultation with the president of the National Assembly, for a six-year term. Its main role is to mediate disputes of any kind between the public administration and citizens; disputes between local authorities, public institutions and any other body with a public service mission and citizens; and disputes involving urban or rural communities, or any other entity.⁹⁶ The Mediator also has jurisdiction over disputes between private natural or legal persons in urban and rural communities.⁹⁷ The Mediator may not, however, intervene in any proceedings before a court, nor question or criticize the soundness of a court's ruling.⁹⁸

Independence

The Mediator of the Republic is an independent administrative authority and does not receive instructions from any other authority.⁹⁹ The holder of the post is independent from both the administration and the government, and shall not be prosecuted, investigated, arrested, detained or tried in respect of opinions expressed or acts accomplished in the performance of his/her official duties.¹⁰⁰

Project establishing an ombuds institution for the armed forces¹⁰¹

Organic Law No. 2007-540 of 1 August 2007 does not give the Mediator the mandate to settle disputes involving the military. Thus it is necessary to strengthen the capacity of this mediation body by providing a military ombudsperson, independent of the military chain of command, which would provide an oversight mechanism to monitor the actions of the security sector.

The military ombudsperson could be responsible for complaints about misconduct and abusive behaviour by the military, and make recommendations for the adoption of corrective measures or actions.

Members of the military could file complaints before this body, which would provide a neutral interface to find individual or collective solutions to their concerns.

The military ombudsperson's task would be to mediate disputes of any kind submitted to the arbitration of the President of the Republic and concerning:

- a legal, physical, public or private person and the defence or security forces.
- a community and a defence or security entity.
- defence and security personnel and their command.
- people among the sectors of defence and security.

To perform his or her duties, the military ombudsperson should enjoy collaboration with central defence and security administrations, high-ranking military officers and military justice, plus inspections and general control of the administration and finance of defence. Lastly, mediations could lead, if necessary, to minutes being drafted. The military ombudsperson could then forward the minutes from past mediations to the Mediator and inform him on those being processed.

REPUBLIC OF GUINEA¹⁰²

1. NATIONAL CONTEXT AND SECURITY SECTOR

The Republic of Guinea is located in West Africa and has a population of 11,176,026 (July 2013). The presidential election of 7 November 2010 marked the return of the republic to constitutional order after the army seized power on 23 December 2008. After a difficult period of military transition, the new political situation and the election of the first democratically elected president, Alpha Condé, paved the way for new reform opportunities in the country.¹⁰³

The security forces consist of the army on the one hand, and law enforcement and intelligence services on the other hand. The armed forces include land, air and naval forces, as well as the gendarmerie; their mission is to defend territorial integrity, ensure national security and contribute to maintaining peace in the subregion and the world.¹⁰⁴ SSG in the Republic of Guinea is a concept little known, relatively undeveloped and little discussed.¹⁰⁵

2. THE MEDIATOR OF THE REPUBLIC

Presentation of the institution

The holder of the office of Mediator of the Republic is Touré Faciné (since July 2011). The Mediator of the Republic is an independent institution that mediates between the government and citizens and ensures the proper functioning of public administration services. The Mediator's role is to reconcile and strengthen solidarity¹⁰⁶ and provide both remedy for citizens and an advisory role for the administration.

Origins and legal basis

The institution of the Mediator of the Republic was established by Law No. 004/CNT/2010 (20 December 2010) on the procedures for referral, intervention and functioning of the Mediator of the Republic.

Mandate, functions, expertise

The Mediator of the Republic is appointed by decree of the President of the Republic for a non-renewable term of seven years. The Mediator receives grievances from citizens relating to the functioning of central state administration, decentralized services, decentralized communities and public institutions,¹⁰⁷ and studies them in order to provide fair solutions. He contributes, in a general manner, to the improvement of governance and the rule of law.

Any natural or legal private person who considers, in cases concerning them, that the administration has not acted in accordance with its mission of public service may ask for the case to be brought to the attention

of the Mediator, in the form of an individual written claim or an oral statement to the secretariat of the administration.¹⁰⁸ The Mediator settles complaints that are sent to him on a case-by-case basis. He analyses the dispute, conducts investigations and offers solutions;¹⁰⁹ attempts to reconcile the complainant with the administration or body he or she is opposing; and intercedes with the administration in cases of malfunction.

If he does not consider the administration's response fully satisfactory, he can make recommendations publicly, including in the annual report to the President of the Republic and the National Assembly.¹¹⁰ Lastly, the Mediator may present competent authorities with proposals to change laws or regulations in force, as he sees fit. In the event of failure to execute a court decision which has acquired the force of *res judicata*, the Mediator may enjoin the organization concerned to comply with the decision within a period he stipulates.¹¹¹ In following up on recommendations, the Mediator is informed by the authorities of the actions taken on his recommendations made for individual claims.¹¹²

Independence

The Mediator of the Republic is an independent administrative authority.¹¹³ The holder of the post does not receive instructions from any political, administrative, legislative or judicial authority.¹¹⁴ He may only be relieved of his duties in the event of permanent incapacity or serious misconduct proven by the Supreme Court.¹¹⁵ In addition, he shall not be prosecuted, arrested, detained or tried in respect of opinions expressed or acts performed in the course of his official duties.¹¹⁶

Assessment and recommendations for the establishment of an ombuds institution with jurisdiction over the armed forces

DCAF has not received responses to the questionnaire sent to the ombuds institution of the Republic of Guinea, and cannot make any recommendations on the establishment of an ombuds institution with jurisdiction over cases involving members of the armed forces and security sector. DCAF can only encourage the implementation of awareness programmes on human rights and humanitarian law, and discussions

among the population and the armed forces on the establishment of such an institution.

MADAGASCAR¹¹⁷

1. NATIONAL CONTEXT AND SECURITY SECTOR

National context, political system and human rights situation

Madagascar has a presidential system where the president has very broad powers. Despite the separation of powers, votes of the National Assembly and the Senate are guided by the dominance of the president's party in both houses. The minister of justice, under the directions of the president, imposes his or her views on judges who render decisions. Moreover, the judiciary is corrupt and generally criticized by the public and the international community. The responses to the questionnaire showed that international conventions are not always respected. The principal mission of the Conseil pour la Sauvegarde de l'Intégrité, associations and CSOs is the promotion of human rights and IHL.

Overview of the security sector, SSR and key challenges

The island of Madagascar is currently experiencing a situation of widespread urban and rural insecurity and is confronted with the phenomenon of *dahalo* or “highway bandits”, now transposed into towns. This phenomenon manifests itself through robberies in broad daylight and an increase in kidnappings. People have lost confidence in the police, as the police, gendarmerie and judges face serious corruption problems, which has led to a trend of mob justice. The armed forces ensure the defence of the national territory, and Law No. 96-029 of 6 December 1996 on service regulations regulates activities for members of the military. The results of the survey indicate that the armed forces do not discriminate against women or ethnic and religious minorities. Veterans

are also afforded certain guarantees, particularly in terms of pension payments and services provided to the family. Furthermore, the armed forces receive training in various areas, such as human rights, IHL, sexual abuse and/or violence against women, and recourse mechanisms in cases of violation of their rights.

National authorities do not appear to have adopted specific measures aimed at reforming the security sector. There are parliamentary and Senate committees, as well as commissions of the MoD and the executive branch, that exercise oversight of the actors in this sector and members of the armed forces. However, oversight is ultimately exercised by the hierarchical supervisor (commander, minister or president) and there are often no guarantees of the independence and impartiality of these mechanisms. These institutions may, in case of conflict among or between members of the armed forces and members of the police or gendarmerie, use methods of mediation or conciliation. The National Defence Council is often responsible for acting as a mediator.

The security sector faces many cases related to drug and arms trafficking, problems of corruption, fraud and embezzlement. There is a high rate of delinquency and crime and an increase in cases of child rape and kidnapping. Besides the lack of material resources, the absence of legal culture in the field of human rights and IHL, as well as the lack of military ethics and corruption, affects the population's image of and confidence in the armed forces. The lack of control over their actions leads to a culture of silence and impunity, which makes it impossible to hold them accountable. Lastly, it seems that some officers working in the civilian sector continue to enjoy military benefits (rank, housing, etc.)

In view of the questionnaire results and research conducted as part of this study, it appears that abuses committed by the military against civilians have been reported, including cruel, inhuman and degrading treatment, acts of torture, attacks on freedom of peaceful assembly, violations of the principle of non-discrimination and cases of arbitrary arrests and detentions. Even within the armed forces, there are certain inequalities regarding human resource management (for example, family members of senior officers are never posted to risk areas). Some have never served in the army but enjoy benefits of advancement in rank while working in sectors other than the military.

2. THE MEDIATOR OF THE REPUBLIC

Presentation of the institution

The Mediator of the Republic of Madagascar is competent to receive complaints that do not seek to address issues related to the armed forces. In cases of dispute among the armed forces or with the security sector, the National Defence Council is responsible for acting as a mediator. Monique Andréas Esoavelomandroso has held the position of Mediator of the Republic of Madagascar since 1 September 2008 (end of term: 1 September 2014).

Origins and legal basis

Originally, the office of Mediator was created to address problems associated with the length and costs of judicial processes. Its aim was also to fight possible miscarriages of justice and dispel citizens' distrust in their institutions. Ordinance No. 92-012 of 29 April 1992 established a mediator and public defender.

Mandate, functions, expertise

Appointed for a non-renewable term of six years by decree of the Governing Council, the ombudsperson receives complaints about actions by government departments, local authorities, public institutions and any other public service organization, depending on how these interact with citizens.¹¹⁸ The Mediator is empowered to investigate, allowing her to examine the complaints she receives, and visit public administration bodies to verify any appropriate elements.¹¹⁹ Access to any record or official document in connection with the activity or services that are the subject of an investigation cannot be denied, and the secret of confidential nature of the evidence that she is requesting cannot serve as grounds for refusal to provide such information.¹²⁰ The Mediator may also issue any recommendations she believes will resolve the matter and, if appropriate, suggest any proposals to improve the functioning of the body in question. The Mediator shall be informed of the measures taken to follow up her interventions and, in the absence of a satisfactory reply within the established time limit, she may make public her recommendations in a

special report.¹²¹ Failing action on the part of the competent authority, the Mediator may, in lieu and instead of the said authority, initiate disciplinary proceedings against any other responsible official or, where appropriate, refer the matter to the criminal courts.¹²²

Independence

The Mediator is an institution independent of the state structures, and the holder of the post cannot be prosecuted, arrested, detained or tried in respect of opinions expressed or acts performed in the course of his/her official duties.¹²³

Assessment and recommendations¹²⁴

Oversight effectiveness

Given the national context, it seems that an ombuds institution competent to receive complaints and conduct investigations, including those directed against or from members of the armed forces, would be the model to promote during a possible dialogue to establish an ombuds institution. This could be either a function of the general ombuds institution (Mediator) or set up as a separate ombuds institution mandated to deal with the armed forces specifically. The armed forces are likely to cooperate in good faith with the ombuds institution, provided its mission, role and functioning are formally regulated by constitutional provisions (to give a stable legal basis).

Malfunctions, possible difficulties

Challenges and obstacles that may arise relate mainly to the risk of retaliation against complainants, linked to a possible lack of freedom of initiative and/or institutional independence. Another difficulty lies primarily in the fact that the material, human and financial resources are insufficient to monitor the implementation of recommendations, which would undermine the institution's effectiveness in the long term. An obstacle to the establishment of an ombuds institution for the armed forces could be the lack of civic awareness and knowledge related to citizens' rights, due to the general unfamiliarity of the institution's role and mission. Finally, lack of cooperation from the government and lack of political will could also hamper the establishment of such an institution.

Recommendations

An extensive campaign to raise awareness among leaders and the military could promote the establishment of an ombuds institution mandated to deal with cases involving members of the armed forces. This communication campaign would serve to demonstrate the effectiveness of the model in some countries that have already established such an institution (exchange of best practices and recommendations). Such campaigns would aim to raise awareness of the role and functions of an ombuds institution, particularly in strengthening the democratic transition process in order to facilitate the return of democracy and security, through the promotion of rule of law and human rights principles. Such an institution could have a deterrent and preventive effect on human rights and IHL violations, and thus enforce the principles of accountability and transparency with respect to the actions of armed forces. This control would ultimately aim at improving relations between security actors and the population, thereby reinforcing the legitimacy of the armed forces.

Responses to the questionnaire sent by the Office of the Mediator of the Republic of Madagascar have shown that the role of an ombuds institution for the armed forces would be to receive and investigate complaints about them; provide training to members of the public administration in the field of human rights and IHL; provide comments on legislation in force or being drawn up; intercede between the authorities and the population; monitor and ensure compliance by members of the public administration and the armed forces with human rights and IHL; act as a mediator between complainants and the armed forces; and propose new laws to parliament and/or government.

The institution should be granted sufficient powers. It should enjoy the power to investigate complaints received and initiate investigations on its own initiative; the power to make and implement recommendations; the power to publish annual and/or thematic reports; the power to require the attendance of any witness or the production of any document deemed relevant; and the power to have access to confidential or classified information necessary for its enquiries. The military ombudsperson should be able to refer a case to the executive or the judiciary in case of

non-cooperation of the institutions concerned, and impose sanctions on relevant administrations.

In the responses to the questionnaire, the Office of the Mediator indicated that if such an institution were created, it would have the power to exercise control over members of the military police and judicial system, as well as other actors in the security sector, such as prison services, members of the judiciary and non-state paramilitary groups.

The ability to file a complaint with the ombuds institution in case of rights violations should be granted to the widest number of people possible, namely any natural and legal persons who have suffered harm; active and former members of the armed forces and their families; associations or groups acting on behalf of several complainants; national and foreign civilians residing in the country; and national civilians residing abroad.

Strategies to raise public awareness of the importance of establishing an ombuds institution for the armed forces could consist of creating communication programmes and campaigns to raise the awareness of the administration, the armed forces and the population. Traditional media channels, the internet and public lectures run by international experts could also promote public awareness of the role, functioning and tasks of the ombuds institution.

More financial and human resources are needed to organize training for members of the armed forces, especially in human rights, IHL, gender or religious discrimination, sexual violence and/or violence against women. Training should also provide a better understanding of the institution's complaints procedures, as well as relevant laws and regulations at the national level.

MALI¹²⁵

1. NATIONAL CONTEXT AND SECURITY SECTOR

Since its independence in 1960, Mali has experienced three different political systems: a single-party regime (1960–1968), a single-party government brought to power by a military coup (1968–1991) and a democratic regime (1991–present). Marked by political instability, the country has also experienced several tribal and inter-communal armed conflicts.¹²⁶

The security sector includes the national police, the gendarmerie, the national guard, the armed forces (land, air) and the vice and minors' protection squad. Control over members of the security sector is carried out by the executive, including the Ministry for Interior Security and Civil Defence, the Ministry of Defence and Veterans Affairs, the Ministry of Justice, the Ministry for Family, Women and Children, the High Council for National Defence, the Committee on National Defence and the National Commission on Human Rights.

Threats are mainly related to urban crime, drug trafficking, banditry and armed robbery. The current context also inspires fear of an increase in border and cross-border crime, as well as terrorism. Apart from public and collective security, the security sector also ensures human security, responding to threats that could endanger the civilian population, whether or not these threats are accompanied by acts of violence.¹²⁷

2. THE MEDIATOR OF THE REPUBLIC

Presentation of the institution

Origins and legal basis

The first Mediator of the Republic, Demba Diallo, was appointed in 1999. The institution experienced a period of latency after his death until the appointment in 2002 of the new ombudsman, Diakite Fatoumata Ndiaye. M'Bam Djatigui Diarra was appointed in 2009, followed by Diango Cissoko from 2011 to 2013. The current Mediator is Baba Akhib Haïdara, who has been in office since 3 October 2013. The Mediator of Republic was established by Law No. 97-022 of 14 March 1997.

Mandate, functions, expertise

The Mediator is appointed for a term of seven years by decree of the President of the Republic. His/her mandate is not renewable. The ombudsperson is empowered to investigate cases, summon the agents involved in the matter, require the disclosure of any record or document relating to the case and, if necessary, use specialized inspections to carry out necessary checks.

In the discharge of his functions, the Mediator issues any recommendations he believes will resolve the matter, and sets out, where appropriate, proposals intended to improve the functioning of the body subject to investigation.¹²⁸ The Mediator may also present competent authorities with proposals to change legal acts or regulations in force.¹²⁹ In the event of failure to execute a court decision which has acquired the force of *res judicata*, the Mediator may enjoin the organization concerned to comply with the decision within a period he stipulates. If this injunction is not complied with, non-execution of the court decision is the subject of a special report to be published.¹³⁰ However, the ombudsperson does not have jurisdiction in three situations: disputes between a public servant and his/her employer, in cases of dispute regarding a court decision, and in cases where the claim relates to a private dispute.

Independence

The Mediator of the Republic is an independent authority and does not receive, in exercising his mandate, instructions from any authority.¹³¹ He cannot be prosecuted, arrested, detained or tried in respect of opinions expressed or acts performed in the course of his official duties.¹³²

Assessment and recommendations

DCAF has not received responses the questionnaire by the ombuds institution of the Republic of Guinea and cannot make any recommendations on the establishment of an ombuds institution with jurisdiction over cases involving members of the armed forces or security sector. DCAF can only encourage the implementation of awareness programmes on human rights and humanitarian law, and discussions among the population and the armed forces on the establishment of such an institution. Offering an alternative to the judicial system, the ombuds institution could recommend the adoption of reforms to promote the rule of law and could eventually restore confidence between citizens and the security sector. In 2012 the number of persons received, heard and advised by the Mediator of the Republic saw a significant increase, with 665 against 497 in 2011, despite the closure of three northern delegations following the occupation of these areas by terrorist armed groups.¹³³ The establishment of a special representative appointed by the Ministry of Internal Affairs would facilitate communication between the Mediator and the armed forces, and is currently under discussion.¹³⁴

Table 7. Functions and powers of ombuds institutions (Burundi, Côte d'Ivoire, Republic of Guinea, Madagascar, Mali)

	BURUNDI	CÔTE D'IVOIRE	GUINEA	MADAGASCAR	MALI
Jurisdiction over the armed/security forces		✓*			
Own-motion investigation		✓			
Investigation	✓	✓		✓	✓
Recommandation, implementation and monitoring	✓			✓	✓
Independence	✓	✓	✓	✓	✓
Annual and/or thematic report	✓	✓	✓	✓	✓

* Ongoing process (see Part II, Chapter 4 – Côte d'Ivoire).

Chapter 5. States with no Ombuds Institution: Comoros and the Democratic Republic of the Congo

COMOROS¹³⁵

Context

The Union of the Comoros is a small archipelago with an estimated population of 752,288 (July 2013), covering a territory of about 1,800 km². Comoros is a fragile state with a long history of political and institutional instability. There have been 21 coups and coup attempts since it declared independence from France in July 1975.¹³⁶ At the institutional level, a new constitution was adopted in December 2001,¹³⁷ creating the Union of the Comoros, with considerable autonomy accorded to each of the three islands (Grande Comore, Anjouan and Moheli). These achievements have allowed the establishment of a more representative institutional structure and a more stable political environment.¹³⁸

The Comorian security forces consist of the Armée Nationale de Développement Comorienne, the Force Comorienne de Défense, which includes the gendarmerie, the Comorian coastguard and the Comorian Federal Police. The Federal Police is the branch of the police force that is under the direct authority of the minister of the interior, responsible for maintenance of public order and enforcement of police regulations in general; seeking out and ascertaining breaches of the criminal law, especially in urban areas; collection of information; border surveillance and control on the movement of persons; and assistance to administrative authorities.¹³⁹ Officers of the Federal Police must respect the chain of

command and enforce strict discipline.¹⁴⁰ Most crimes and offences handled by the Federal Police are related to drug trafficking, maritime piracy, money laundering and terrorism.

Absence of an ombuds institution

The “Réforme du secteur de la sécurité en Union des Comores” project aims to support the establishment of a coastguard unit, rehabilitate barracks and weapons depots and train military staff¹⁴¹ across the three islands.¹⁴² The training has enabled the military to take into account international standards of human rights in the defence and security professional environment and to observe, at the same time, a gradual decrease of human rights violations by soldiers. Military authorities’ main expectations are related to management training, with regard particularly to maritime safety to combat, *inter alia*, illegal immigration and piracy.

Before initiating any process of SSR, it is important to encourage Comoros to ratify international human rights instruments (such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention against Enforced Disappearance and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women). Comoros should consider the establishment of a national human rights institution and a mechanism to carry out genuine investigations into cases of human rights violations, so as not to allow a culture of impunity to prevail.¹⁴³ It also seems important to set up a policy to prevent, combat and punish those responsible for violence against women and take specific measures for the victims of violence, as well as to promote gender equality and adopt measures to eliminate gender discrimination.¹⁴⁴

DEMOCRATIC REPUBLIC OF THE CONGO¹⁴⁵

Context

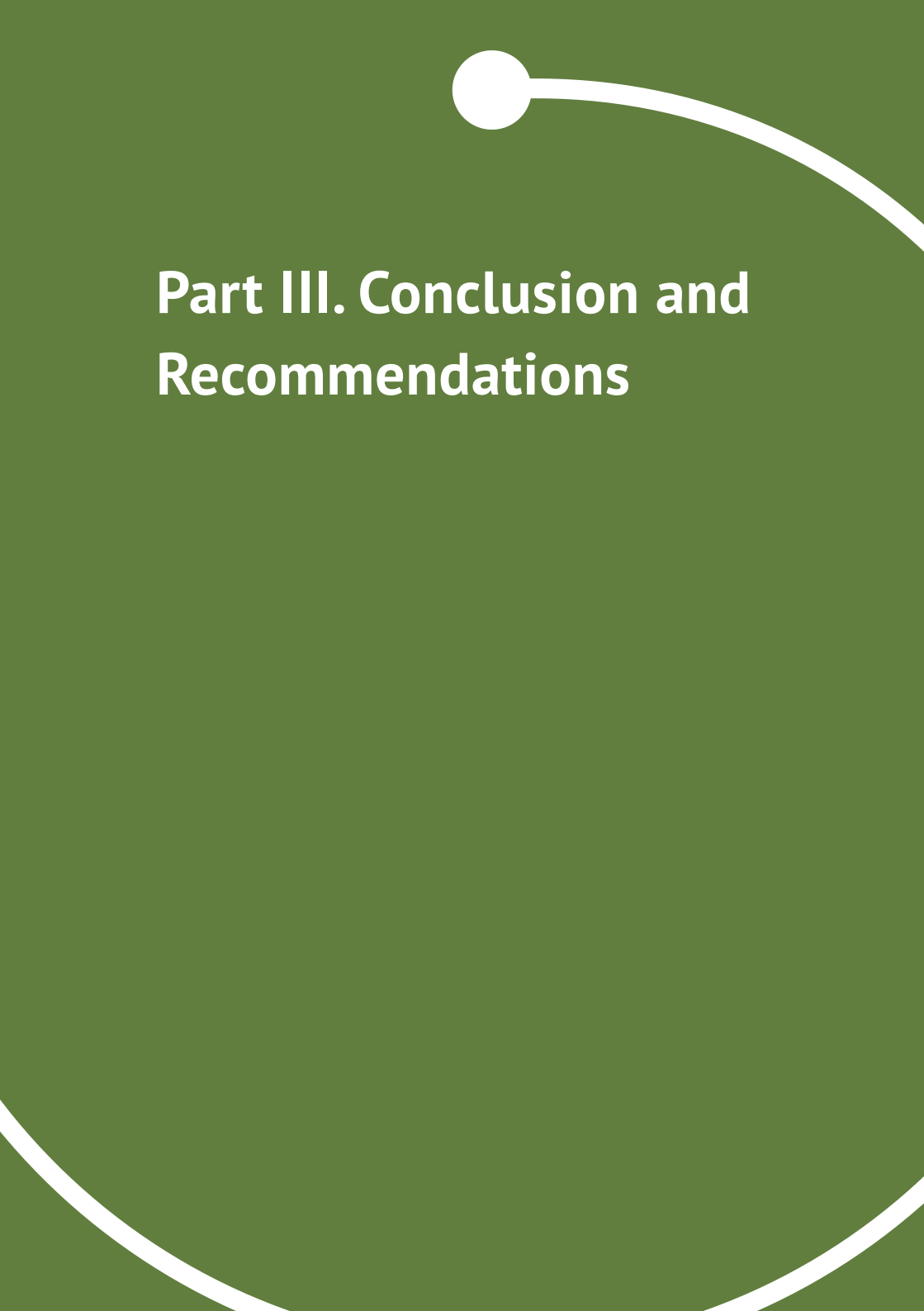
Independent since 30 June 1960, the former Belgian Congo was known as Zaire from 1971 to 1997, until Laurent-Désiré Kabila took power, putting an end to the regime of Mobutu Sese Seko, and gave the country its current name, the Democratic Republic of the Congo (DRC). In January 2001 Joseph Kabila succeeded his father, before being elected president in 2006 and re-elected in November 2011, in disputed circumstances.¹⁴⁶ The country suffers the consequences of the wars that have been taking place for 20 years in the Great Lakes region, where citizens are no longer safe – especially in eastern DRC – because of the military activities of the Movement of 23 Mars (M23) rebels. It seems that a first step towards peace has been taken, the government and former rebels of the M23 having agreed to end the armed hostilities in the east of the country. In December 2013 the parties signed several documents reaffirming the dissolution of the M23 as an armed group, and detailing the modalities of the demobilization and members' renunciation of violence to enforce their rights.¹⁴⁷ The redeployment of the armed forces of the Democratic Republic of the Congo¹⁴⁸ to fight the M23 in eastern DRC created security vacuums in other regions. This allowed various armed groups, such as the Raia Mutomboki, Nyatura, Forces Démocratiques de Libération du Rwanda, Burundian Forces Nationales de Libération, Mayi Mayi Sheka and Alliance des Patriotes pour un Congo Libre et Souverain, to commit serious human rights abuses as they expanded their military operations into those areas. Abuses included unlawful killings, summary executions, forced recruitment of children, rape and sexual violence, large-scale looting and destruction of property, sometimes ethnically motivated.¹⁴⁹

Absence of an ombuds institution

When it comes to SSR, a dialogue on the reform of the army has been ongoing since 2012. These discussions follow the many setbacks suffered by the army in fighting M23 rebels. Despite these discussions, no clear plan to reform the armed and security forces has been suggested for the time being, whether at the national or international level, by those involved in the Great Lakes crisis.

Nonetheless, there is a system of military justice, established as an independent institution within the judiciary, responsible for enforcing the law and strengthening military discipline. The General Inspectorate of the Armed Forces is also in place, headed by a general officer with the title of Inspector General of the Armed Forces.

Awareness campaigns through training programmes for the armed forces and the population could be a way to open dialogue on the possibility of setting up an independent ombuds institution specifically mandated to deal with cases involving offences committed by military personnel against civilians or within the armed forces.



Part III. Conclusion and Recommendations

Conclusion and Recommendations

The recommendations developed in this section are primarily based on responses to the questionnaire and interviews with national experts. This is a brief summary of the comparative analysis between the different national contexts to highlight, in relation to the SSR process to which these states are committed, the importance of independent and well-functioning ombuds institutions for the armed forces in francophone countries of sub-Saharan Africa.

In general, the establishment of an ombuds institution mandated to deal with cases concerning the relationship among and between the security forces, including the armed forces, and civilians has the advantage of strengthening the democratic transition process while proposing SSR measures.¹⁵⁰ Such an institution would contribute to improving relations between civilians and the military, as an institution independent of political and military powers would provide oversight of activities and ensure respect for discipline even within the security forces in order to avoid the abuses and excesses that are sometimes seen. The institution may also be an alternative to parliamentary oversight.¹⁵¹ It is important to emphasize the need to have the necessary resources and qualified staff, specialized in both civilian and military issues. Particular emphasis should be given to the need for staff of the institution to possess a thorough knowledge of issues related to human rights violations that may occur within the armed forces. A military ombudsperson who knows

the system and the functioning of the armed and security forces can ensure a degree of efficiency and expertise to provide legal assistance to the military and respond more specifically to complaints about the violation of their rights.

For the majority of states examined, it is clear that the establishment of an ombuds institution specifically mandated to deal with cases involving members of the armed forces would not only secure respect, promotion and protection of human rights and IHL, but also in this way improve the relationships between security actors and the public.¹⁵² A flexible alternative to judicial proceedings,¹⁵³ such an institution would be a way to enforce the rule of law¹⁵⁴ and, more specifically, ensure accountability of the armed and security forces.¹⁵⁵ The military ombudsperson could thus play a deterrent and preventive role for human rights and IHL violations.¹⁵⁶ Responses to the questionnaire confirm that half of the examined states would consider the military ombuds institution as a tool to strengthen and facilitate the process of democratic transition.¹⁵⁷ Such an institution would also contribute to improvements in the security environment, and even a return to peace¹⁵⁸ in countries plagued by violence, thus enhancing the effectiveness and legitimacy of armed forces.¹⁵⁹

Proposals and recommendations for a possible ombuds institution for the armed forces

The information contained in this section is based solely on the questionnaire replies from the ombuds institutions of Burundi, Cameroon, Niger, Senegal and Togo.

Based on the responses, the preferred institution model for most of these states (Burkina Faso, Burundi, Cameroon, Madagascar, Niger, Republic of Guinea, Senegal – the majority of the states selected) would be a general ombuds institution with broad jurisdiction over many parts of the government, including the armed forces. Only one state (Togo) is in favour of establishing an independent ombuds institution with exclusive jurisdiction over the armed forces. The process of establishing a military ombudsperson is currently under way in Côte d'Ivoire (Part II, Chapter 4 – Côte d'Ivoire).

Table 8. Desired practice on functions of the ombuds institution with jurisdiction over the armed forces (the five most important, ranked here in descending order)

BURUNDI	<ol style="list-style-type: none"> 1. Receive and investigate complaints. 2. Act as a mediator between complainants and the armed forces. 3. Monitor and ensure compliance by members of the armed forces with military laws and regulations. 4. Monitor and ensure compliance by members of the armed forces with IHL and IHRL. 5. Monitor impartiality, effectiveness and functioning of complaint-handling mechanisms integrated in the armed forces.
CAMEROON	<ol style="list-style-type: none"> 1. Raise public awareness on human rights and IHL. 2. Provide training to members of the administration on human rights/IHL. 3. Provide training to members of the armed forces on national and international human rights standards and legal regulations. 4. Receive and investigate complaints. 5. Act as a mediator between complainants and the armed forces.
MADAGASCAR	<ol style="list-style-type: none"> 1. Receive and investigate complaints. 2. Provide training to members of the administration on human rights/IHL. 3. Comment on existing acts and regulations and those being developed. 4. Act as an intercessor between the authorities and the population. 5. Monitor and ensure compliance by members of the administration with human rights/IHL.
NIGER	<ol style="list-style-type: none"> 1. Receive and investigate complaints. 2. Propose administrative reforms. 3. Provide training to members of the administration on human rights/IHL. 4. Monitor and ensure compliance by members of the armed forces with military laws and regulations. 5. Monitor and ensure compliance by members of the armed forces with IHRL and IHL.
TOGO	<ol style="list-style-type: none"> 1. Act as a mediator between complainants and the armed forces. 2. Receive and investigate complaints. 3. Act as an intercessor between the authorities and the population. 4. Monitor and ensure compliance by members of the armed forces with military laws and regulations. 5. Monitor and ensure compliance by members of the armed forces with IHRL and IHL.

Table 9. Desired practice on powers exercised by an ombuds institution with jurisdiction over the armed forces

	BURUNDI	CAMEROON	MADAGASCAR	NIGER	SENEGAL	TOGO
Investigation	✓	✓	✓	✓	✓	✓
Own-motion investigations	✓	✓	✓	✓	✓	✓
Recommendations	✓	✓	✓	✓	✓	✓
Report	✓	✓	✓	✓	✓	✓
Calling for witnesses	✓	✓	✓		✓	✓
Access to any document deemed useful	✓	✓	✓		✓	✓
Access to confidential and classified information	✓	✓	✓	✓	✓	
Refer a case (to executive/judiciary)	✓	✓	✓	✓	✓	✓
Power to apply sanctions	✓	✓	✓		✓	

Table 10. Desired practice on groups an ombuds institution with jurisdiction over the armed forces should be able to oversee

	BURUNDI	CAMEROON	MADAGASCAR	NIGER	SENEGAL*	TOGO
Land forces	✓	✓		✓		✓
Air forces	✓	✓		✓		✓
Naval forces	✓	✓				✓
Military police	✓	✓	✓	✓		✓
Paramilitary forces		✓		✓		✓
Military intelligence	✓					
Ministry of Defence	✓			✓		✓
Minister of Defence	✓			✓		
Coastguards	✓	✓				✓
Civilians serving in armed forces		✓				
Judiciary	✓	✓	✓			✓
Private military companies						
Police		✓		✓		✓
Prison services		✓	✓	✓		✓
Immigration/asylum services		✓		✓		✓
Border control services	✓	✓		✓		✓
Intelligence						✓
Members of judiciary		✓	✓			✓
Non-state paramilitary group			✓			

* Response of Senegal: The Mediator of the Republic exercises his powers over all the military and paramilitary groups mentioned. However, the Mediator does not exercise control over members of the judiciary, which is independent.

Table 11. Main reasons for the establishment of an ombuds institution with jurisdiction over the armed forces

	BURUNDI	CAMEROON	MADAGASCAR	NIGER	SENEGAL*	TOGO
Enhance and facilitate process of democratic transition	✓		✓	✓		
Improve security climate/facilitate return of peace	✓	✓	✓			
Security sector reform		✓	✓	✓		✓
Enforcement of rule of law and principles of good governance	✓		✓	✓		✓
Promotion and defence of human rights and IHL	✓	✓	✓	✓		✓
Deterrent and preventive effect (violations of human rights and IHL)	✓	✓	✓			✓
Enforcement of accountability/transparency in armed forces	✓	✓	✓			✓
Flexible alternative to judicial proceedings	✓	✓	✓			✓
Alternative to lack of parliamentary oversight	✓		✓	✓		✓
Enhancing effectiveness and legitimacy of armed forces	✓	✓	✓			✓
Improving relations between authorities, actors of security sector and population	✓	✓	✓	✓		✓

* Response of Senegal: These needs are perfectly covered by the Mediator.

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ENDNOTES

1. Geneva Centre for the Democratic Control of Armed Forces, *Ombuds Institutions for the Armed Forces in Francophone Africa: Burkina Faso, Burundi and Senegal* (Geneva: OIF-DCAF, 2013).
2. Alima Déborah Traoré-Diallo (Mediator of Burkina Faso) and Mamadou Chérif Thiam (representative of the Mediator of the Republic of Senegal) attended this conference.
3. Alima Déborah Traoré-Diallo and Alexis Ahonzo (director of the Civil and Military Cabinet of the Minister to the President of the Republic of Côte d'Ivoire, in charge of defence) attended this conference.
4. Alima Déborah Traoré-Diallo, Dr Chemuta Divine Banda (president of the National Commission on Human Rights and Freedoms of Cameroon), Thierry Kouamé (technical adviser, Ministry of Defence of Côte d'Ivoire), Jean-Albert Andrianasolo (deputy Ombudsman of the Republic of Madagascar), Moustapha Elhadji Kollo (technical adviser, Mediator of the Republic of Niger), Mamadou Chérif Thiam, Mamadou Thiam (representative of the Mediator of the Republic of Mali) and Koffi Sylvain Mensah Attoh (member of National Commission on Human Rights of Togo) attended the sixth ICOAF.
5. Of the 50 countries that make up sub-Saharan Africa, 23 belong to the OIF. French is the official or co-official language in 19 of these countries.
6. Mali and Madagascar are currently suspended from the OIF but have nonetheless been included in the mapping project.
7. Association of Ombudsmen and Mediators of La Francophonie, "What is an ombudsman/mediator?", undated, www.aomf-ombudsmans-francophonie.org/the-aomf/what-is-an-ombudsman-mediator_fr_000079.html.
8. Geneva Centre for the Democratic Control of Armed Forces, "Military ombudsmen", Backgrounder 02/2009 (Geneva: DCAF, 2009), p. 1.
9. See in particular Buckland, Benjamin S. and McDermott, William, *Ombuds Institutions for the Armed Forces. A Handbook* (Geneva: DCAF, 2012), pp. 29–33.
10. United Nations, "Securing peace and development: The role of the United Nations in supporting security sector reform", report of the Secretary-General, 23 January 2008, UN Doc. A/62/659–S/2008/39, para. 17.
11. *Ibid.*, para. 18.
12. Including constitutional provisions, laws, ordinances, decrees and other legislation relating to the establishment, mandate, functions and role of the ombuds institution, as well as policy documents, official statements and other relevant documents proving the desire to establish an ombuds institution or modify its mandate and/or current operation.
13. Burkina Faso, Cameroon, Niger, Senegal and Togo.
14. This is the case of the Ombudsman of Burundi, and the Mediators of Côte d'Ivoire, Republic of Guinea, Mali, Senegal and Togo (where the NHRC currently replaces the Mediator, as the position is vacant).
15. In particular in Senegal.
16. Burkina Faso, Burundi, Cameroon, Madagascar, Mali, Niger, Senegal and Togo.
17. Association of Ombudsmen and Mediators of La Francophonie, *Recueil de la doctrine de l'Ombudsman – Analyse comparative des statuts et des pratiques des membres de l'Association des Ombudsmans et Médiateurs de la Francophonie* (Quebec: AOMF, 2013).
18. Burkina Faso, Burundi, Cameroon, Madagascar, Mali, Niger, Senegal and Togo.
19. Burkina Faso, Cameroon, Niger, Senegal and Togo.
20. Burkina Faso, Cameroon, Côte d'Ivoire, Niger, Senegal and Togo.
21. As, for instance, the NCHRF in Cameroon and the NHRC in Togo.
22. Burkina Faso, Burundi, Côte d'Ivoire and Senegal.

23. Burkina Faso, Burundi, Cameroon, Côte d'Ivoire, Republic of Guinea, Madagascar, Mali, Niger, Senegal and Togo.
24. See in particular Association of Ombudsmen and Mediators of La Francophonie, note 17 above.
25. Information provided in this section is mainly based on interviews conducted by DCAF with Colonel Jean-Pierre Bayala and Judge Kassoum Kambou, as well as the OIF-DCAF case study: Geneva Centre for the Democratic Control of Armed Forces, note 1 above.
26. Figures for 2013; see World Bank, "Burkina Faso", www.worldbank.org/en/country/burkinafaso.
27. Fédération internationale des ligues des droits de l'Homme, "Situation générale des droits de l'homme au Burkina Faso", 19 April 2013, www.fidh.org/fr/afrique/union-africaine/commission-africaine-des-droits-de-l-homme-et-des-peuples/53eme-session-CADHP-avril-2013-Banjul-Gambie/situation-generale-des-droits-de-l-homme-au-burkina-faso-13173.
28. Indeed, there is a "relative politicisation of the military, which have difficulties returning to their constitutional role, as established by the fourth Constitution of June 1991"; see Bayala, Jean-Pierre, "Burkina Faso", in Association of Ombudsmen and Mediators of La Francophonie, note 17 above, p. 10.
29. *Ibid.*, p. 11.
30. Gouvernement de Burkina Faso, "L'Inspection Générale des Forces Armées Nationales", 19 September 2012, www.defense.gov.bf/index.php/le-ministere/le-cabinet/les-services-rattachees/igfan.
31. *Ibid.*
32. Interview with Jean-Pierre Bayala, 4 October 2013.
33. *Ibid.*
34. Interview with Kassoum Kambou, 17 October 2013.
35. Interview with Jean-Pierre Bayala, 4 October 2013, and interview with Kassoum Kambou, 17 October 2013.
36. Interview with Jean-Pierre Bayala, 4 October 2013.
37. *Ibid.* See also Geneva Centre for the Democratic Control of Armed Forces, note 1 above, p. 12.
38. Geneva Centre for the Democratic Control of Armed Forces, note 1 above, p. 18.
39. Roundtable organized at DCAF's headquarters on 29 October 2014; communication with the Mediator of Burkina Faso.
40. Interview with Jean-Pierre Bayala, 4 October 2013.
41. *Ibid.*
42. Roundtable organized at DCAF's headquarters on 29 October 2014; communication with the Mediator of Burkina Faso.
43. *Ibid.*
44. Interview with Jean-Pierre Bayala, 4 October 2013, and interview with Kassoum Kambou, 17 October 2013.
45. Unless otherwise indicated, this section is based on the responses to the questionnaire by the NCHRF, which is an independent administrative authority in charge of identifying cases of human rights violations.
46. Law No. 96/06 establishing new constitution in Cameroon (18 January 1996), Article 1(2).
47. Corrupt practices are mostly the result of the complexity and high cost of judicial procedures.
48. By 2012 a few international instruments had not been ratified by Cameroon. This is the case, for instance, of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (10 December 2008), the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (15 December 1989), the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (18 December 2002), the Optional Protocol to the Convention on the Rights of the Child on the sale of children,

- child prostitution and child pornography (25 May 2000), the International Convention for the Protection of All Persons from Enforced Disappearance (20 December 2006), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (18 December 1990), the Convention on the Rights of Persons with Disabilities and its Optional Protocol (13 December 2006), the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (22–23 October 2009) and the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (June 1998). See Centre des Nations Unies pour les Droits de l'Homme et la Démocratie en Afrique centrale, "Cameroun", undated, www.cnuhd.org/index.php?option=com_content&view=article&id=120&Itemid=116.
49. Law No. 96/06, note 46 above, Article 1(2).
 50. See in particular Law No. 2004/016 of 22 July 2004 to set up the organization and functioning of the National Commission on Human Rights and Freedoms. The next subsection addresses more specifically the role, functioning and mandate of the NCHRF.
 51. These services usually enable veterans' family members to receive financial support, which can take several forms (e.g. widow's pension or support for funeral expenses).
 52. These recommendations are mainly based on the responses to the questionnaire sent by the NCHRF.
 53. Unless otherwise indicated, this section is based on the replies to the questionnaire by the technical office of the Mediator of Niger.
 54. World Bank, "Niger – Overview", www.worldbank.org/en/country/niger/overview.
 55. *Ibid.*
 56. Gaanderse, Miranda and Valasek, Kristin (eds), *The Security Sector and Gender in West Africa: A Survey of Police, Defence, Justice and Penal Services in ECOWAS States* (Geneva: DCAF, 2011), p. 173.
 57. *Ibid.*, p. 174.
 58. Law No. 2011-18 (8 August 2011), Article 3.
 59. *Ibid.*, Article 15.
 60. These recommendations are mainly based on the responses to the questionnaire by the technical office of the Mediator of Niger.
 61. Law No. 2013-30 (17 June 2013), Article 17 (new).
 62. Unless otherwise indicated, this section is based on replies to the questionnaire sent by the Office of the Mediator of the Republic of Senegal.
 63. Geneva Centre for the Democratic Control of Armed Forces, note 1 above, p. 71.
 64. *Ibid.*
 65. Brigadier-General Alioune Wade, former national security adviser to the prime minister, was named Inspector General of the Armed Forces on 11 July 2013, replacing Major-General M. Balla Keita.
 66. Law No. 99-04, Article 15.
 67. Geneva Centre for the Democratic Control of Armed Forces, note 1 above, p. 80.
 68. *Ibid.*, p. 75.
 69. These recommendations are mainly based on the responses to the questionnaire sent by the Office of the Mediator of the Republic of Senegal.
 70. According to respondents, logistics and budgetary resources intended exclusively for awareness campaigns and communication are lacking.
 71. Unless otherwise indicated, this section is based on the responses to the questionnaire sent by the National Human Rights Commission of Togo, which is an independent administrative authority in charge of identifying cases of human rights violations.
 72. The Programme National de Modernisation de la Justice (2005–2010) aimed to "lay the foundations of an independent and efficient justice accessible to all". Its objectives are to strengthen the rule of law, strengthen human rights and social peace, and establish a legal environment supporting private sector development and the integration of Togo into the global economy. See particularly UNDP, "Togo: Programme National de Modernisation de la Justice (PNMJ)", undated, <http://mirror.undp.org/togo/Projets/PNMJ.htm>.

73. According to the Constitution of the Fourth Republic, adopted by referendum on 27 September 1992, promulgated on 14 October 1992 and amended by Law No. 2002-029 of 31 December 2002, "the Ombudsman is an independent administrative authority appointed by decree adopted by the Council of Ministers for a term of three (3) years, renewable. The organisation, operation and functioning of the Mediator of the Republic are established by an organic law" (Article 154).
74. Constitution adopted by referendum on 27 September 1992, promulgated on 14 October 1992 and amended by Law No. 2002-029 of 31 December 2002.
75. Margaret Sekaggya, OHCHR Rapporteuse spéciale sur la situation des défenseurs des droits de l'Homme 2013, "Questionnaire on national human rights institutions and defenders: Togo", undated, www.ohchr.org/Documents/Issues/Defenders/AnswersNHRI/NHRIs/Togo.pdf.
76. Constitution of the Fourth Republic, Article 152.
77. These recommendations are mainly based on the responses to the questionnaire sent by the NHRC of Togo.
78. The criminalization of torture is being introduced in the Togolese Penal Code.
79. Unless otherwise indicated, this section is based on the responses to the questionnaire sent by the Office of the Ombudsman of Burundi.
80. World Bank, "Burundi: Overview", www.worldbank.org/en/country/burundi/overview.
81. See in particular "l'Etude sur les besoins de sécurité au Burundi", sponsored by the Embassy of the Netherlands in Burundi and conducted jointly by the Centre d'Alerte et de Prévention des Conflits (CENAP) and the Centre de Recherche, d'Etudes et de Documentation en Sciences Sociales-Burundi (CREDESS-Bdi), May 2012, p. 32.
82. *Ibid.*, p. 45.
83. Geneva Centre for the Democratic Control of Armed Forces, note 1 above, pp. 45–46.
84. These recommendations are mainly based on the responses to the questionnaire sent by the Office of the Ombudsman of Burundi.
85. The mediator should be able to require the attendance of witnesses and the production of any relevant document, and have access to confidential information as part of its investigative powers.
86. Including, for example, issues related to discrimination, sexual violence and violence against women in the armed forces.
87. Such as, for example, awareness campaigns through other organs or complaint mechanisms, campaigns conducted in remote or disadvantaged provinces, and public awareness campaigns conducted on the internet or through traditional media channels.
88. Unless otherwise indicated, this section is based on extensive desk research and communication with the technical adviser of the Ministry of Defence of Côte d'Ivoire at a roundtable organized at DCAF's headquarters on 29 October 2014.
89. The insecurity index (which measures the number of attacks such as robberies, home or business break-ins, and car thefts) fell from 3.8 in January 2012 to 1.6 in May 2013. See in particular World Bank, "Côte d'Ivoire", www.worldbank.org/en/country/cotedivoire/overview.
90. Notably through the establishment of the Truth, Reconciliation and Dialogue Commission after the post-election crisis (July 2011).
91. See World Bank, note 89 above.
92. Amnesty International, "Rapport 2013 – Situation des droits de l'homme dans le monde", www.amnesty.org/fr/region/cote-divoire/report-2013.
93. Bryden, Alan and N'Diaye, Boubacar (eds), *Security Sector Governance in Francophone West Africa: Realities and Opportunities* (Geneva: DCAF, 2011), p. 78.
94. *Ibid.*, p. 90.
95. *Ibid.*, p. 80.
96. Law No. 2007-540 of 1 August 2007, Article 7.

97. *Ibid.*
98. Law No. 2007-540 of 1 August 2007, Article 15.
99. *Ibid.*, Article 2.
100. *Ibid.*, Article 4.
101. Communication with the technical adviser of the Ministry of Defence of Côte d'Ivoire at a roundtable organized at DCAF's headquarters on 29 October 2014.
102. Unless otherwise indicated, this section is based on extensive desk research.
103. World Bank, "Guinea", www.worldbank.org/en/country/guinea/overview.
104. Bryden and N'Diaye, note 93 above, p. 100.
105. *Ibid.*, p. 95.
106. The Mediator of the Republic of Guinea stated that "any process of democratisation and socio-economic development depends fundamentally on strengthening national unity, a sure sign of true progress". See Radioguineésud, "Le nouveau Médiateur de la Rép de Guinée, le Gl Facinet Touré a été installé lundi dans ses fonctions par le PRG"; undated, www.guineesud.com/santé-opinion/le-médiateur-de-la-république-de-la-guinée-s-installe/.
107. Law No. 004/CNT/2010 on the procedures for referral, intervention and functioning of the Mediator of the Republic, 20 December 2010, Articles 1 and 9.
108. Law No. 004/CNT/2010, Article 15.
109. *Ibid.*, Article 11.
110. *Ibid.*
111. *Ibid.*, Article 12.
112. *Ibid.*, Article 13.
113. *Ibid.*, Article 2.
114. *Ibid.*
115. *Ibid.*, Article 3.
116. *Ibid.*, Article 8.
117. Unless otherwise indicated, this section is based on the responses to the questionnaire by the Office of the Mediator of the Republic of Madagascar.
118. Ordinance No. 92-012 establishing a Mediator, Public Defender, 29 April 1992, Article 1.
119. *Ibid.*, Article 11.
120. *Ibid.*, Article 8.
121. *Ibid.*
122. *Ibid.*, Article 9.
123. *Ibid.*, Article 3.
124. These recommendations are mainly based on the responses to the questionnaire sent by the Office of the Mediator of the Republic of Madagascar.
125. Unless otherwise indicated, this section is based on extensive desk research and communication with the representative of the Mediator of the Republic of Mali at a roundtable organized at DCAF's headquarters on 29 October 2014.
126. Gaanderse and Valasek, note 56 above, p. 159.
127. Bryden and N'Diaye, note 93 above, p. 127.
128. Law No. 97-022 of 14 March 1997, Article 11.
129. *Ibid.*
130. Law No. 97-022 of 14 March 1997, Article 13.
131. *Ibid.*, Article 1.
132. *Ibid.*, Article 5.
133. Annual report of the Mediator of the Republic of Mali (2013).
134. Roundtable organized at DCAF's headquarters on 29 October 2014; communication with the representative of the Mediator of the Republic of Mali.
135. Unless otherwise indicated, this section is based on extensive desk research.
136. Word Bank, "Comoros Overview", 2013, www.worldbank.org/en/country/comoros/overview.
137. Following a reconciliation agreement signed in Fomboni in 2001.
138. Word Bank, note 136 above.
139. Law No. 83-014 establishing the creation and organization of the Federal Police (3 June 1983), Article 1.
140. *Ibid.*, Article 18.
141. Several training courses for officers, non-commissioned officers and enlisted men of

- the Force Comorienne de Défense and the gendarmerie were organized in all three islands.
142. See UNDP, www.km.undp.org/doc/fiche_rss.pdf.
 143. UPR-Info. See in particular the list of recommendations made by states to Comoros (2009), www.upr-info.org/IMG/pdf/Recommendations_to_Comoros_2009.pdf.
 144. Ibid.
 145. Unless otherwise indicated, this section is based on extensive desk research.
 146. Diplomatie.gouv, "République démocratique du Congo", 10 December 2014, www.diplomatie.gouv.fr/fr/dossiers-pays/republique-democratique-du-congo/.
 147. Members of the DRC government and M23 met in Nairobi (Kenya) on 12 December 2013 to sign an agreement consisting of three documents aimed at ending the conflict. See especially Le Monde, "La RDC et le M23 signent un accord de paix", 12 December 2013, www.lemonde.fr/afrique/article/2013/12/12/la-rdc-et-le-m23-ont-signé-un-accord-de-paix-annonce-le-kenya_4333653_3212.html.
 148. Forces armées de la République démocratique du Congo numbers about 130,000 soldiers in the army, 2,500 in the navy and 2,000 in the air force (figures for 2010).
 149. Amnesty International, "République démocratique du Congo – Rapport 2013", 2013, www.amnesty.org/fr/region/democratic-republic-congo/report-2013.
 150. Cameroon, Madagascar, Niger, Togo.
 151. Burundi, Madagascar, Niger, Togo.
 152. Burundi, Cameroon, Madagascar, Niger, Togo.
 153. Burundi, Cameroon, Madagascar, Togo.
 154. Burundi, Madagascar, Niger, Togo.
 155. Burundi, Cameroon, Madagascar, Togo.
 156. Burundi, Cameroon, Madagascar, Togo.
 157. Burundi, Madagascar, Niger.
 158. Burundi, Cameroon, Madagascar.
 159. Burundi, Cameroon, Madagascar, Togo.

About the project partners

The International Organisation of La Francophonie (IOF)

was created in 1970. Its mission is to embody the active solidarity between its 77 member states and governments (57 members and 20 observers), which together represent over one-third of the United Nations' member states and account for a population of over 890 million people, including 220 million French speakers. IOF organises political activities and actions of multilateral cooperation that benefit French-speaking populations. Its actions respect cultural and linguistic diversity and serve to promote the French language, peace and sustainable development. The International Organisation of La Francophonie represents one of the biggest linguistic zones in the world. Its members share more than just a common language. They also share the humanist values promoted by the French language. The French language and its humanist values represent the two cornerstones on which the International Organisation of La Francophonie is based.

The Geneva Centre for the Democratic Control of Armed Forces (DCAF)

is an international foundation for security, development and rule of law, whose mission is to assist the international community in pursuing good governance in and the reform of the security sector. The centre has a fully-fledged programme on ombuds institutions that has been running for over five years. The programme has highlighted the essential role of such institutions in protecting and promoting human rights and in preventing maladministration through a number of means.