



### Article 13. Participation of society

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

- (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
- (b) Ensuring that the public has effective access to information;
- (c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;
- (d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to such restrictions as shall only be such as are provided for

## **CIVIL SOCIETY REPORT**

on the implementation of

Chapter II (Prevention) & Chapter V (Asset Recovery) of the

## **UNITED NATIONS CONVENTION AGAINST CORRUPTION**

## **IN GUINEA**

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by Association Guinéenne pour la Transparence

## **Acknowledgments**

As part of the preparation of this parallel report on the evaluation of the implementation of the United Nations Convention Against Corruption (UNCAC) in its chapters II (Preventive Measures) and V (Asset Recovery), the Guinean Association for Transparency (AGT) notes with great satisfaction the good collaboration of officials and decision-makers of the Guinean State in making available the information requested for this purpose.

The AGT team would like to warmly thank His Excellency the Minister of Labor and Public Service (MTFP) and through him the General Inspector and his Deputy of the General Inspection of Public Administration (IGAP) for the interest they gave to this process and the promptness with which they provided information concerning the Public Administration.

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- The Executive Secretary of the National Agency for the Fight against Corruption and the Promotion of Good Governance (ANLC-PBG) and his collaborators;
- The General Auditor of the State General Inspection (IGE) and his Deputy;
- The Head of Department of Designated Non-Financial Businesses and occupation (EPNFD) of the National Financial Information Processing Unit (CENTIF) and through him the President and the person responsible for investigations;
- The Head of Division of the Office for the Repression of Economic and Financial Crimes (ORDEF) and through him the Director;
- The Central Director of Judicial Investigations (DCIJ) and his collaborators;
- The President of the Public Procurement Regulatory Authority (ARMP) and his colleagues;
- The Executive Secretary of the National Council of Guinean Civil Society Organizations (CNOSCG) and through him the acting President;
- The acting President of the National Coalition of Civil Society (CONASOC) and his collaborators.

Finally, we thank the members of AGT for their commitment and their availability.

With the aim of contributing to the national review of the UNCAC in the Republic of Guinea in its second cycle, this parallel report was written by the Guinean Association for Transparency (AGT) using the guidance materials and report template designed by the UNCAC Coalition and Transparency International. The production of this report was supported by the UNCAC Coalition, made possible with funding provided by the Norwegian Agency for Development Cooperation (Norad) and the Ministry of Foreign Affairs of Denmark (Danida).

The findings in this report are those of the authors but do not necessarily reflect the views of the UNCAC Coalition and the donors who have made this report possible.

Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of September 2, 2023.

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AGT was approved according to Order No. 9631/MATD of October 4, 2004 as a non-profit NGO. Its mission is to fight against corruption and its corollaries through training, education and citizen mobilization.



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**CERTIFICATE OF ACCURACY**

This is to certify that, I, **Mr. Mamadou Alpha II BARRY**, Director of the Bachelor's Program at the English Language Department of the **University General Lansana Conte of Sonfonia Conakry Guinea (UGLC-SC)**, declare that we, members of the **Translation Bureau** of the above mentioned University are familiar with the English and French Language, and the translation of the : ***CIVIL SOCIETY REPORT: On the implementation of Chapter II (Preventive Measures) and Chapter V (Asset Recovery) of the United Nations Convention against Corruption in Guinea By the Guinean Association for Transparency*** is a true and accurate rendering of the original submitted to us for translation.

Conakry, April 03 2024

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## Abbreviations

While the abbreviations are provided in both French and English in the following table, they are used in their original French version throughout the report for institutions and laws and in their English version for names of international institutions or initiatives.

<b>Abbreviation</b>	<b>French</b>	<b>English</b>
<b>AAACA</b>	L'Associations des Autorités Anti-Corruption d'Afrique	The Association of Anti-Corruption Authorities of Africa
<b>ACGPMP</b>	Administration de Contrôle des Grands Projets et des Marchés Publics	Administration for Control of Major Projects and Public Procurement
<b>AGRASC</b>	Agence de Gestion et de Recouvrement des Avoirs Saisis et Confisqués	Agency for the Management and Recovery of Seized and Confiscated Assets
<b>AGT</b>	Association Guinéenne pour la Transparence	Guinean Association for Transparency
<b>ARPT</b>	L'Autorité de Régulation des Postes et Télécommunications	The Post and Telecommunications Regulatory Authority
<b>AJE</b>	Agence Judiciaire de l'Etat	State Judicial Agency
<b>ANLC-PBG</b>	Agence Nationale de Lutte Contre la Corruption et de la Promotion de la Bonne Gouvernance	National Agency for the Fight against Corruption and the Promotion of Good Governance
<b>ARMP</b>	Autorité de Régulation des Marchés Publics	Public Procurement Regulatory Authority
<b>BCRG</b>	Banque Centrale de la République de Guinée	Central Bank of the Republic of Guinea
<b>CA</b>	Cour d'Appel	Court of Appeal
<b>CAGF</b>	Comité d'Appui à la Gestion du FODEL	FODEL Management Support Committee
<b>CC</b>	Cour des Comptes	Court of Audit
<b>CCGA</b>	Commission Consultative de Gel Administratif	Administrative Freezing Advisory Commission
<b>CEDEAO</b>	Communauté Économique des États de l'Afrique de l'Ouest	Economic Community of West African States
<b>CENTIF</b>	Cellule Nationale de Traitement de Informations Financière	National Financial Information Processing Unit

<b>CGI</b>	Code Général des Impôts	Tax Code
<b>CI</b>	Code des Investissements	Investment Code
<b>CIDO</b>	Conférence internationale sur les données ouvertes	International Conference on Open Data
<b>CNOSCG</b>	Conseil National des Organisations de la Société Civile Guinéenne	National Council of Guinean Civil Society Organizations
<b>CNRD</b>	Comité National pour le Rassemblement et le Développement	National Committee for Rally and Development
<b>CNT</b>	Conseil National de la Transition	National Transition Council
<b>CNUCC/UNCAC</b>	Convention des Nations Unies contre la corruption	United Nations Convention against Corruption
<b>CONASOC</b>	Coalition Nationale de la Société Civile	National Civil Society Coalition
<b>COSO</b>	Committee Of Sponsoring Organisation	Committee Of Sponsoring Organization
<b>CP</b>	Code Pénal	Penal Code
<b>CPP</b>	Code de Procédure Pénale	Code of Criminal Procedure
<b>CRIEF</b>	Cour de Répression des Infractions Économiques et Financières	Court for the Repression of Economic and Financial Offenses
<b>CS</b>	Cour Suprême	Supreme Court
<b>CSPF</b>	Comité de Suivi des Projets FODEL	FODEL Project Monitoring Committee
<b>DAO</b>	Dossiers d'Appel d'Offre	Tender Files
<b>DCIJ</b>	Direction Centrale des Investigations Judiciaires	Central Directorate of Judicial Investigations
<b>DNP</b>	Direction Nationale des Marchés Publics	National Directorate of Public Procurement
<b>DOS</b>	Déclarations d'Opérations Suspectes	Suspicious Transaction Reports
<b>EDG</b>	Électricité de Guinée	Electricity of Guinea
<b>EM</b>	Évaluation Mutuelle	Mutual Assessment
<b>ENR</b>	Évaluation Nationale des Risques	National Risk Assessment
<b>EPA</b>	Établissement Publique à Caractère Administratif	Public Establishment of an Administrative Character

<b>EPNFD</b>	Entreprises Professionnelles Non Financières Désignées	Designated Non-Financial Professional Companies
<b>FODEL</b>	Fonds de Développement Économique Local	Local Economic Development Fund
<b>GAFI</b>	Groupe d'Action Financière Internationale	International Financial Action Task Force
<b>GIABA</b>	Groupe Intergouvernemental d'action de lutte contre le Blanchiment d'Argent en Afrique de l'Ouest	Intergovernmental Action Group to Combat Money Laundering in West Africa
<b>GIE</b>	Groupements d'Intérêt Économique	Economic Interest Groups
<b>GIZ</b>	Deutsche Gesellschaft für Internationale Zusammenarbeit, Coopération Allemande	Deutsche Gesellschaft für Internationale Zusammenarbeit, German Cooperation
<b>GRSE</b>	Gestion des Ressources du Secteur Extractif	Extractive Sector Resource Management
<b>HAC</b>	Haute Autorité de la Communication	High Authority for Communication
<b>IDH</b>	Indice de développement Humain	Index of human development
<b>IGAP</b>	Inspection Général de l'Administration Publique	General Inspectorate of Public Administration
<b>IGE</b>	Inspection Générale d'État	General State Inspection
<b>IGF</b>	Inspection Générale des Finances	General Inspectorate of Finance
<b>INTERPOL</b>	Organisation Internationale de Police Criminelle	International Criminal Police Organization
<b>IPC</b>	Indice de Perception de la Corruption	Corruption Perception Index
<b>ISA</b>	Norme Internationale d'Audit	International Standard on Auditing
<b>ISSAI</b>	INTOSAI Framework	INTOSAI Framework
<b>ITIE</b>	L'Initiative pour la Transparence dans les Industries Extractives	The Extractive Industries Transparency Initiative
<b>LAC</b>	Loi Anti-Corruption	Anti-Corruption Law
<b>LBC/FT</b>	Loi de Blanchiment de Capitaux et du Financement du Terrorisme	Money Laundering and Terrorism Financing Law



<b>LOF</b>	Loi Organique Relative aux Finances	Organic Law Relating to Finance
<b>MAEP</b>	Le Mécanisme Africain d'Évaluation par les Pairs	The African Peer Review Mechanism
<b>MTFP</b>	Ministre du Travail et de la Fonction Publique	Minister of Labor and Public Service
<b>NRGI</b>	Natural Resource Governance Institute	Natural Resource Governance Institute
<b>NTIC</b>	Nouvelle Technologie de l'Information et de la Communication	New Information and Communication Technology
<b>OHADA</b>	L'Acte Uniforme Relative aux Droits Comptables et de l'Information Financière	The Uniform Act Relating to Accounting Laws and Financial Information
<b>ONUDD/UNODC</b>	Office des Nations Unies contre la drogue et le crime	United Nations Office on Drugs and Crime
<b>ORDEF</b>	Office de Répression des Délits Économiques et Financiers	Office for the Repression of Economic and Financial Crimes
<b>OSC</b>	Organisation de la Société Civile	Organization of Civil Society
<b>PCE</b>	Plan Comptable de l'Etat	State Accounting Plan
<b>PGO</b>	Partenariat pour un Gouvernement Ouvert	Open Government Partnership
<b>PNUD</b>	Programme des Nations Unies pour le Développement	United Nations Development Program
<b>PPE</b>	Personnes Politiquement Exposées	Politically Exposed Persons
<b>PTF</b>	Partenaires Technique et Financier	Technical and Financial Partners
<b>PV</b>	Procès-Verbaux	Minutes
<b>RINLCAO</b>	Réseau des Institutions Nationales de Lutte contre la Corruption en Afrique de l'Ouest	Network of National Institutions for the Fight against Corruption in West Africa
<b>SMD</b>	Société Minière de Dinguiraye	Dinguiraye Mining Company
<b>TI</b>	Transparency International	Transparency International
<b>UA</b>	Union Africaine	African Union

## List of people consulted

<b>Name</b>	<b>Position Title</b>	<b>Affiliation</b>	<b>Date of interview</b>
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Aly SYLLA	Head of Asset Recovery Division	AJE	03/14/2023
Amadou Sadio BALDE	Chief Court Clerk	Appeal Court	03/14/2023
Ousmane CONDE	Head of Division/Police Commissioner	ORDEF	03/15/2023
Alpha BARRY	Deputy National Director	IGAP	03/15/2023
Abdoulaye YAMANA	Magistrate	CRIEF	03/16/2023
Alpha Oumar DIALLO	Deputy Auditor General	IGE	03/17/2023
Korka Bailo SOW	Head of External Relations and Institution Division	ANLC-PBG	03/20/2023
Ibrahima Mouhidine DIANE	Head of Integrity and Governance Division	ANLC-PBG	03/20/2023
Gabriel HABA	Executive Secretary	CNOSCG/Civil Society	03/21/2023
Moussa SANGARE	Acting President	CONASOC/Civil Society	03/21/2023
Amine FOFANA	Central Director of Judicial Investigations	DCIJ	07/24/2023
Paul BOMBOH	Director of Statistics and Documentation	ARMP	07/24/2023

## **I. Introduction**

The Republic of Guinea signed the United Nations Convention against Corruption (UNCAC) on July 15, 2005 and ratified it on May 29, 2013.

This parallel report reviews the Republic of Guinea's implementation of selected articles of Chapter II (preventive measures) and Chapter V (asset recovery) of the UNCAC. The report is intended as a contribution to the UNCAC implementation review process currently underway covering these chapters. Guinea was selected by the UNCAC Implementation Review Group by a drawing of lots for review in the third year of the second cycle.

**1.1 Scope.** The UNCAC articles and topics that receive particular attention in this report are those covering preventive anti-corruption policies and practices (Article 5), preventive anti-corruption bodies (Article 6), public sector employment (Article 7.1), codes of conduct, conflicts of interest and asset declarations (Articles 7, 8 and 12), public procurement (Article 9.1), the management of public finances (Article 9), access to information and participation of civil society (Articles 10 and 13.1) and measures to prevent money laundering (Article 14) under Chapter II. Under Chapter V, the UNCAC articles and topics that receive particular attention in this report are those covering the anti-money laundering (Articles 52 and 58), measures for direct recovery of property (Articles 53 and 56), and international cooperation for the purposes of confiscation (Articles 51, 54, 55, 56 and 59).

**1.2 Structure.** The report begins with an executive summary, including the condensed findings, conclusions and recommendations about the review process, the availability of information, as well as the implementation and enforcement of selected UNCAC articles.. The following part covers the findings of the review process in Guinea as well as the access to information issues in more detail. Subsequently, the implementation of the Convention is reviewed and examples of good practices and deficiencies are provided. Then, recent developments are discussed and lastly, recommendations for priority actions to improve the implementation of the UNCAC are given.

**1.3 Methodology.** The report was prepared by the Guinean Association for Transparency (AGT) with technical and financial support from the UNCAC Coalition and the Norwegian Agency for Development Cooperation (Norad) and the Danish Ministry of Foreign Affairs (Danida). The organization made efforts to obtain information for the reports from government offices and to engage in dialogue with government officials. As part of this dialogue, a preliminary version of the report was made available to them.

The report was prepared using guidelines and a report template designed by the UNCAC Coalition and Transparency International for use by civil society organizations (CSOs). These tools reflected but simplified the United Nations Office on Drugs and Crime (UNODC)'s checklist and called for relatively short assessments as compared to the detailed official self-assessment checklist. The report template included a set of questions about the review process and, in the section on implementation, asked for examples of good practice and areas in need of improvement in articles of UNCAC Chapter II on prevention and Chapter V on asset recovery.

## **II. Executive summary**

This civil society parallel report examines the Guinea's implementation of selected articles from Chapter II (Preventive Measures) and Chapter V (Asset Recovery) of the United Nations Convention against Corruption (UNCAC) in law and practice. It identifies good practices, gaps and provides recommendations for more effective implementation of UNCAC provisions.

The Republic of Guinea is committed in the fight against corruption which negatively affects its economic development process. The notion of corruption encompasses diverse practices and is not addressed in the same way in legal texts.

The collected data in this report reveals that the country has important legal and regulatory texts which are inspired by the United Nations Convention against Corruption, the African Union Convention on the Prevention and Combating of Corruption and the ECOWAS Protocol on the fight against corruption, the Intergovernmental Action Group to Combat Money Laundering in West Africa, the International Financial Action Group, the Vienna Conventions, the Palermo Conventions, Mérida and the Financing of Terrorism. Also, the majority of institutions and control bodies for the fight against corruption and the promotion of good governance are established and operational and for the most part benefit from their administrative, financial and decision-making autonomy. This means that Guinea is technically compliant with the meaning of the laws and regulations.

Despite the existence of an institutional framework and legal and regulatory bodies in terms of fight against corruption and similar practices, Guinea appears among the most corrupt countries. It is 147<sup>th</sup> out of 180 according to the ranking of Transparency International's 2022 corruption perception index.

One of the major difficulties that civil society and media actors face is access to public information. AGT experienced this problem during the preparation of this report. After sending correspondence to fourteen entities, AGT only received responses from eight entities, of which the content of some of the responses remains to be desired.

The practical implementation of these laws and regulations is slow to produce positive impacts in order to achieve the objectives sought by the different governments that have succeeded one another at the head of the State since the independence of Guinea. The operational systems put in place are confronted with:

- The interference of administrative and political authorities and sometimes social pressures in the processing of cases;
- Influence peddling;
- And the fact that the control reports from the different bodies are most often intended for the supervisory authorities who decide on their follow-up.

Therefore, the effectiveness of the system for fighting against corruption and its corollaries for promoting good governance is fairly relative.

### **2.1 Description of the Official Review Process**

As part of the evaluation of Guinea for its second cycle, the ANLC-PBG led the work to develop the self-assessment report. To date, the report has been transmitted to the UNODC level for approval in order to accelerate the arrival in Guinea of expert evaluators from Benin and Grenada. With the unconstitutional change and the appointment of a new executive secretary of the ANLC-PBG, the appointment of the focal point is a pressing issue, as the new authorities have still not transmitted the note verbale appointing him to the General Secretariat of the United Nations.

## **2.2 Availability of Information**

To successfully develop this report, AGT identified and mobilized various stakeholders in the field of governance while requesting the designation of focal points in each sector. After the literature research, data collection tools were developed and sent to the different bodies in order to collect data on the implementation of the UNCAC. Individual interviews were organized to guide the focal points in filling out the tools. In general, many public administration actors withhold information; this is why the AGT team was not able to obtain responses for meetings in all the departments contacted. The institutions contacted were: the National Agency in charge of Fighting against Corruption and the Promotion of Good Governance (ANLC-PBG), the National Financial Information Processing Unit (CENTIF), the State Judicial Agency (AJE), the Central Directorate of Judicial Investigations (DCIJ), the Court of Auditors (CC), the Supreme Court (CS), the General State Inspectorate (IGE), the General Inspectorate of Finance (IGF), the Court of 'Appel (CA), the General Inspection of Public Administration (IGAP), the High Authority of Communication (HAC), the Office for the Repression of Economic and Financial Crimes (ORDEF), the Central Bank of the Republic of Guinea (BCRG), Civil Society Organizations (CSO), the Public Procurement Regulatory Authority (ARMP), and the Court for the Repression of Economic and Financial Offenses (CRIEF).

## **2.3 Implementation in Law and Practice**

### **Art. 5 – Preventive anti-corruption policies and practices:**

For the implementation of the UNCAC, there are preventive anti-corruption policies, programs and practices that promote broad stakeholder participation. In practice, institutions are faced with a lack of effective independence and a lack of human, material and financial resources. The delay in updating the national anti-corruption strategy as well as the delay in operationalizing the national committee in charge of fighting against money laundering and the financing of terrorism pose enormous problems and constitute a major handicap in the application of legal measures.

### **Art. 6 – Preventive anti-corruption body or bodies:**

The institutional framework responsible for the application of corruption prevention policies and practices and the supervision and coordination of this application is the National Agency for the Fight against Corruption and the Promotion of Good Governance (ANLC-PBG) according to its attributions. Furthermore, the bodies/Institutions which implement the legal and regulatory provisions to fight against corruption and similar offenses in Guinea are the ANLC-PBG, the CENTIF, the CRIEF, the ORDEF, the courts and tribunals, the IGF, IGE, IGAP, the International Criminal Police Organization (INTERPOL), the State Judicial Agency and civil society organizations including the media. These bodies also suffer from low budget allocation

and insufficient material and human resources. The need for staff specialization and capacity building by location is an imminent need to enable them to perform their duties effectively.

**Art. 7 – Public sector employment:**

Articles 13 to 17 of Law L/2019/027/AN on the general status of State Agents define the recruitment method based on the competition with qualification criteria and elimination of objectives. Specific loyalty and promotion measures are also introduced in public administration such as incentive measures including letters of congratulations, encouragement, bonuses, honoraria, incentive and distance bonuses. However, in practice, the Civil Service is plagued by fictitious people, civil servants due to retire who are still in office without valid justification and agents with modified dates of birth to escape ongoing procedures despite the existence of the legal framework. The low remuneration and equipment of control and supervision agents is another obstacle to this sector.

**Art. 8 – Codes of conduct for public officials (articles 7 and 12 on conflicts of interest and asset declarations):**

Law L/0026/2020/AN on the code of conduct of public officials in the Republic of Guinea of December 19, 2020 is the standard which defines the criteria and procedures for conduct and which encourages integrity, honesty and responsibility of public sector agents. Practically, the absence of monitoring of the implementation of the legal framework and the lack of advancement of agents as provided for in law L/0027/2019/AN of June 7, 2019 on the general status of agents of public service should be noted.

**Art. 9 – Public procurement and management of public finances:**

Section 3 of the Law L/2017/041/AN of July 4, 2017, on the Prevention, Detection and Repression of Corruption and Similar Offenses establishes the rules and standards for the award of public contracts, taking into account the mechanisms for combating corruption. The public finance governance framework and the organic law relating to finance laws of August 2012 providing procedures for adopting the national budget and deadlines for timely communication of state expenditure and revenue. In practice, the public procurement code is poorly known and the citizen budget is only designed for intellectuals and for urban areas because it is in an electronic format.

**Art. 10 – Access to information:**

Title II of Law No. 2020/0027/AN relating to the right of access to public information in the Republic of Guinea defines the modalities of access to public information. However, there are no mechanisms for publishing information in periodic reports on corruption risks within the public administration. In practice, the weak application of the law on access to information due to its lack of awareness among the public and the withholding of information by public officials are bottlenecks.

**Art. 13 – Participation of society:**

The measures taken to increase the transparency of decision-making processes and promote public participation in the fight against corruption include the involvement of civil society and the media in citizen monitoring of public action, the membership of

these actors in Boards of Directors (Board of Directors) of Public Administrative Establishments (EPA) and national-scale projects. Activities aimed at informing the public not to tolerate corruption are undertaken through statements by the Prime Minister, poster campaigns and distribution of leaflets, as well as public awareness programs such as interactive broadcasts organized by public and private media. Unfortunately, this does not apply to schools and universities.

#### **Art. 14 – Measures to prevent money-laundering:**

Law L/2021/0024/AN on the fight against money laundering and the financing of terrorism is the legal framework which regulates the fight against this scourge in Guinea. The provisions of section II refer to customer due diligence obligations and those of section V establish the duties of reporting suspicious transactions and other suspicious transactions under the AML/CFT Law.<sup>1</sup> There are also forms which facilitate logging messages regarding electronic funds transfers through accurate and useful information about the originator. However, it should be noted that there are no specific forms but the Instruction No. 110/DGSIF/DSB on electronic transfer monitoring rules mentions the mandatory information that must be collected by financial institutions for electronic transfer operations.

#### **Art. 52 and 58 – Anti-money laundering:**

The legal and regulatory framework such as the anti-money laundering and terrorist financing law (AML/CFT), the anti-corruption law L/2017/041/AN<sup>2</sup> of 14 July 2017, the Penal Code<sup>3</sup> and the Code of Criminal Procedure<sup>4</sup> at the national level take into account the notions of prevention and detection of transfers of the proceeds of crime in Guinea. Many of these laws draw on the instruments and initiatives of regional, interregional and multilateral organizations such as GIABA, FATF and UNCAC. Efforts to give effect to these tools are being made towards those subject to the law relating to AML/CFT and the anti-corruption law, even if the mechanisms put in place poorly function with limited resources.

Despite the existence of institutions and these tools, the roles of the different actors in the mechanism for preventing and detecting transfers of proceeds of crime are not known to the public, because this is considered a state secret and obstacles to the use of these tools is due to their ignorance and the retention of information. However, efforts made by the various actors in the fight to involve civil society actors as best they can in raising awareness and evaluating the various processes should be noted, such as the African Peer Review Mechanism (APRM), the self-assessment of the United Nations Convention against Corruption, the National Risk Assessment (NRA) of ML/TF, and the Mutual Evaluation (ME) of ML/TF.

#### **Art. 53 and 56 – Measures for direct recovery of property:**

In accordance with the spirit of the UNCAC, there are measures which take into account the requirements allowing another State Party to initiate actions before the

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<sup>1</sup> [https://centifgn.org/wp-content/uploads/2022/01/LOI\\_LBCFT\\_0024\\_AN-2021.pdf](https://centifgn.org/wp-content/uploads/2022/01/LOI_LBCFT_0024_AN-2021.pdf), accessed 20/04/2023.

<sup>2</sup> <https://assembleequinee.org/index.php/l2017ndeg0041an-portant-prevention-detection-et-repression-de-la-corruption-et-des-infractions>, accessed 20/04/2023.

<sup>3</sup> <https://www.cnhj-guinee.org/publication/code-de-procedure-penale/>, accessed 20/04/2023.

<sup>4</sup> <https://www.cnhj-guinee.org/publication/code-de-procedure-penale/>, accessed 20/04/2023.

competent courts aimed at recognizing the right of ownership over property acquired through an established offense. The provisions contained in the AML/CFT law and the anti-corruption law as well as the Penal and Criminal Procedure Codes define the skills and procedures for international cooperation.

In practice, it is difficult to prove the application of these different provisions due to the opacity in the functioning of the judicial system and the withholding of information.

**Art. 51, 54, 55, 56 and 59 – International cooperation for the purpose of confiscation:**

To facilitate international cooperation for the purposes of confiscation, Guinea has taken measures in its legal and regulatory framework. Law L/2017/041/AN of July 4, 2017 on the Fight against Corruption and Related Offenses deals with the confiscation procedure at the request of a foreign State as well as the modalities of special cooperation. Likewise, the AML/CFT law provides for provisions on other forms of international cooperation and the modalities relating to the communication of information on the proceeds of established offenses when it considers that the disclosure of this information could help a State Party to initiate or conduct an investigation, prosecution or legal proceeding or could result in that State Party submitting a request. However, the services in charge of this issue have failed to provide this information which allows to evaluate the implementation of these provisions in practice.

**Art. 57 – Return and disposal of confiscated property:**

The legal and regulatory framework governing the return of confiscated property at the request of the government is taken into account in the AML/CFT Law, L/2017/041/AN on the fight against corruption and the Criminal Procedure Code.

One of the institutional measures taken for the implementation of the legislative framework linked to the restitution and provisions of assets is the establishment of the Agency for the Management and Recovery of Seized and Confiscated Assets (AGRASC) in the procedural criminal code. Practically a decree creating the Agency for the Management and Recovery of Seized and Confiscated Assets (AGRASC) was issued in October 2022, and the decree appointing the members of the Board of Directors (CA) in April 2023. Then, in August 2023, AGRASC was made functional through the launch of their activities by the establishment of a management team and a board of directors.

**Table 1: Summary of implementation and application**

<b>UNCAC Articles</b>	<b>Status of implementation in law</b>	<b>Status of implementation and enforcement in practice</b>
Art. 5 - Preventive anti-corruption policies and practices	Largely implemented	Poor
Art. 6 - Preventive anti-corruption body or bodies	Largely implemented	Moderate



Art. 7.1 - Public sector employment	Largely implemented	Poor
Art. 7, 8 and 12 - Codes of conduct, conflicts of interest and asset declarations	Largely implemented	Poor
Art. 9.1 - Public procurement	Largely implemented	Poor
Art. 9.2 - Management of public finances	Largely implemented	Poor
Art. 10 and 13.1 - Access to information and the participation of society	Largely implemented	Poor
Art. 14 - Measures to prevent money laundering	Largely implemented	Moderate
Art. 52 and 58 - Anti-money laundering	Largely implemented	Poor
Art. 53 and 56 - Measures for direct recovery of property	Largely implemented	Poor
Art. 51, 54, 55, 56 and 59 - International cooperation for the purpose of confiscation	Largely implemented	Poor
Art. 57 – The return and disposal of confiscated property	Largely implemented	Poor

**Table 2: Performance of selected key institutions**

<b>Name of the institution</b>	<b>Performance in relation to responsibilities covered by the report</b>	<b>Brief comment on performance</b>
National Agency for the Fight against Corruption and the Promotion of Good Governance (ANLC-PBG)	Moderate	In the midst of restructuring, the ANLC-PBG is made up of a proactive and dynamic group. Several activities have been initiated, including the establishment of a consultation framework with stakeholders, the decentralization of this service within the country, the organization of information and awareness campaigns as well as the establishment of a toll-free number (155) which led to the suspension of certain executives accused of corruption. However,

		the agency's attachment to the Presidency of the Republic calls into question its independence and compromises its effectiveness.
Public Procurement Regulatory Authority (ARMP)	Moderate	A new management team full of will, but faced with a loss of archives, lack of premises and equipment, low financial resources and qualified human resources.
National Information Processing Unit Financial (CENTIF)	Moderate	The new CENTIF management team is striving to meet the requirements of the various sub-regional and international initiatives in which Guinea is a party. However, the executives of this body need capacity building to consolidate their specialization taking into account the complexity of the subject.
General Inspection of Public Administration (IGAP)	Moderate	The executives of this central body for monitoring and evaluating the performance of the administration display a clear desire to carry out reforms and the qualification of civil service agents. However, this body, working in precarious conditions, benefits little from state support. IGAP has needs to strengthen technical, human and financial capacities to qualify their intervention in the field.
General State Inspection (IGE)	<b>Good</b>	The IGE is nowadays an organ which produces appreciable work even though it is attached to the Presidency of the Republic. The latest IGE report <sup>5</sup> published in June 2023 made it possible to trace the state of governance and demonstrated the desire of this body to fully play its role in the fight against bad governance, misappropriation of public funds and waste of resources. However, this body should be supported technically and

<sup>5</sup> <https://interfacelonny.com/documents/do-1688138461>, accessed 21/11/2023.

		financially to strengthen its independence and operational capacities.
Office for the Repression of Economic and Financial Crimes (ORDEF)	Moderate	Even though the executives of this body are motivated by a desire to track down financial offenders, it should be noted that the ORDEF lacks technical and financial resources. This limits their effectiveness and marked presence on the ground.
State Judicial Agency (AJE)	Poor	The state judicial agency, the body responsible for seizing property and recovering state assets, is struggling to produce results. Poor communication of actions undertaken and retention information casts doubt on its independence and its desire to collaborate with all stakeholders.
Central Directorate of Judicial Investigations (DCIJ)	Moderate	This investigation service created at the end of 2021 and made up of experienced officers produces results on cases that are sometimes quite sensitive. However, the need to strengthen operational capacities is a necessity to sustain and energize their actions.
Civil society organizations (CSO)	Moderate	Civil society actors working in the field of governance although proactive and committed are struggling to establish a channel of collaboration with all government structures dedicated to the fight against bad governance, misappropriation of public funds and loss of resources. Withholding information in violation of the law on access to public information constitutes a barrier to members of CSOs, including the media. Needs for capacity building for their professionalization or even their specialization and technical and financial support are essential from all points of view.

## 2.4 Recommendations for priority actions

1. Facilitate the evaluation of Guinea on the implementation of the Convention in its chapters II and V through the publication of the self-assessment report and the signing and transmission of the note verbale designating the focal point and the invitation of the evaluating countries.
2. Promote the inclusiveness of stakeholders (public and private sectors, social actors and TFPs) in the country evaluation process;
3. Develop and/or update tools to combat corruption and its corollaries such as:
  - a. The national anti-corruption strategy;
  - b. The national strategy in charge of anti-money laundering and the financing of terrorism;
  - c. The communication system to ensure visibility and traceability in the transparent management of confiscated and/or returned funds
  - d. The operating plan of a structure for coordinating the actions of the bodies which implement the legal and regulatory provisions to combat corruption and similar offenses in Guinea;
  - e. Mechanisms to facilitate the provision of information on mutually acceptable agreements or arrangements for the final disposition of confiscated property with other countries.
4. Strengthen the skills and independence of the control bodies through a substantial budgetary allocation, the establishment of a structure of coordination of the actions of bodies which implement legal and regulatory provisions;
5. Increase the popularization, dissemination and appropriation of texts governing the promotion of good governance in strategic sectors such as the public procurement code; the law on access to public information; the national development budget;
6. Continue and strengthen the establishment of mechanisms and instruments for coordinating tools for the promotion of good governance such as the Anti-Money Laundering Coordination Committee and the Agency for the Management and Recovery of Seized and Confiscated Assets (AGRASC).
7. Strengthen the capacities of combat actors, including those in civil society and the media, in their field in order to facilitate their specialization according to the offenses and crimes they face.

### **III. Assessment of the Review Process for Guinea**

To begin its second evaluation cycle review, the national institution responsible for conducting the self-evaluation process identified and mobilized all the actors involved in the fight against corruption and its corollaries. The institutions and bodies responsible for prevention, detection and repression have been mobilized. Concerning civil society participation, only a selected group worked with national experts. With this in mind, the government has officially launched work to prepare the internal report. The ANLC-PBG thus led the work to develop the self-assessment report. To date, the report has been transmitted to the UNODC level for approval in order to expedite the arrival in Guinea of expert evaluators from Benin and Grenada. With the unconstitutional change and the appointment of a new executive secretary of the ANLC-PBG, the focal point has still not been designated due to the delay in the transmission of the verbal note by the government.

#### **3.1 Report on the review process**

**Table 3: Transparency of the government and CSO participation in the UNCAC review process**

Did the government disclose information about the country focal point?	no	Currently, the verbal note designating the focal point has not been transmitted to the United Nations General Secretariat by the competent authorities
Was the review schedule published somewhere/publicly known?	no	The self-assessment by internal experts has been completed but this report has not been published.
Was civil society consulted in the preparation of the self-assessment checklist?	no	The checklist was sent by UNODC through "OMNIBUS" software.
Was the self-assessment checklist published online or provided to civil society?	no	The checklist is not available.
Did the government agree to a country visit?	not available	Lack of focal point recognized by UNODC.
Was a country visit undertaken?	no	No visit to date. The country visit is not scheduled due to the absence of a focal point.
Was civil society invited to provide input to the official reviewers?	not yet	The country visit is not scheduled due to the absence of a focal point.
Was the private sector invited to provide input to the official reviewers?	not yet	The country visit is not scheduled due to the absence of a focal point.
Has the government committed to publishing the full country full report?	not available	No information.

### 3.2 Access to information

The AGT submitted letters and carried out follow-ups with several structures such as the General State Inspectorate (IGE), the General Inspectorate of Finance (IGF) (two letters), the High Authority of Communication (HAC), the State Judicial Agency (AJE), the Court for the Repression of Economic and Financial Offenses (CRIEF), the Public Procurement Regulatory Authority (ARMP), the National Agency for Fighting Against Corruption and the Promotion of Good Governance (ANLC-PBG), the National Financial Information Processing Unit (CENTIF), the Central Directorate of Judicial Investigations (DCIJ), the Court of Auditors (CC), the Supreme Court (CS), the General Inspection of Public Administration (IGAP), the Office for the Repression of Economic and Financial Crimes (ORDEF), and civil society organizations (CSO).

In the application of article 3 of the Access to Public Information law,<sup>6</sup> the purpose of which is to guarantee the right of every citizen to access information of public interest and administrative documents, the team developed and transmitted interview requests and shared instructions to facilitate access to the information requested. Many of these structures agreed to receive the AGT team as part of sharing the orientations of the project to develop this parallel report. Questionnaires taking into account the areas of intervention of the different structures contacted were developed and shared. The majority of prevention and detection structures provided information while law enforcement and asset recovery bodies did not respond to the various questionnaires.

The reasons for this refusal could be linked to administrative delays, the fear that this information will be known to the public before the conclusion of legal proceedings and above all a lack of knowledge of the legal texts which give every citizen the right to access public information. By making this information inaccessible, civil society, including the media, will have the difficulty of carrying out certain investigations.

**Table 4: Organizations contacted**

No.	Bodies/Institutions	Complete answers	Partial answers	No answers
1	ANLC-PBG	X		
2	CENTIF	X		
3	IGE	X		
4	IGAP	X		
5	ORDEF		X	
6	CNOSCG and CONASOC (civil society)	X		
7	Court of Appeal			X
8	HAC			X
9	Supreme Court			X
10	Court of Audit			X
11	CRIEF			X
12	DCIJ		X	
13	AJE		X	
14	ARMP		X	

<sup>6</sup> <https://faolex.fao.org/docs/pdf/qui212489.pdf>, accessed 01/09/2023.

15	BCRG			<b>X</b>
16	IGF			<b>X</b>

Following these requests, almost all of the legal and regulatory texts governing the prevention, detection and repression of corruption were updated and available to the AGT team. However, it should be noted that certain mechanisms/tools do not exist such as the national strategy to fight against money laundering and terrorism financing or are not up to date such as the national strategy to fight against corruption as well as evaluations punctual assessment of the effectiveness of the measures undertaken to identify the weaknesses and gaps in the control system. Also, we note the delay in the establishment or absence of instruments used for the operationalization of the mechanisms and tools provided for in legal and regulatory texts such as the agency for the recovery of seized and confiscated assets or the committee of coordination of AML/CFT.

On the other hand, law enforcement bodies and certain control bodies have not provided information enabling the effectiveness of the legal and regulatory framework to be gauged. These include cases related to asset recovery, international cooperation, seized and confiscated assets, and returned property. To access certain information, the report writing team relied on sources from the media or civil society, notably Reporter Sans Frontières, AGT on citizen monitoring projects, and online sites.<sup>7</sup>

The difficulties encountered when compiling information are linked not only to the lack of will on the part of most law enforcement bodies, but also ignorance of legal texts guaranteeing the right of access to public information for any citizen wishing to access information of public interest and administrative documents.

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<sup>7</sup> [guinee360.com](http://guinee360.com), [guineenews.org](http://guineenews.org) and [mosaiqueguinee.com](http://mosaiqueguinee.com).

## **IV. Assessment of the Implementation of Chapter II and Chapter V Provisions**

This chapter analyzes the implementation of the provisions of UNCAC Chapter II on preventive measures and Chapter V on asset recovery in Guinea through the application of laws, regulations and practices, and highlights good practices and areas for improvement.

### **4.1 Chapter II: Preventive measures**

#### **4.1.1 Art. 5 – Preventive Anti-Corruption Policies and Practices**

The laws and standards that govern the policies and practices of the fight against corruption in Guinea are:

- Law L/2017/041/AN on the Prevention, Detection and Repression of Corruption and Similar Offenses;
- Law L/2021/0024/AN on the fight against money laundering and the financing of terrorism;
- Decree/D/2017/219/PRG/SGG Promulgating Law L/2017/041/AN of July 4, 2017;
- Decree/D/2018/241/PRG/SGG relating to the Attribution, Organization and Operation of the Body Responsible for the Fight against Corruption and the Promotion of Good Governance;
- Decree/D/2015/049/PRG/SGG relating to the Attribution, Organization and Operation of the National Financial Information Processing Unit (CENTIF);
- National Strategy for the Fight against Corruption and the Promotion of Good Governance and its Action Plan;
- United Nations Convention against Corruption;
- African Union Convention on the Prevention and fight against Corruption;
- ECOWAS Protocol on the Fight against Corruption;
- New Code of Criminal Procedure February 2016 extract: “from the agency for the management and recovery of seized and confiscated assets - title XXXII.

In Guinea, Law L/2017/041/AN OF July 4, 2017 on the Prevention, Detection and Repression of Corruption and Related Offenses<sup>8</sup> constitutes the legal and regulatory framework to prevent corruption and similar offenses. For its implementation, there are corruption prevention policies, programs and practices that promote broad stakeholder participation. Thus, the provisions of the Transition Charter<sup>9</sup> in chapter II relating to missions (article 2) provide objectives which would reflect the desire of the new authorities to make changes in the political, economic and social governance system of Guinea. These missions are among others: the re-foundation of the State to build strong, credible and legitimate institutions guaranteeing the rule of law, an

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<sup>8</sup> <https://www.coursupgn.org/wp-content/uploads/2021/01/LOI-N-0041-2017-Portant-Prevention-Detection-et-Repression-de-la-Corruption-et-Infractions.pdf> accessed 24/11/2023.

<sup>9</sup> [https://cdn.accf-francophonie.org/2022/06/Guinee\\_CharteDeLaTransition270921\\_C0.pdf](https://cdn.accf-francophonie.org/2022/06/Guinee_CharteDeLaTransition270921_C0.pdf), accessed 12/06/2023.



inclusive, peaceful and sustainable democratic process, a guarantee of effective social, economic and cultural development; the undertaking of major reforms on the economic, political, electoral and administrative levels; strengthening the independence of justice and the fight against impunity; the promotion and protection of Human Rights and public freedoms; establishing a culture of good governance and responsible citizenship; the development of a new Constitution and its adoption by referendum.

In this vein, meetings were organized across the national territory to consult grassroots citizens and socio-professional strata to take their concerns into account.<sup>10</sup> At the end of these meetings, an inclusive dialogue framework bringing together a large part of the socio-political and professional actors was put in place to reflect on the major concerns to be taken into account during this transition period.<sup>11</sup> Thirty-five recommendations grouped into ten points were thus formulated and addressed to the various transition authorities so that they could be integrated into the systems that will be put in place for a successful re-foundation.

Finally, after the adoption of the anti-corruption law in 2017, Guinea adopted a national anti-corruption strategy in 2018 which, today, needs to be revised, updated and validated. The objectives of this strategy were to contribute to improving the economic and financial environment of the country, qualification of public administration and its services, the promotion of justice and human rights, in short, the qualification of governance at all levels. It was in search of appropriate responses that the ANLC developed this national anti-corruption strategy which should in fact be the articulation of the country's political will for good governance. It had seven axes which revolved around the following points: strengthening the capacities of the body for preventing and fighting against corruption; raising public awareness of the appropriation of instruments for the prevention, detection and repression of corruption; the development of corruption prevention and detection tools; support for actions to prevent corruption in the private sector; the preparation of Guinea for the review of the application of the United Nations Convention against Corruption; cooperation with national control and prosecution bodies as well as cooperation with similar and international institutions; the establishment of a management and monitoring-evaluation system.

The provisions of articles 771 to 783 of the criminal code relating to the prevention, detection and repression of corruption and similar offenses in Guinea meet the requirements of the Convention. Chapters II to V of Title V of this code relating to attacks on public interests deal with corruption and similar offenses. These provisions thus provide for criminal punishment in line with the directives of the United Nations Convention Against Corruption (UNCAC), namely: corruption of Public Officials; corruption of foreign public officials and public international organizations; other illicit uses of property by a public official; influence peddling; abuse of functions; illicit enrichment; other corruption in the private sector; laundering the proceeds of corruption; cancelation of the proceeds of corruption; attacks on freedom of access and equality of candidates in public contracts and public service delegations;

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<sup>10</sup> <https://mosaiqueguinee.com/assises-nationales-le-rapport-final-valide-les-recits-et-temoignages-de-4796-personnes-ecoutes/>, accessed 4/12/2023.

<sup>11</sup> <https://guineematin.com/2022/12/21/remise-du-rapport-final-du-dialogue-voici-les-34-recommandations/>, accessed 4/12/2023.

additional penalties applicable to people and the criminal liability of legal session; common provisions.

In Guinea, the authorities in charge of the fight against corruption carry out evaluations, although not regularly, of legal instruments and administrative measures helping to prevent and combat corruption through its National Corruption and Governance Index.<sup>12</sup> Internationally, this periodicity is five years in accordance with the recommendations of the UNCAC.

The effectiveness of legal instruments and administrative measures is relative because it depends on the independence of the institutional framework, the autonomy decision-making and the availability of human, material and financial resources for their implementation.

Stakeholders at the national level associated in the implementation of corruption prevention programs and policies are the focal points within ministerial departments, the private sector, civil society including the media while at the level regional and international, the associated stakeholders are among others: the United Nations system agencies, the Breton Wood system, diplomatic representations as well as NGOs and regional and international cooperation. An expert group of evaluators composed of representatives of anti-corruption bodies and institutions, the private sector and civil society was established to involve non-state actors in the country review process on UNCAC implementation.

Guinea is a member of several international and regional organizations, initiatives and networks competent in fighting against corruption and similar offenses, mainly:

- a. At the regional level: the Network of National Anti-Corruption Institutions in West Africa (RINLCAO); the Intergovernmental Group action in charge of fighting against money laundering in West Africa (GIABA); ECOWAS through its Anti-Corruption Protocol;
- b. At the continental level: the Association of African Anti-Corruption Authorities (AAACA) and the AU Anti-Corruption Convention;
- c. At the international level: the United Nations Office on Drugs and Crime (UNODC) and the International Financial Action Task Force (FATF).

#### **Good practices:**

- The legal and regulatory framework takes into account the provisions of the UNCAC;
- Existence of an institutional framework for fighting against corruption and similar offenses such as the ANLC-PBG, the CENTIF.

#### **Deficiencies:**

- Weaknesses of institutions due to effective independence and lack of human, material and financial resources;
- Delay in updating the national anti-corruption strategy.

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<sup>12</sup> [https://www.stat-guinee.org/images/Documents/Publications/SSN/anlc/ANLC\\_INCG\\_2012.pdf](https://www.stat-guinee.org/images/Documents/Publications/SSN/anlc/ANLC_INCG_2012.pdf), accessed 08/05/2023.

#### 4.1.2 Art. 6 – Preventive Anti-Corruption Body or Bodies

The institutional framework responsible for the application of corruption prevention policies and practices and the supervision and coordination of this application is the National Agency for the Fight against Corruption and the Promotion of Good Governance (ANLC-PBG) according to its attributions. Furthermore, the bodies/institutions which implement the legal and regulatory provisions to combat corruption and similar offenses in Guinea are the ANLC-PBG, the CENTIF, the CRIEF, the ORDEF, the courts and tribunals, the IGF, the IGE, IGAP, the State Judicial Agency and civil society organizations including the media. It should be noted that the multitude of structures dedicated to the fight against corruption and similar practices, the supervision of many of them by the presidency and the absence of a coordinating body create overlaps between these bodies. This causes a delay in processing files and leads to inefficiency.

Since the advent of the National Committee for Rally and Development (CNRD) in September 2021, efforts have been made through the establishment and/or restructuring of institutions to fight corruption and similar practices. All the same, these bodies suffer from low budgetary allocation and insufficient material and human resources. The need for staff development and capacity building by location is an imminent need to enable them to perform their duties effectively.

In Guinea, the structures for effectively handling citizens' grievances and complaints are the National Agency for the Fight against Corruption and the Promotion of Good Governance (ANLC-PBG), the Office for the Repression of Economic and Financial Crimes (ORDEF), the Research Brigade (BR), the National Financial Information Processing Unit (CENTIF) and the Court of Auditors. (art. 5 paragraph 3 of decree D/2020/072/PRG/SGG).<sup>13</sup> It should be noted that the appointment and dismissal of the heads of the bodies falls within the discretionary power of the government. On the other hand, recruitment and selection procedures for specialized personnel are becoming standardized through calls for applications open to any interested person; this is the case for the staff of the IGE, the IGF and the Court of Auditors.

Since the army took power on September 5, 2021, the military authorities have called on skills in the private sector, in international institutions, civil society including the media and the diaspora. The President has set up a platform to create a database of Guinean job seekers and skills called "serve224"<sup>14</sup> even though in practice employability remains a problem and does not guarantee employment, apoliticism, impartiality, neutrality, integrity and competence of the leader. The suspension, dismissal and arrest of executives are external accountability mechanisms to prevent any abuse of power.

In carrying out its prevention mission, the National Agency in charge of Fighting against Corruption and the Promotion of Good Governance (ANLC-PBG) organizes awareness sessions for government institutions by involving civil society, the media and institutions in charge of teaching. Leaflets and posters "Against corruption, I am committed" are visible in the various state service offices. These communication

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<sup>13</sup> <https://www.ccomptes.org.qn/images/patrimoine/Dcret-D-2020-072-portant-dclration-de-biens-en-RG.pdf>, accessed 08/05/2023.

<sup>14</sup> <https://digijobguinee.com/post.php?lang=en&t=Postulez-a-La-Fonction-Publique--Servir224-&id=1952>, accessed 12/07/2023.

activities are not accessible to the rural community, as these awareness and communication tools should be translated into local languages, communicated and distributed to rural and community radios for widespread dissemination.

Apart from communications on budget execution before the members of the National Transition Council (CNT) which acts as parliament, no other form of communication with the public other than the school and university world exists. Information campaigns were carried out to raise public awareness of the existence of laws, regulations and bodies to combat corruption through the publication and distribution of the Anti-Corruption Law and provisions indicating the vision and the mission of the ANLC-PBG. However, the target audience is limited to administrators, students and academics.

### **Good practices**

- The ANLC-PBG organizes awareness sessions for government institutions by involving civil society, the media and educational institutions;
- Anti-corruption posters are visible in the various state service offices;
- Information campaigns have been carried out to raise public awareness of the existence of laws, regulations and bodies to combat corruption.

### **Deficiencies**

- Low budget allocation;
- Insufficient material and human resources;
- Communication activities are not accessible to the rural community because these awareness and communication tools should be translated into local languages;
- Absence of a structure for coordinating the actions of the bodies which implement the legal and regulatory provisions to combat corruption and similar offenses in Guinea;
- The multitude of structures dedicated to the fight against corruption and similar practices, the supervision of many of them by the presidency and the absence of a coordinating body create difficulties and overlaps between these organizations.

#### **4.1.3 Art. 7.1 – Public Sector Employment**

Guinean legislation establishes criteria to guarantee and strengthen the systems of recruitment, hiring, retention, promotion and retirement of civil servants as well as other non-elected public agents. The laws and standards that govern the public sector include:

- Law L/2019/027/AN on the General Status of State Agents of June 7, 2019;<sup>15</sup>

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<sup>15</sup> <https://www.assembleequinee.org/conakry-le-07-juin-2019-l20190027an-loi-portant-statut-general-des-agents-de-letat>, accessed 24/11/2023.

- Law L/2018/025/AN<sup>16</sup> on the General Organization of Public Administration of July 3, 2018;<sup>17</sup>
- Law L/2021/0024/AN of August 17, 2021, on fighting against Money Laundering and the Financing of Terrorism,<sup>18</sup>
- Law L/2016/059/AN of October 26, 2016, establishing the criminal Code of the Republic of Guinea;<sup>19</sup>
- Law/2016/060/AN of October 26, 2016, establishing the Code of Criminal Procedure of the Republic of Guinea;<sup>20</sup>
- The General Tax Code;<sup>21</sup>
- The Customs Code<sup>22</sup>

Title II of Law L/2019/027/AN on the general status of State Agents indicates the method of access to government jobs. Articles 13 to 17 define the recruitment method based on the competition with criteria for qualification and elimination of objectives. Specific loyalty and promotion measures are also introduced in public administration such as the introduction of incentive measures such as letters of congratulations, encouragement, bonuses, honoraria, incentive and distance bonuses.

According to law L/2019/027/AN, relating to the General Status of State Agents, criteria for qualification and elimination of objectives are mentioned in its articles 13, 14 and 15 and take into account:

- Principles of efficiency and transparency: The development and large-scale publication of calls for tender for recruitment to the public service with objective qualification criteria not based on exclusion of any kind and non-discriminatory. These criteria emphasize principles of equality, competence, effectiveness and efficiency;
- Appropriate procedures for selecting and training people called to occupy public positions considered particularly exposed to corruption: The organization of an internal call for tenders for the recruitment and training of elite executives to occupy positions strategies of public administration while emphasizing investigations of morality and ethics;
- Adequate remuneration and fair treatment scales, taking into account the level of economic development of Guinea;
- The breakdown of hierarchies according to types of jobs: average jobs in ascending order (C, B1 and B2); senior jobs in ascending order (A1, A2 and A3) depending on the Degrees. However, the low index salary as well as the insufficiency of bonuses and allowances coupled with the price fluctuation on the Guinean market is a major problem;

<sup>16</sup> <https://mpten.gov.gn/file/2023/01/Loi-L-2018-025-AN-03JUILLET2018-PROMULGUEE.pdf>, accessed 24/11/2023.

<sup>17</sup> <https://mepua.gov.gn/wp-content/uploads/2023/02/LOI-025-PORTANT-ORGANISATION-GENERALE-DE-LADMINISTRATION-PUBLIQUE.pdf>, accessed 08/05/2023.

<sup>18</sup> <https://centifgn.org/la-loi/>, accessed 24/11/2023.

<sup>19</sup> <https://www.coursupgn.org/wp-content/uploads/2021/01/LOI-059-PORTANT-CODE-PENAL-OCTOBRE-2016.pdf>, accessed 24/11/2023.

<sup>20</sup> <https://www.coursupgn.org/wp-content/uploads/2021/01/LOI-060-PORTANT-CODE-DE-PROCEDURE-PENALE-OCT-2016.pdf>, accessed 24/11/2023.

<sup>21</sup> <https://www.mef.gov.gn/uploads/Codes/cgi-guinee.pdf>, accessed 08/05/2023.

<sup>22</sup> [https://dgd.gov.gn/wp-content/uploads/2021/01/CODE-DES-DOUANES\\_Guinee-.pdf](https://dgd.gov.gn/wp-content/uploads/2021/01/CODE-DES-DOUANES_Guinee-.pdf), accessed 11/05/2023.

- Appropriate, honorable and adequate provision of specialised education and training programs. The implementation in all departments of the research and training budget line to continuously strengthen the capacity of executives and state agents, including opening up to the outside world for the specialization of specialized executives.

Since September 5, 2021, the bodies/institutions which implement the legal and regulatory provisions for fighting against corruption and similar offenses in Guinea have experienced an improvement in their administrative governance. This improvement is explained by the preparation of reports on governance (IGE), the suspension and hearing of executives who held high positions (Minister of Transport and Public Works) and the quarterly evaluation of all Ministers by the Prime Minister who, in turn, evaluates the national and general directors. Current appointments require specific skills depending on the field of the position to be filled. This has opened the door to youth and the diaspora.

As part of strengthening the capacities of public officials, the government initiated the project “rejuvenate and feminize public administration”<sup>23</sup> which aims to train over a period of three years (2012-2015) a contingent of 1,200 young civil servants aged less than 40 years on the ethics of public service with the aim of instilling a new dynamic in the Guinean administration. Their mission is to work for the administration, in order to be at the service of users by providing them with a service without discrimination, in total compliance with the law and regulations and with the project of contributing to the improvement of life in society and the life of each citizen.

The standards adopted to maintain and strengthen the measures that promote transparency and prevent conflicts of interest are: Law L/0026 of December 19, 2020 on the code of conduct of public officials, the law on the public procurement code, the criminal code and the code of criminal procedures, procedure manuals, the uniqueness of accounts and the signing of contracts performance followed by a quarterly evaluation of each contractor.<sup>24</sup> Despite the existence of these laws and standards which govern the public sector, the civil service is plagued by fictitious people, civil servants who should be retired still in office without valid justification and agents with false degrees and modified dates of birth to escape procedures. During a press conference, the Minister of Labor announced the withdrawal from the civil service file of 12,000 fictitious people who are dead, or abandoned their positions, layoffs, secondments and voluntary resignations who still continue to receive their salary.<sup>25</sup>

The report from the General State Inspectorate (IGE) indicates that 36% of the 1,004 authenticated degrees are false, 3,861 civil service agents are irregularly hired and paid within the public administration and 103 employment orders are non-compliant. There are agents evolving in parallel with their status as public agents, in private companies and/or public organizations.<sup>26</sup> In practice this means that the rules and

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<sup>23</sup> Rajeunir et féminiser l'administration publique : Encore trois cent jeunes fonctionnaires formés - Mosaïqueguinee.com, <https://mosaigueguinee.com/rajeunir-et-feminiser-ladministration-publique-encore-trois-cent-jeunes-fonctionnaires-formes/>, accessed 01/09/2023.

<sup>24</sup> [www.stat-guinee.org/images/Documents/Publications/Textes/Loi-2020-0026-Portant\\_code\\_de\\_conduite\\_de\\_lAgent\\_public-1.pdf](http://www.stat-guinee.org/images/Documents/Publications/Textes/Loi-2020-0026-Portant_code_de_conduite_de_lAgent_public-1.pdf), accessed 11/05/2023.

<sup>25</sup> [guinee360.com/14/09/2022/fonction-publique-plus-de-12-000-fictifs-sortis-du-fichier-ministre/](http://guinee360.com/14/09/2022/fonction-publique-plus-de-12-000-fictifs-sortis-du-fichier-ministre/), accessed 31/07/2023.

<sup>26</sup> <https://interfacelonny.com/documents/do-1688138461>, accessed 21/11/2023.



procedures for recruitment and hiring, retention in office and promotion of civil servants and other non-elected public officials are not properly applied. More seriously, according to the IGE report, seconded civil servants continue to receive their remuneration in their original departments even though these should be suspended in accordance with article 155 of the law L/2019/0027/AN of June 7, 2019 on the general status of state agents.<sup>27</sup> Criteria and processes are used to evaluate performance, as well as the consequences in the event of failure, but not in an adequate and permanent manner. For example, the Minister of Labor and Public Service, through the decision No. A/2022/3511/MTFP/DNFP/SP, removed 244 civil service agents for double payment.<sup>28</sup>

To put an end to absenteeism and administrative delinquency, the Ministry of Labor and Civil Service (MTFP) has set up a system for physical control of the presence of agents at their work places, a digital platform for pre-registration of executives and civil service agents which will ultimately lead to the biometric census and the clearance of the public function file. Control bodies such as IGAP are faced with an insufficiency of adequate material, qualified human and financial resources.

### **Good practices**

- Since September 5, 2021, the bodies/institutions which implement the legal and regulatory provisions to fight against corruption and similar offenses in Guinea have experienced an improvement in their administrative governance;
- It should also be noted that the appointment of other executives who professionalized outside of the country;
- Physical control of the presence of agents at their work places;
- The pre-registration of executives and civil service agents;
- The biometric census and the clearance of the civil service file
- As part of strengthening the capacities of public officials, the government initiated the project “rejuvenate and feminize the public administration”.

### **Deficiencies**

- The Civil Service is inbounded by fictitious people, civil servants due to retire who are still in office without valid justification and agents with modified dates of birth to escape ongoing procedures despite the existence of the legal framework;
- The low remuneration and equipment of control and supervision agents;
- The rules and procedures for recruitment and hiring, retention and promotion of civil servants and other non-elected public officials are not correctly applied;
- Control bodies such as IGAP are faced with an insufficiency of adequate material, qualified human and financial resources.

## **4.1.4 Art. 7, 8 and 12 – Codes of Conduct, Conflicts of Interest and Asset Declarations**

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<sup>27</sup> [guineenews.org/fonction-publique-36-des-1004-diplomes-authentifies-sont-faux-rapport-ige/](https://guineenews.org/fonction-publique-36-des-1004-diplomes-authentifies-sont-faux-rapport-ige/), accessed 31/07/2023.

<sup>28</sup> <https://mosaiqueguinee.com/double-mandatement-plus-de-200-fonctionnaires-guineens-radies-de-la-fonction-publique/>, accessed 31/07/2023.

Article 9 of law L/2020/0026/AN of December 19, 2020 on the Code of Conduct for Public Officials<sup>29</sup> in the Republic of Guinea is the standard that encourages the integrity, honesty and responsibility of public officials. Chapter 2 concerning the object and scope of the code translates the minimum standard of individual and professional behavior to serve the general interest. The main provisions of this code are:

- **Respect for the law and a sense of responsibility:** In the exercise of their functions, public officials ensure compliance with the law and the legality of their actions. They must act in all circumstances in the defense of the general interest by taking responsible actions. The agent must demonstrate responsibility and reliability by keeping their commitments and carrying out the promised actions, so that the service, other employees and users can count on them.
- **Integrity, probity and loyalty:** The attitudes and actions taken by public officials in the exercise of their functions must be guided by a deep sense of honesty, loyalty and probity towards the general interest and service. They must demonstrate sincerity, uprightness and loyalty in their relationships.
- **Impartiality, fairness and neutrality:** The agent is required to exercise their role with complete impartiality and to act in a fair and reasonable manner. They must refrain from any arbitrary action which would harm a third party, as well as from providing any preferential treatment for any reason whatsoever and whoever the beneficiary may be.

There are forms for declaring gifts (for anything above the minimum wage) and conflicts of interest in public services. From the International Code of Conduct for Public Service Agents<sup>30</sup> to the Code of Conduct for Public Officials in the Republic of Guinea, relevant measures are taken into account in relation to regional, inter-regional and multilateral initiatives to ensure good conduct of public sector employees. These measures which concern the world of work, the culture of the economy of education of the environment, and health meet the requirements of sub-regional organizations and all of the specialized institutions of the system of the United Nations on the one hand and those of Civil Society Organizations (CSOs) on the other hand.

Also, the law L/0027/2019/AN of June 7, 2019 on the general status of government officials requires public officials to declare to the competent authorities in particular all external activities, all employment, all investments, all assets and all donations or substantial benefits which could result in a conflict of interest with their functions as public officials. It is quite explicit on the incompatible nature of the status of the civil servant and the exercise of other parallel remunerative activities with a view to avoiding conflicts of interest.

The systems and measures put in place to facilitate the reporting by public officials to the competent authorities of acts of crime or offenses which they become aware in the exercise of their functions are described in Article 47 paragraph 2 of the new code of criminal procedure law which stipulates that "Any constituted authority, any civil

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<sup>29</sup> <https://www.assembleequinee.org/l20200026an-loi-portant-code-de-conduit-de-lagent-publique-conakry-le-19-decembre-2020>, accessed 17/07/2023.

<sup>30</sup> <https://icsc.un.org/Resources/General/Publications/standardsF.pdf>, accessed 12/05/2023.



servant or public officer who, in the exercise of his functions, acquires knowledge of a crime or an offense, any person who has witnessed an attack either against the public security, or against the life or property of an individual must immediately give notice to the Public Prosecutor or the Justice of the Peace in whose jurisdiction this crime or offense was committed or in which the accused could be found.”<sup>31</sup>

There are systems requiring public officials to declare to the competent authorities, in particular, all external activities, all employment, all investments, all assets and all substantial donations or benefits which could result in a conflict of interest with their functions as public officials. These provisions imposing obligations on public officials are mentioned in Article 29 of Law No. 2020/0026/AN on the Code of Conduct for Public Officials in the Republic of Guinea.<sup>32</sup>

It should also be noted that the anti-corruption law in its Chapter II defines the categories of public officials and preventive measures against corruption in the public sector.<sup>33</sup> Regarding the relevant measures taken into account in relation to regional initiatives, inter-regional and multilateral to ensure good conduct of public officials, the following should be noted: the United Nations Convention against Corruption in its article 8 which defines the codes of conduct of public officials,<sup>34</sup> the Convention of African Union for the Prevention of the Fight against Corruption in its article 7 relating to the Fight against Corruption and Similar Offenses in the Public Service,<sup>35</sup> as well as the ECOWAS Protocol on the Fight against Corruption in its articles 5 and 6,<sup>36</sup> relating to preventive measures and the criminalization of acts of corruption of public officials.

Systems and measures are therefore put in place to facilitate the reporting by public officials to the competent authorities of acts of corruption of which they become aware in the exercise of their functions. A toll-free number (#155) is made available to public officials by the National Agency for the Fight against Corruption to facilitate the reporting of acts of corruption.

Legal and regulatory provisions of Law No. 0041/2017/AN on the prevention, detection and repression of corruption and similar offenses establish obligations for declaration of assets and conflicts of interest of public officials to the competent authorities; this is the case for articles 25 et seq. which define deadlines for completion as well as the types of files to be provided. Talking of conflicts of interest, articles 31 et seq. refer to the prohibition of the exercise of any lucrative private activity by a public official.

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<sup>31</sup> Nouveau Code Penal de La Republique de Guinee Fevrier 2016 : [http://www.vertic.org/media/National%20Legislation/Guinea/GUINEA\\_GN\\_Nouveau\\_Code\\_Procedure\\_Penale.pdf](http://www.vertic.org/media/National%20Legislation/Guinea/GUINEA_GN_Nouveau_Code_Procedure_Penale.pdf), accessed 12/05/2023.

<sup>32</sup> <https://assembleequinee.org/loi-ndeq-20200026-portant-code-de-conduite-de-lagent-public-en-republique-de-guinee>, accessed 12/05/2023.

<sup>33</sup> <https://assembleequinee.org/index.php/2017ndeq0041an-portant-prevention-detection-et-repression-de-la-corruption-et-des-infractions>, accessed 05/05/2023.

<sup>34</sup> [https://www.unodc.org/res/ji/import/international\\_standards/united\\_nations\\_convention\\_against\\_corruption/uncac\\_french.pdf](https://www.unodc.org/res/ji/import/international_standards/united_nations_convention_against_corruption/uncac_french.pdf), accessed 08/05/2023.

<sup>35</sup> [https://au.int/sites/default/files/treaties/36382-treaty-0028\\_-\\_african\\_union\\_convention\\_on\\_preventing\\_and\\_combating\\_corruption\\_f.pdf](https://au.int/sites/default/files/treaties/36382-treaty-0028_-_african_union_convention_on_preventing_and_combating_corruption_f.pdf), accessed 24/11/2023.

<sup>36</sup> [https://icsid.worldbank.org/sites/default/files/parties\\_publications/C3765/Respondent%27s%20Rejoinder%20%28redacted%20per%20PO10%29/Pi%C3%A8ces%20juridiques/RL-0080.pdf](https://icsid.worldbank.org/sites/default/files/parties_publications/C3765/Respondent%27s%20Rejoinder%20%28redacted%20per%20PO10%29/Pi%C3%A8ces%20juridiques/RL-0080.pdf), accessed 10/05/2023.

Also, there are systems requiring public officials to declare to the competent authorities, in particular, all external activities, all employment, all investments, all assets and all substantial donations or benefits which could result in a conflict of interest with their public functions, public official. These provisions obliging public officials are mentioned in article 29 of Law No. 2020/0026/AN On the Code of Conduct for Public Officials in the Republic of Guinea.

Disciplinary or other measures against public officials who violate codes or standards are instituted in Title IV of Law L/0027/2019/AN of June 7, 2019 on the general status of state agents.<sup>37</sup> This chapter is devoted to disciplinary regimes and rewards. These disciplinary sanctions are classified as 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> degree according to the order of their seriousness: warning, reprimand, lowering of one or more levels, demotion, and removal from the list of advancement, revocation and dismissal without prejudice to criminal prosecution (article 68 et seq.). Other measures are listed in the articles 43 to 47 of the code of conduct for public officials.<sup>38</sup> In application of article 36 of the constitution relating to the declaration of property and assets of appointed or elected personalities, decree no. D/2020/072/PRG/ SGG in its article 2 defines those subject to it. These are: the President of the Republic, the presidents of constitutional institutions, the President of the National Assembly or parliament, the ministers, the Governor of the Central Bank and the heads of State financial Institutions. The declarations also cover members of the family or household of the subject person according to article 10 of this decree which stipulates: “The declaration of assets also concerns the assets of spouses and minor children if the individual value of their assets is equal to or greater than five hundred million Guinean francs (500,000,000).” These declarations are provided when taking up function and leaving. The mechanism put in place to verify the declarations in order to ensure that they comply with the law and that the filings are complete and correct has been defined by article 13 of decree n°D/2020/072/PRG/SGG and the control role is assigned to the Court of Auditors.<sup>39</sup>

Practically, measures to prevent conflicts of interest involving former officials of private entities are not applied and this often encourages conflicts of interest.

### **Good practices**

- Existence of a legal framework;
- Use of declaration forms for gifts (for anything exceeding the value of the minimum wage) and conflicts of interest in public services.

### **Deficiencies**

- Lack of monitoring of the implementation of the legal framework;
- Lack of advancement of agents as provided for in law L/0027/2019/AN dated on June 7, 2019;
- Measures to prevent conflicts of interest involving former officials of private entities are not applied and this often encourages conflicts of interest.

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<sup>37</sup> <https://peches.gv.gn/storage/2022/09/LOI-L027-JUIN-2019-PORTANT-STATUT-GENERAL-DES-AGENTS-DE-LETAT.pdf>, accessed 11/05/2023.

<sup>38</sup> [www.stat-guinee.org/images/Documents/Publications/Textes/Loi-2020-0026-Portant\\_code\\_de\\_conduite\\_de\\_lAgent\\_public-1.pdf](http://www.stat-guinee.org/images/Documents/Publications/Textes/Loi-2020-0026-Portant_code_de_conduite_de_lAgent_public-1.pdf), accessed 11/05/2023.

<sup>39</sup> <https://www.ccomptes.org.gn/images/patrimoine/Dcret-D-2020-072-portant-dclaration-de-biens-en-RG.pdf>, accessed 31/07/2023.

#### 4.1.5 Art. 9.1 – Public Procurement

The legal and regulatory framework which governs the public procurement process in Guinea is made up of laws, decrees and orders, mainly:

- L/2012/020/CNT of October 11, 2012 setting the rules for the award, control and regulation of public contracts and delegation of public services;
- L/2017/032/AN of July 4, 2017 relating to Public-Private Partnership;
- D/333/PRG/SGG of December 17, 2019 relating to the public procurement code;
- Decree D/2020/154/PRG/SGG of July 10, 2020 relating to attributions, organization and functioning of the Public Procurement Regulatory Authority,<sup>40</sup>
- Decree D/2020/155/PRG/SGG of July 10, 2020 laying down general provisions governing the thresholds for awarding, controlling and approving public contracts;<sup>41</sup>
- D/2020/156/PRG/SGG of July 10, 2020 relating to the responsibilities, organization and operation of the Official Body responsible for Certification,<sup>42</sup>
- D/2020/030/PRG/SGG of January 23, 2020 relating to the responsibilities and organization of the National office for Public Procurement Control
- D/2020/031/PRG/SGG of January 23, 2020 relating to the creation, responsibilities, organization and operation of procurement bodies;<sup>43</sup>
- Order A2020/2302/MEF/SGG of August 7, 2020;

The Republic of Guinea reformed its public procurement code in 2019. The Decree D/333/PRG/SGG on the public procurement code of December 17, 2019 defines the new regulations in force concerning public procurement and delegation of public services. Decree D/333/PRG/SGG of December 17, 2019 on the Public Procurement Code is also relevant.<sup>44</sup> It is compulsory to award a public contract when the amount of the contract is equal to or greater than the threshold of 100 million Guinean Francs (approximately US\$11,000). The main institutions responsible for the regulation and control of public procurement are: the Public Procurement Regulatory Authority (ARMP) and the Administration for the Control of Major Projects and Public Procurement (ACGPMP).

The use of objective and predetermined criteria for making decisions regarding public procurement facilitates verification subsequent correct application of rules or procedures. An effective internal redress system, including an effective appeal system, which guarantees the exercise of legal remedies in the event of non-compliance with the rules or procedures established in accordance with this paragraph is often used by the services concerned.

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<sup>40</sup> <https://interfacelonny.com/documents/do-1614414139>, accessed 29/08/2023.

<sup>41</sup> <https://www.droit-afrique.com/uploads/Guinee-Decret-2020-155-seuils-passation-marches-publics.pdf>, accessed 29/08/2023.

<sup>42</sup> <https://portail.sante.gov.gn/wp-content/uploads/2022/04/Manuel-de-passation-des-MP-du-Minist%C3%A8re-de-la-Sant%C3%A9-Guin%C3%A9-Version-d%C3%A9finitive-002.pdf>, accessed 29/08/2023.

<sup>43</sup> <http://www.armpguinee.org/index.php/reglementations/textes-reglementaires/decrets/annee-en-cours/category/15-decrets-annee-en-cours>, accessed 29/08/2023.

<sup>44</sup> <https://mefp.gov.gn/wp-content/uploads/2022/03/Nouveau-Code-des-Marches-Publics-de-la-Republique-de-Guinee.pdf>, accessed 05/05/2023.

The civil and administrative measures taken to preserve the integrity of books and accounting statements, financial statements or other documents concerning public expenditure and revenue and to prevent falsification are the rating of documents in the register and initialled by a clerk. Section 3 of the Anti-Corruption Law establishes the rules and standards for public procurement taking into account anti-corruption mechanisms. Values such as transparency, competition and objective criteria for making effective decisions to prevent corruption in the public procurement process are provided for in Decree D/333/PRG/SGG of December 17, 2019 promulgating the Code of Public Procurement and article 88 of law L/2017/041/AN of July 4, 2017<sup>45</sup> on the prevention, detection and repression of corruption and similar offenses establishes the security and regularity of public procurement.

In the application of measures relating to the dissemination of information on threshold values in the process of awarding public contracts, several measures are taken into account, including among others:

- Article 10 of the Procurement Code defines the mode and tools of communication in the development and communication of Annual Procurement Plans including public procurement procedures and measures undertaken to monitor the execution of the defined plan;
- Article 4 of decision A/2020/2302/MEF/SGG setting the thresholds for awarding, controlling and approving public contracts applicable to the State, decentralized services (Region, Prefecture, Municipalities and to Public Bodies, Public Administrative Institutions and Public Company) of August 7, 2020<sup>46</sup> sets the award thresholds. It is mentioned that in accordance with the provisions of article 4 of this decree, the thresholds for awarding public contracts are:
  - a. Works contract:
    - At the national level: 500,000,000 GNF (approximately US\$55,000)
    - At the decentralized level: 200,000,000 GNF (approximately US\$22,000)
  - b. Market for current supplies and services
    - At the national level: 150,000,000 GNF (approximately US\$17,000)
    - At the decentralized level: 100,000,000 GNF (approximately US\$11,000)
  - c. Intellectual services market:
    - At the national level: 150,000,000 GNF (approximately US\$17,000)
    - At the decentralized level: 100,000,000 GNF (approximately US\$11,000)
- The establishment in advance of the conditions of participation, including the selection and award criteria and the rules for calls for tenders, and their publication is a provision that is taken into account through the content of the chapter 3 of the public procurement code. Articles 23 and seq. as well as

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<sup>45</sup> <https://assembleequinee.org/index.php/I2017ndeg0041an-portant-prevention-detection-et-repression-de-la-corruption-et-des-infractions>, accessed 20/04/2023.

<sup>46</sup> <http://armpguinee.org/index.php/reglementations/textes-reglementaires/arretes/annee-en-cours/download/17-arretes-annee-en-cours/119-arrete-sur-les-seuils-de-passation>, accessed 31/07/2023.

articles 48 and seq. of this code indicate the types of contracts, the categories of calls for tenders, the procedure for publishing the Tender File (DAO), the Notice Tender and Quotation Letter.

- Articles 11, 12 and 13 of the public procurement code govern the procurement procedure through defined criteria in order to facilitate subsequent verification of the correct application of the rules or procedures. It is therefore recommended for each stage of the process to make available minutes and process evaluation and execution reports;

The public procurement code provides for an internal appeal system which guarantees the exercise of legal remedies in the event of non-compliance with rules or established procedures. Articles 147 to 153 explain the avenues for appeal before the contracting authority and the ARMP Dispute Resolution Committee. Furthermore, article 25 of the Anti-Corruption Law and Decree D/2020/031/PRG/SGG relating to the creation, attribution, organization and operation of public procurement bodies, regulate issues affecting personnel responsible for procurement,<sup>47</sup> such as the requirement for a declaration of interest for certain public contracts, procedures for selecting such personnel and training requirements.

The disciplinary measures provided against ARMP staff are those contained in the General Regulations of the Civil Service and in the statute of public bodies. They are spread out as follows:

- Warning
- Blame
- Blame with entry in the file
- Revocation
- Disbarment
- Dismissal

However, the public procurement code gives the prerogative to the ARMP to impose sanctions involving the exclusion and blacklisting of public officials who have contravened the regulations as provided for in article 156 and seq. of the code, until the effective entry into force of Law L/2023/008/CNT of March 13, 2023. Transparency standards are manifested through principles and values that are competition through open tender; the definition of public procurement thresholds; the definition of communication methods and tools in the development and communication of Annual Procurement Plans including public procurement procedures and the measures undertaken to monitor the execution of the defined plan.

Talking about specific risks of corruption in the procurement system, we can note through documentary reviews that an audit was carried out by the Court of Auditors of Guinea<sup>48</sup> and reports from CSOs carried out as part of citizen monitoring of public action.<sup>49</sup> The Court of Auditors, which is a control body, conducted between 2012 and 2018 a performance audit of the institutional framework for fighting corruption in

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<sup>47</sup> <http://www.armpguinee.org/index.php/reglementations/textes-reglementaires/decrets/annee-en-cours/send/15-decrets-annee-en-cours/115-decret-d-2020-031-prg-sgg>, accessed 31/07/2023.

<sup>48</sup> [https://www.ccomptes.org.qn/images/docs/Rapport\\_Public\\_2018.pdf](https://www.ccomptes.org.qn/images/docs/Rapport_Public_2018.pdf), accessed 4/12/2023.

<sup>49</sup> <https://www.itie-guinee.org/rapport-de-diagnostic-de-corruption-dans-le-secteur-minier-guinee/>, accessed 24/11/2023.

Guinea. It consisted of examining the mechanisms put in place, identifying the related difficulties and formulating conclusions and recommendations on:

- The existence of an adequate institutional and legal framework to prevent and detect corruption;
- The mechanisms put in place by the ANLC to effectively fight corruption;
- The involvement of the various public sector control and sanction bodies in the discovery and transmission of corruption cases to the ANLC.

The mission thus worked with many of the prevention, detection and repression authorities. With regard to public procurement, the Court of Auditors notes that it was unable to work with ARMP management in the context of this audit but that it obtained a copy of the 2015 decisions of the Dispute Resolution and Sanctions Committee on the official website of the ARMP regulatory authority which invokes:

- The violation of the principles of competition and transparency in the procedure for awarding public contracts and delegation of public services by Electricité de Guinée (EDG) and the Topaz company in the context of the supply of 300 transformers after the appeal of CAHORS-Guinea company.
- The exclusion of the company John-construction from all public procurement in the Republic of Guinea for a period of three years and the suspension for a period of one year of several executives and agents of the Ministry of Agriculture, under administrative sanctions upon denunciation of the mayor of the Municipality of Banian for delay or non-performance of contracts relating to the construction of a bridge, a road embankment and two scuppers in Banian-Doumbafè in the administrative region of Faranah by the said company.
- A request to the Minister of Finance to reprimand the Director of Public Procurement for the non-compliance with the decisions of the ARMP and the dysfunction of its service at the National Directorate of Public Procurement (DNMP) after the violation of the regulations on the award of the contract for the acquisition of various supplies in two lots on behalf of the Ministry of the Interior.

Subsequently, the report indicates that despite their repressive nature, these various decisions were not transmitted to the courts or to the ANLC. The absence of referral to the courts constitutes a violation of the provisions of article 96 of law L/2017/041/AN of July 4, 2017 and article 122 of the code of criminal procedure.

The reasons given by the speakers to justify this irregularity are, among others:

- Ambiguity in the definition of the term “corruption” in inspection control reports. It appeared that the inspectors were reluctant to legally qualify the established findings. They are most often limited to describing the facts, the causes and possibly the consequences, and make recommendations. They hardly invoke provisions of the criminal code or the code of criminal procedure. They do not think of addressing a public prosecutor;
- The interference of administrative and political authorities and sometimes social pressures in the processing of cases;
- The heads of administrative control bodies who feel their functions are threatened give in to influence which is itself an act of corruption, thus making them factio accomplices,



- The observation reports of the various controls are intended for the supervisory authorities who decide on the follow-up of the said reports.<sup>50</sup>

In 2021, AGT carried out a citizen monitoring project for the management of the Local Economic Development Fund (FODEL) in the Rural Commune of Banora (prefecture of Dinguiraye) with the technical and financial support of the Natural Resource Governance Institute (NRGI), the German Cooperation (GIZ) for the Management of Resources in the Extractive Sector (GRSE) which intended objective was to promote good governance through citizen monitoring of the legal and contractual obligations of mining activities in this locality. One of the activities carried out is the evaluation of the FODEL procurement process in accordance with the public procurement code, the community code and the procedures manual of the said fund.

A commission composed of members of the AGT, representatives of the FODEL Project Monitoring Committee (CSPF) and representatives of Civil Society carried out monitoring activities on the ground during the first half of August 2021. Given the importance of their interventions in the management of the FODEL fund, priority was given to the Economic Interest Groups (EIG), the commune, the companies benefiting from FODEL markets and the Management Support Committee of FODEL (CAGF).

All in all, shortcomings linked to the process of awarding the various contracts awarded were identified and are, among others:

- The absence of minutes relating to the examination of companies' offers and the selection of awarding companies;
- The absence of a contract award letter or contract specifying the different payments and payment periods;
- Lack of knowledge by the mayor of the accuracy of the areas financed for the GIEs and their location on the ground;
- The town hall's lack of knowledge of the turnover of the Société Minière de Dinguiraye (SMD) and the rate dedicated to Banora;
- Low human capacity of the Banora CSPF and a lack of material and financial means to enable it to fully play its role.

### **Good practices**

- Public dissemination of information concerning procurement procedures in the written press and the online press as well as the official websites of the ministerial departments.<sup>51</sup>

### **Deficiencies**

- An audit report carried out by the Court of Auditors revealed that numerous violations took place and that the courts and the ANLC were not seized. This constitutes a violation of the law;
- In 2021, AGT executed a citizen monitoring project of the management of FODEL in the prefecture of Dinguiraye which identified inadequacies linked to the process of awarding various contracts, and low visibility of the process of awarding certain contracts in these rural areas;
- Failure to disseminate the public procurement code.

<sup>50</sup> [http://www.ccomptes.org.qn/images/docs/Bon\\_document\\_antikorruption.pdf](http://www.ccomptes.org.qn/images/docs/Bon_document_antikorruption.pdf), pages 28 and 29, accessed 30/08/2023.

<sup>51</sup> <https://jaoguinee.com/#>, accessed 08/08/2023.

#### 4.1.6 Art. 9.2 – Management of Public Finances

The legal and regulatory framework governing the management of public finances is, among others:

- Law L/2012/N°012/CNT related to the organic law related to the finance laws of August 2012,<sup>52</sup> regulates the management of public finances;
- The General Regulation on budgetary management and public accounting;<sup>53</sup>
- Decree D/2014/222/PRG/SGG of October 31, 2014,<sup>54</sup> relating to the governance framework for public finances.

These laws specify the governance of public finances and the management of public budgets. The public finance governance framework and the organic law relating to finance laws of August 2012 provide for procedures for adopting the national budget and the deadlines for timely communication of State expenditure and revenue. The public finance management system is essentially based on the following accounting and auditing standards:

- State Accounting Plan (PCE)<sup>55</sup>
- The Uniform Act Relating to Accounting Rights and Financial Information (OHADA)<sup>56</sup>
- ISSAI (INTOSAI Framework)<sup>57</sup>
- ISA (International Auditing Standard)<sup>58</sup>
- COSO (Committee of Sponsoring Organization)<sup>59</sup>

The general regulations for budgetary management and public accounting constitute one of the main implementing texts of the organic law relating to finance laws. This document defines the State Accounting Plan and facilitates the understanding and appropriation of the public financial management framework. Many people must familiarize themselves with the future “financial constitution” of the Republic of Guinea and the text governing the execution of the budget: Ministers and Senior Officials of all administrations and institutions concerned, elected officials, politicians, representatives of Civil Society, journalists, Academics and Technical and Financial Partners of Guinea.

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<sup>52</sup> <http://www.droit-afrique.com/upload/doc/guinee/Guinee-Loi-2012-12-LORF.pdf>, accessed 30/06/2023.

<sup>53</sup> Idem.

<sup>54</sup> <https://mbudget.gov.gn/wp-content/uploads/2019/09/D%C3%A9cret-Cadre-de-Gouvernances-des-Finances-Publiques.pdf>, accessed 06/07/2023.

<sup>55</sup> [https://www.pefa.org/sites/pefa/files/2020-08/GN-Jun18-PFMPR\\_Public%20with%20PEFA%20Check%20%281%29.pdf](https://www.pefa.org/sites/pefa/files/2020-08/GN-Jun18-PFMPR_Public%20with%20PEFA%20Check%20%281%29.pdf), accessed 06/07/2023.

<sup>56</sup> <https://www.droit-afrique.com/uploads/OHADA-Acte-uniforme-2017-droit-comptable-information-financiere.pdf>, accessed 12/05/2023.

<sup>57</sup> <https://www.issai.org/about/>, accessed 12/05/2023.

<sup>58</sup> <https://www.ibr-ire.be/docs/default-source/fr/Documents/reglementation-et-publications/normes-et-recommandations/ISA/ISA-nouvelles-et-revisees/ISA-nouvelles-et-revisees-2017/ISA-700-Revisee-FR-2016-2017-CLEAN.pdf>, accessed 12/05/2023.

<sup>59</sup> <https://audit.org.uiowa.edu/sites/audit.org.uiowa.edu/files/2020-04/COSO.pdf>, accessed 20/06/2023.



COSO standards systems are used in risk management and internal control. Corrective measures are considered in the event of failure to meet the requirements of accounting and auditing standards. Thus, the authorizing officer is personally responsible for the financial and internal control acts incumbent on him in the exercise of these functions. He incurs liability which may be disciplinary, criminal or civil without prejudice to the fines and sanctions which may be imposed on him by the Court of Auditors due to these management errors under the conditions defined by Organic Law L/046/2013 of 18 January 2013 amended by Law L/066/2013 of December 12, 2013 on the Court of Auditors.

Essentially, the general budgetary management and accounting regulations as well as the COSO accounting and auditing standards are the civil and administrative measures provided to preserve the integrity of books and accounting statements, financial statements or other documents concerning expenditure and public revenue and to prevent falsification.

Finally, to facilitate citizens' understanding of reading the state budget, a citizens' guide has been developed for this purpose.<sup>60</sup> It responds to a certain number of concerns such as: where state resources come from? How are they spent and for what purpose? What is the total amount of the state budget? How is the budget prepared? How is it executed? Who controls its execution? These are all questions to which answers are provided in this document to make it easier for citizens to understand the state budget without resorting to complex jargon. However, access to this purely electronic document due to its non-popularization constitutes a major handicap for citizens. And, apart from the plenaries at the level of the national representation (Parliament) to which the public is invited, there is no effective consultation mechanism giving them the opportunity to contribute to and debate the draft national budget before its adoption. Failure to comply with applicable laws, regulations and procedures, including with regard to publication, is not without consequence both on the vulnerability of control mechanisms and tools and on the effectiveness of the instruments. Impunity, withholding of information and non-involvement of citizens in combat efforts are practices which accentuate corruption, misappropriation of public funds and considerably undermine the development of the country.

In general, the bodies or institutions responsible for monitoring and/or promoting good governance sporadically publish management reports falling within their jurisdiction. Specifically, the Court of Auditors and the General Inspection of the state prepare and publish their report each year on the state of governance. The EITI has published reports every year since 2005 annual reports on state revenues from extractive industries.

### **Good practices**

- The development and publication by certain bodies for monitoring and promoting good governance of reports on governance in strategic sectors;
- The simplification of the national budget “citizen budget” in electronic format to make it easier to understand.

### **Deficiencies**

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<sup>60</sup> <https://mbudget.gov.gn/wp-content/uploads/2022/06/NOUVEAU-GUIDE-BUDGET-corrige-Version-finale.pdf>, accessed 30/06/2023.

- The citizen budget is only designed for intellectuals and for urban areas because it is in electronic format,
- Migration to the State accounting plan poses enormous difficulties for public officials due to their lack of skills.

#### **4.1.7 Art. 10 and 13.1 – Access to Information and the Participation of Society**

##### **Access to public information**

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take the necessary measures to increase the transparency of its public administration, including its organization, functioning and decision-making processes. In Guinea, the right of access to public information is guaranteed by the provisions of article 10 of the constitution<sup>61</sup> and article 6 of the African Charter on the values and principles of public service and administration ratified by the country.<sup>62</sup>

To this end, the Guinean Government has developed procedures or regulations allowing users to obtain information on the organization, functioning and decision-making processes of public administration. This is how Guinea proceeded with the adoption and promulgation of law L/2020/0027/AN of December 19 2020, relating to the right of access to public information.<sup>63</sup> This law gives every citizen the right to request and obtain access to information and documents administrative, without having to justify the reason for the request.

Chapters I and II of Title II of Law L/2020/0027/AN of December 19, 2020 provide broad information on the principle of the obligation of proactive publication of information by the competent bodies and access to information under the request of a third party. Title III of the Law provides information on the bodies managing access to public information. Chapter I of Title III defines those responsible (responsible) for access to public information while Chapter 2 indicates the authority for recourse to access to public information.

In its article 8, the law takes into account the protection of privacy and personal data, in the decisions and legal acts which concern them. Accessibility of the publication of information, particularly on periodic reports on risks of corruption within the public administration or any other sensitive or strategic document for the State is conditional on the prior authorization of the first hierarchical manager of the organization holding this information according to article 7 of the same law. On the other hand, article 6 indicates: “administrative documents whose consultation or communication would undermine:

- The secrecy of the deliberations of the government and the responsible authorities under the executive power;

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<sup>61</sup> <https://www.coursupgn.org/wp-content/uploads/2021/01/La-Constitution-Guine%CC%81enne-de-2020.pdf>, accessed 30/06/2023.

<sup>62</sup> <https://www.peaceau.org/uploads/charte-africaine-sur-les-valeurs-et-les-principes-du-service-public-et-de-l-administration-fr.pdf>, accessed 14/07/2023.

<sup>63</sup> <https://faolex.fao.org/docs/pdf/gui212489.pdf>, accessed 09/08/2023.

- The secrecy of national defense;
- The conduct of Guinea's foreign policy;
- The economic, monetary or financial policy of the State;
- State security and public security or personal safety;
- currency and public credit;
- The conduct of legal proceedings initiated before the courts or operations preliminary to such proceedings;
- Research by the competent services for tax and customs violations;
- Or, in general, protected secrets by law.

The administrative procedures put in place to facilitate user access to the competent authorities are the hearings, the program displayed in a table available to each administrative service. Specifically, the procedures through which a citizen must go to obtain public information are the following:

- Formulation of a request: any citizen can formulate a request for access to information from an organization, conforming to the pre-established model form made available to the public by the institution concerned, or on plain paper containing the mandatory information contained in articles 14 and 16 of this law. In case the information requester suffers from a reading or writing incapacity, or the latter suffers from a visual or hearing incapacity, the person responsible for access to information is required to provide him with the assistance needed to formulate your request.
- On-site consultation or reproduction of an administrative document: access to administrative documents is at the requester's choice and within the limits of the administration's possibilities. This can be done either by free on-site consultation, unless the preservation of the document does not allow it, either by reproducing if this does not harm the conditions of preservation of the document; or receipt by email and free of charge if the document is available in electronic format.

The measures taken to increase the transparency of decision-making processes and promote public participation in the fight against corruption are:

- The involvement of civil society, including the media, in citizen control of public action;
- The membership of these social actors on the Boards of Directors (C.A)
- Public Establishment services of an Administrative nature (EPA) and projects of national scope.

Then, public information activities encouraging them not to tolerate corruption are undertaken through declarations by the Prime Minister Chief of government, poster campaigns and distribution of leaflets and gadgets. These activities concern public education programs through interactive broadcasts organized by public and private media. Unfortunately, this does not involve schools and universities.

Practically, state organizations have mechanisms that develop communication channels within them (website and social networks). However, there are no mechanisms for the publication of periodic reports on corruption risks within the public administration and the withholding of information has become a practice for many decision-makers. It is for all these reasons that access to information is hampered by

the absence of a recourse mechanism in the event of rejection of requests for information and of an independent body which takes care of the procedures for access to information which decides on complaints.

### **Civil society participation**

Each State Party shall take appropriate measures to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and communities of people, the prevention of corruption and the fight against this phenomenon.

The measures taken to increase the transparency of decision-making processes and promote public participation in the fight against corruption are:

- The formalization of a partnership between the National Agency for the Fight against Corruption and the Promotion of Good Governance (ANLC-PBG) and the coalitions of Civil Society actors through an agreement;
- The involvement of civil society, including the media, in citizen control of public action through awareness-raising and monitoring citizen activities
- The membership of these social actors on the Boards of Directors (Board of Directors) of Public Establishment services of an Administrative nature (EPA) and projects of national scope;
- The participation of societal actors in the African Peer Review Mechanism (APRM) which identifies the main causes of anti-constitutional change in Africa;
- The participation of social actors in the use of the corruption diagnostic tool in the extractive sector;
- The participation of socio-political actors in the inter-Guinean dialogue framework initiated and supported by the transitional authorities and the monitoring committee for the implementation of its conclusions.

Public information activities encouraging them not to tolerate corruption are undertaken through declarations by the Prime Minister Chief of Government, poster campaigns and distribution of leaflets and gadgets. These activities concern public education programs through interactive broadcasts organized by public and private media. Unfortunately, this hardly involves schools, universities and especially citizens in rural areas.

Press freedom is regularly undermined in Guinea. Despite the end of custodial sentences for press offences, some journalists have been arrested and detained. In terms of deprivation and censorship, for ten days, social networks such as Facebook, Instagram, WhatsApp or TikTok are cut off, and access to the internet restricted. Some radio stations, such as private stations, have been jammed and news sites are inaccessible. These cuts follow other restrictions such as the dismantling of transmitters by a team of gendarmes claiming to be from the Post and Telecommunications Regulatory Authority (ARPT) and the confiscation of equipment from an independent media group.<sup>64</sup> In addition to attacks against the online press and social networks, there is direct violence against journalists. These attacks are not isolated cases. Journalists are often victims of arbitrary arrest and confinement. Other

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<sup>64</sup> <https://mosaiqueguinee.com/censure-des-medias-en-guinee-les-associations-de-presse-menacent-dengager-des-poursuites-contre-larpt/>, accessed 24/11/2023.

journalists were summoned for having published a press article incriminating soldiers in a case of theft of a medicine truck.<sup>65</sup>

Civil society organizations are calling on Guinean authorities to work towards freedom of expression and assembly and to put an end to the arrest, detention and prosecution of individuals for expressing their opinions. The organizations take this opportunity to express their deep concern about the use of judicial harassment to force pro-democracy activists to be quiet, as well as journalists in Guinea.<sup>66</sup> It is therefore common to see journalists from private media or civil society representatives being denied politically sensitive information or documents without adequate justification.

Concerning international mechanisms facilitating citizens' access to public information, Guinea began its membership process in 2015 to the Open Government Partnership (OGP) but after an initial evaluation of existing data and the level of commitment of the state, it is necessary to note that the subject is not on the agenda.

However, Guinea is a member of the Extractive Industries Transparency Initiative (EITI) and produces reports on governance in this sector since 2005. Based on the 2019 EITI standard, Guinea obtained a score of 88/100 during its last assessment in 2022.<sup>67</sup> On the other hand, Guinea is not a member of the International Conference on Open Data (CIDO).

### **Good practices**

- Existence of a law on access to public information;
- Existence of measures on free and inclusiveness in obtaining public information, whether verbal, physical or electronic;
- Membership of social actors on the Boards of Directors (Board of Directors) of Public Establishment services of an Administrative nature (EPA) and projects national in scope.

### **Deficiencies**

- The weak application of the law of access to information due to the fact that it is unknown to the public;
- The access to information is hampered by the absence of a recourse mechanism in the event of rejection of requests for information and of an independent body which takes care of the procedures for access to information which decides on complaints;
- The non-publication of the self-assessment checklist to facilitate its access to civil society;
- Low engagement in the Open Government Partnership (OGP) membership process;

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<sup>65</sup> <https://rsf.org/fr/libert%C3%A9-de-la-presse-en-guin%C3%A9e-premiers-signaux-inqui%C3%A9tants-sous-la-transition#:~:text=La%20libert%C3%A9%20de%20la%20presse%20%C3%A9tait%20r%C3%A9guli%C3%A8rement%20mise%20%C3%A0%20mal.plac%C3%A9s%20en%20d%C3%A9tention%20cette%20ann%C3%A9e>, accessed 15/08/2023.

<sup>66</sup> Guinée : Trois Organisations de la Société Civile demandent au gouvernement de mettre fin au harcèlement judiciaire pour faire taire les activistes - ARTICLE 19, <https://www.article19.org/fr/resources/guinea-end-the-harassment-of-journalists-and-free-expression-activists/>, accessed 15/08/2023.

<sup>67</sup> <https://eiti.org/fr/board-decision/2022-16>, accessed 17/08/2023.

- The withholding of information by public officials;
- Some journalists were arrested and detained;
- Journalists are often victims of arbitrary arrest and confinement.

#### **4.1.8 Art. 14 – Measures to Prevent Money-Laundering**

The Republic of Guinea has taken legal and regulatory measures to combat money laundering and the financing of terrorism. These provisions take into account the recommendations of regional and international organizations specializing in this matter such as GIABA and the FATF.

The legal and regulatory provisions taken by Guinea include:

- Law L/2021/0024/AN of August 17, 2021, on Fighting against Money Laundering and the Financing of Terrorism;
- Law L/2017/041/AN on the Prevention, Detection and Repression of Corruption and Similar Offenses;
- Decree D/2022/0192/PRG/CNRD/SGG of April 6, 2022, appointing the President of CENTIF;
- Decree D/2022/0587/PRG/CNDD/SGG of December 15, 2022, relating to the attribution, organization and operation of CENTIF;
- Decree D/2015/051/PRG/SGG of April 2, 2015, establishing the creation, responsibilities and composition of the National Technical Committee for Monitoring the Activities of the GIABA;
- Decree D/2015/191/PRG/SGG of October 10, 2015, designating the competent authority in matters of administrative freezing and implementation method of the Terrorism Financing Act;
- Decision No. 113/2023/BCRG/SGG approving the Regulation of the CENTIF;
- Order No. A/2015/5901/MEF/CAB of November 4, 2015 appointing CENTIF Correspondents within public services;
- Decision No. 004 /PR/CAB/CENTIF of March 20, 2023 validating the model for reporting suspicious transactions from ENPNFD to CENTIF;
- Law L/2016/059/AN of October 26, 2016, establishing the Penal Code of the Republic of Guinea;
- Law/2016/060/AN of October 26, 2016, establishing the Code of Criminal Procedure in the Republic of Guinea;

However, the implementation of all these measures remains confronted with procedural difficulties linked to the absence of an AML/CFT coordination policy. To date, there is no national policy or strategy aimed at combating money laundering in the Republic of Guinea. The development of the policy and the national strategy falls within the competence of the National AML/CFT Coordination Committee as provided by the provisions of articles 12 and 13 of law L/2021/024/AN of August 17, 2021 concerning the fight against Money Laundering and the Financing of Terrorism in the Republic of Guinea.<sup>68</sup> In this vein, a decree establishing, attributions, composition and operation of the Coordination Committee for the Fight against Money Laundering

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<sup>68</sup> [https://centifgn.org/wp-content/uploads/2022/01/LOI\\_LBCFT\\_0024\\_AN-2021.pdf](https://centifgn.org/wp-content/uploads/2022/01/LOI_LBCFT_0024_AN-2021.pdf), accessed 08/08/2023.



dated April 6, 2023 was taken by the president of the transition.<sup>69</sup> But to date, the members of this committee have not yet been appointed, so the development of mechanisms and tools for the fight as well as the operationalization of the process are slow to be put in place. Specifically, several provisions address issues related to the prevention, detection and repression of money laundering in Guinea. It is in particular chapter 10 of the AML/CFT law (L/2021/024/AN of August 17, 2021) which deals with issues of money laundering detection in the criminal Code of the Republic of Guinea which addresses in its articles 499 to 506 the issues of prevention, detection and repression of money laundering.<sup>70</sup> The National committee in charge of processing financial data (CENTIF) is the central authority responsible for receiving Suspicious Transaction Reports (STRs), analyzing them and disseminating the product of its financial information to the competent public prosecutors.

Depending on the content of the legal and regulatory provisions on AML/CFT, the Guinean legal regime takes care of the requirements in terms of identification of customers, beneficial owners and reporting obligations of suspicious transactions. These requirements are provided for by the provisions of articles 24 to 40 of the AML/CFT law of August 17, 2021.<sup>71</sup> In addition, it is clearly stipulated that it is formally prohibited to keep fictitious and anonymous accounts and the identification of the customer before entering into business for the financial sector and for the non-financial sector it is an obligation. During the business relationship, verification and updating of information are obligations incumbent on Financial Institutions and Designated Non-Financial Businesses and Professions. In addition, the measurements of vigilance are defined according to the risks identified according to the nature and position of the subjects such as Politically Exposed Persons (PEP).

Concerning the conditions of cooperation and exchange of information at the national level, institutions are free to conclude cooperation agreements within the limits of their respective mandates and in application of the laws and regulations which govern the exercise of their activities. However, it should be noted that there is no formal framework for periodic consultation and no appropriate forum for dialogue to allow the various state structures responsible for combating financial crime to discuss appropriate collective measures. For the purposes of periodic review of the process and evaluation of the tools used to combat financial crime, exchange and consultation frameworks have been put in place to coordinate research activities and the preparation of investigation reports. Through consultation and consultation meetings with stakeholders in the civil society, CENTIF members organized workshops to present the draft laws in order to collect their concerns. The representatives of CSOs thus expressed their concern about the failure to take into account the restrictive measures of sanctions linked to the laundering of money derived from the proceeds of crime contained in the previous Law. The discussions made it possible to take these concerns into account in accordance with the provisions of other laws such as the criminal code, the criminal procedure code and the anti-corruption law.

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<sup>69</sup> <https://guineenews.org/decret-portant-attributions-compositions-et-fonctionnement-du-comite-national-de-coordination-de-la-lutte-contre-le-blanchiment-de-capitaux-et-le-financement-du-terrorisme/>, accessed 10/08/2023.

<sup>70</sup> <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/107329/132068/F532769828/GIN-107329.pdf>, accessed 12/08/2023.

<sup>71</sup> [https://centifgn.org/wp-content/uploads/2022/01/LOI\\_LBCFT\\_0024\\_AN-2021.pdf](https://centifgn.org/wp-content/uploads/2022/01/LOI_LBCFT_0024_AN-2021.pdf), accessed 14/08/2023.

At the international level, the competent authorities work as extensively as possible in the fight against money laundering and criminal offenses assimilated with specialized organizations. CENTIF for its part receives at its request or on their initiative, all the useful information for the accomplishment of its mission from its foreign counterparts who exercise similar powers. These questions are provided for and addressed by chapter 14 of the AML/CFT law relating to international cooperation.

Administrative, regulatory, law enforcement and other authorities responsible for combating money laundering benefit from the legal and regulatory provisions which establish their autonomy in the context of carrying out the missions assigned to them. Article 75 of the AML/CFT law which created CENTIF stipulates that it is an independent authority in its operation and activities. The same provisions are devoted to all other entities engaged in fighting against this phenomenon, whether they are regulatory, detection or repression authorities. CENTIF's information concerning cases of money laundering operations is strictly reserved for the judicial authorities through a dissemination report in strict compliance with its confidentiality obligations.

Then, to ensure that actions to prevent and mitigate money laundering and terrorist financing are commensurate with the existing risks, Guinea developed its National Risk Assessment (ENR) report between 2018 and 2022 on one hand and on the other hand its Mutual Assessment (EM) began in October 2022. This process therefore makes it possible to initiate appropriate control measures following the identified risks, in other words a risk-based approach. This is how recommendations aimed at making AML/CFT mechanisms and tools more effective were developed to serve as a basis for the development of a national strategy and a Fight action plan against Money Laundering and Financing Terrorism in Guinea.

The appropriate measures for detecting and monitoring the cross-border movement of cash and appropriate negotiable securities in Guinea is the cash declaration form. This document is held and managed by the Customs services. Legal arrangements requiring individuals and businesses to report cross-border transfers of significant quantities of cash and appropriate negotiable securities are described in the AML/CFT Law. Chapter V of this law enshrines provisions relating to the requirements of financial institutions, including money transfer companies to facilitate the completeness of the collection, analysis and dissemination of information to prevent and detect money laundering including reporting suspicious transactions/activities.

The provisions of section 2 refer to customer due diligence obligations and those of section 5 establish the duties of reporting suspicious transactions and other suspicious transactions under the AML/CFT Law. There are also forms that facilitate the recording of messages regarding electronic funds transfers through accurate and useful information about the originator. However, it should be noted that there are no specific forms but instruction n°110/DGSIF/DSB relating to the rules for monitoring electronic transfers of January 11, 2023 from the BCRG, mentions the mandatory information that must be collected by financial institutions for electronic transfer transactions.<sup>72</sup> Regarding the retention period of archives, the provisions of Articles 41 and 54 of the AML/CFT Law and Articles 10 et seq. of Instruction No. 110/DGSIF/DSB deal with questions of retention of information on the principals and beneficiaries. These

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<sup>72</sup> <https://www.bcrq-guinee.org/wp-content/uploads/2023/01/Instruction-n-110-Regles-de-Surveillance-de-virement-electronique-de-la-Loi-LBC-aux-IF.pdf>, accessed 16/08/2023.



provisions stipulate that the ordering financial institution must retain all information collected about the ordering party and the beneficiary for at least ten years after the transaction is completed. For measures taken to increase monitoring of fund transfers not accompanied by complete information on the originator, the provisions of Article 11 of Instruction No. 110/DGSIF/DSB prohibit financial institutions from carrying out an operation when the mandatory information is not gathered and if the retention of information is not possible.

The internal decision of national regulation and institutional control is inspired by the relevant initiatives of the International Financial Action Task Force (FATF). Guinea's AML/CFT Law takes into account the content of the 40 FATF recommendations. National legislation generally provides for relevant provisions to develop and promote global, regional, sub-regional and bilateral cooperation between judicial authorities, detection law enforcement and financial regulatory authorities to combat money laundering in Guinea. Thus, Title 13 of the Code of Criminal Procedure regulates international legal assistance. This document is inspired by the Vienna, Palermo, Mérida and Terrorism Financing conventions of which Guinea is a party, in order to effectively address the issue of international cooperation in matters of mutual legal assistance relating to money laundering and terrorism financing.

According to article 76 of law L/2021/0024/AN of August 17, 2021 relating to the fight against money laundering and the financing of terrorism, which defines the responsibilities of the CENTIF, this administrative structure benefits from independence and management autonomy. It has the material resources and fairly competent staff who benefit as best they can from the training they need. CENTIF, in addition to the State's contribution, benefited from technical and financial assistance from certain technical and financial partners such as UNODC, GIABA, Expertise France. The staff also followed certain training courses organized by these institutions. The information collected linked to administrative slowness in the provision of funds and the tutoring which changes from one day to the next demonstrate that the CENTIF is not totally independent and do not have sufficient resources to fully fulfil its mission. Regarding its collaboration with other institutions, CENTIF exchanges information with the various stakeholders such as those subject to it (financial institutions, DNFBPs, public administration), investigative authorities, judicial authorities and any other useful service in the accomplishment of its mission. CENTIF is not a member of the Egmont group. However, it exchanges information with France through Tracfin, Senegal, Guinea Bissau, Sierra Leone, Mali, Ghana, Niger, Ivory Coast, Gabon; Burkina Faso etc. CENTIF signed cooperation agreements which are operational with Senegal, Ivory Coast, Gambia, Cape Verde, Burkina Faso, Sierra Leone, Togo and Niger.

### **Good practices**

- Merging the law relating to the fight against money laundering and that relating to the financing of Terrorism into a single law;
- Taking into account the 40 FATF recommendations in the new law;
- The involvement of civil society throughout the process of developing this law, through awareness-raising activities and evaluation of the control process.

### **Deficiencies**

- The absence of a framework for coordinating actions to fight against money laundering and the financing of terrorism;
- Failure to popularize the AML/CFT law;
- The absence of a strategy to combat money laundering and the financing of terrorism;
- The absence of a formal framework for periodic consultation and an appropriate space for dialogue to allow the various state structures responsible for combating financial delinquency to discuss appropriate collective measures.

## 4.2 Chapter V: Asset recovery

### 4.2.1 Art. 52 and 58 – Anti-Money Laundering

The tools for preventing and detecting transfers of proceeds of crime in Guinea are: the anti-money laundering and terrorist financing law,<sup>73</sup> the anti-corruption law (L/2017/041/AN of July 14, 2017),<sup>74</sup> the criminal Code<sup>75</sup> and the Code of criminal procedure.<sup>76</sup> The effects/impacts of these tools on transparent management within banks and within the public service as well as the private sector<sup>77</sup> are measured by the high number of agents (bankers, civil servants and private sectors) with strengthened capacities in the fight against money laundering.

In accordance with the spirit of the UNCAC, the CENTIF, the Central Bank and the ANLC-PBG are inspired by the initiatives of regional, interregional and multilateral organizations, such as GIABA and the UNCAC. The transition from the ANLC to ANLC-PBG, the creation of the Coordination Committee for the Fight against Money Laundering by decree on April 6, 2023, and the provision of a toll-free number (155) to allow citizens to report corruption are part of the framework of the application of the recommendations of the UNCCC and GIABA.

The mechanisms work little and with great insufficiency. Despite the existence of institutions and these tools, the roles of the different actors in the mechanism for preventing and detecting transfers of proceeds of crime are not known to the public, because this is considered a state secret. The obstacles/difficulties encountered in the coherent, effective and efficient use of tools include lack of knowledge of the tools, difficult access to information and the unexpected change of rules due to the change of regime.

For some time, civil society has occupied a prominent place in this mechanism, despite the lack of support from the State and the scarcity of international institutions specialized in the field of economic governance. NGO members of the EITI College initiated and carried out a diagnostic study on corruption in the extractive sector in Guinea. The implementation of this process was supported and accompanied by the structures in charge of the fight against corruption and the promotion of good governance, as well as the sectoral bodies in charge of managing the chain of decision-making in the extractive industries.

On repressive measures, chapter XIII of the AML/CFT Law which deals with coercive measures takes into account administrative and disciplinary sanctions as well as

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<sup>73</sup> [https://centifgn.org/wp-content/uploads/2022/01/LOI\\_LBCFT\\_0024\\_AN-2021.pdf](https://centifgn.org/wp-content/uploads/2022/01/LOI_LBCFT_0024_AN-2021.pdf), accessed 05/07/2023.

<sup>74</sup> <https://assembleequinee.org/index.php/l2017ndeg0041an-portant-prevention-detection-et-repression-de-la-corruption-et-des-infractions>, accessed 05/07/2023.

<sup>75</sup> <https://policehumanrightsresources.org/content/uploads/2019/07/NOUVEAU-CODE-PENAL-DE-LA-REPUBLIQUE-DE-GUINEE-Fevrier-2016.pdf?x96812>, accessed 12/07/2023.

<sup>76</sup> <https://www.cnhj-guinee.org/publication/code-de-procedure-penale/>, accessed 12/07/2023.

<sup>77</sup> <https://guineematin.com/2021/12/09/lutte-contre-le-blanchiment-des-capitaux-le-secteur-immobilier-et-les-orpailleurs-outilles-par-laqt/>, accessed 12/07/2023.

criminal sanctions. The AML/CFT Law<sup>78</sup> stipulates in its article 102 that it is prohibited to create or continue to operate fictitious banks in Guinea and the banking regulation law prohibits in its article 31 paragraph 5 all business relationships with fictitious banks.<sup>79</sup>

Talking about the declaration of public assets, there is a legal framework that takes into account, in a selective and limited way, a category of public officials whose obligation is to disclose the assets they hold nationally and abroad. Decree D/2020/072/PRG/SGG<sup>80</sup> declaring the property or assets of the personalities referred to in Article 36 of the Constitution of the Republic of Guinea describes in its Chapter II the persons subject to this declaration. This provision only takes into account the President of the Republic, Ministers, the President of the National Assembly, the Presidents of Constitutional Institutions, the Governor of the Central Bank and those responsible for financial authorities. Also, article 25 of the anti-corruption law broadens the range by indexing a category of public officials. This provision includes the senior figures and senior civil servants not covered by Article 36 of the Constitution, who occupy a position in which their personal or private interests are likely to affect their official functions. As such, they must declare their assets and, at the same time, the substance of their assets.

Finally, on another level, the AML/CFT law mentions the obligation of vigilance towards Politically Exposed Persons (PEPs) extended to members of their families. Section 3 of this law provides for additional measures in the case of specific clients and activities involving Politically Exposed Persons.

### **Good practices**

- Provision of a toll-free number to the public to report cases of corruption;
- The creation of the Coordination Committee for the Fight against Money Laundering by the President of the Transition demonstrates the existence of political will;
- The involvement of civil society in decision-making bodies.

### **Deficiencies**

- Lack of support from the government to civil society actors;
- Scarcity of international institutions working in the field of promoting good governance;
- Lack of knowledge of the tools put in place to prevent or minimize the transfer of the proceeds of crime;
- Retention of public information by the authorities in charge of confiscation
- Unexpected change in rules due to regime change or the departure of a department head who provides leadership leads to a change in approaches.

## **4.2.2 Art. 53 and 56 – Measures for Direct Recovery of Property**

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<sup>78</sup> [https://centifgn.org/wp-content/uploads/2022/01/LOI\\_LBCFT\\_0024\\_AN-2021.pdf](https://centifgn.org/wp-content/uploads/2022/01/LOI_LBCFT_0024_AN-2021.pdf), accessed 05/07/2023.

<sup>79</sup> <https://www.invest.gov.gn/document/loi-bancaire-aout-2013>, accessed 11/07/2023.

<sup>80</sup> <https://www.coursupgn.org/wp-content/uploads/2022/05/Decret-D-2020-072-portant-declaration-de-biens-en-RG-1.pdf>, accessed 11/07/2023.

In Guinea, there are necessary internal measures which allow another State Party to initiate civil action before the courts with a view to recognizing the existence of a right of ownership over property acquired through an offense established. Thus, Chapter XIII of the AML/CFT Law relating to international cooperation in the fight against money laundering and the financing of terrorism defines the powers and procedures for international cooperation (art. 115 and 116). This chapter also sets out the terms for Transfer of Prosecution Requests (art. 117 to 123), and for the terms of International Legal Assistance (art. 124 to 130). On the other hand, articles 147 relating to the procedure for confiscation of proceeds of crime and 148 relating to the execution of decisions rendered by foreign courts of Law L/2017/041/AN of July 4, 2017 take into account the necessary measures enabling another State Party to initiate civil action before the courts of Guinea with a view to having the existence of a right of ownership over property acquired through an established offense recognized.

The AML/CFT and anti-corruption laws provide for regulations relating to the communication of information on the proceeds of established offenses when it is considered that the disclosure of this information could help a State Party to initiate or conduct an investigation, prosecution or legal proceedings or could lead to the submission of a request by that State Party. Section 4 of Chapter XIII of the AML/CFT Law relating to other forms of international cooperation provides for provisions on the modalities of communication of information on the proceeds of crimes when the disclosure of this information could help a State Party to initiate or carry out an investigation, prosecution or legal proceeding or could result in the submission by that State Party of a request (arts. 148 to 150). Art. 149 of law L/2017/041/AN of July 4, 2017 on special cooperation provides for the disclosure of information on the proceeds of established offenses when it is considered that the disclosure of this information could help a State Party to commit or conduct an investigation, prosecution or legal proceeding or could result in the submission of a request by that State Party.

#### **Good practices**

- Existence of a legal and regulatory framework which governs measures of recovery of property;
- Existence of a legal and regulatory framework which governs special cooperation between Guinea and the other States Parties to the Convention.

#### **Deficiencies**

- Lack of cooperation with the services responsible for direct recovery of assets;
- Unavailability of proof of existing international cooperation;
- Lack of information on the types and/or forms of international cooperation.

#### **4.2.3 Art. 51, 54, 55, 56 and 59 – International Cooperation for the Purpose of Confiscation**

Regulatory provisions enshrined in the Guinean legal framework provide for measures to give effect to a decision of confiscation, freezing or seizure of a court of another State Party in the context of mutual legal assistance. Art.140 relating to the execution of confiscation requests of Law L/2017/041/AN of July 4, 2017 on the Fight against Corruption and Similar Offenses deals with the confiscation procedure at the request of a foreign state. Article 146 of the same law provides for necessary mentions on the information that requests for mutual legal assistance must contain for the purposes of

ordering confiscation or executing or seizure measures or precautionary measures. Article 150 relating to special cooperation deals with judicial decisions giving effect to confiscation, freezing or seizure by a court of another State Party in the context of mutual legal assistance. Articles 132 to 141 of the AML/CFT Law define the measures and conditions to give effect to a decision of confiscation, freezing or seizure of a court of another State Party in the context of mutual legal assistance.

#### **Good practices**

- Existence of a legal and regulatory framework which defines the mechanisms for recovering property through international cooperation for the purposes of confiscation.

#### **Deficiencies**

- Lack of proof of international cooperation decisions for confiscation purposes;
- Lack of evidence of international cooperation with other countries for confiscation purposes.

#### **4.2.4 Art. 57 – The Return and Disposal of Confiscated Property**

The AML/CFT Law, Law L/2017/041/AN and the Criminal Procedure Code provide legislative and regulatory measures relating to the restitution of confiscated property at the request of a requesting State Party. Thus, the AML/CFT law in its article 146 relating to the return of property sets out the measures to be taken for the extradition and return of all items likely to serve as evidence or coming from the offenses of money laundering or financing of terrorism. Also art.155 of Law L/2017/041/AN of July 4, 2017 relating to the effective transfer of recovered assets deals with management and restitution measures for confiscated property. On the institutional level, the provision of Title XXXII of the code of criminal procedure provides for the establishment of an Agency for the Management and Recovery of Seized and Confiscated Assets (AGRASC). The arts. 964 to 966 define the mission of the Agency, arts. 967 and 968 explain the organization of the Agency and arts. 969 and 970 specify the payment of damages on confiscated property. After its creation in 2022, the main officials of AGRASC were appointed in August 2023.

#### **Good Practices**

- Existence of a legal and regulatory framework which defines legislative and regulatory measures relating to the restitution of confiscated property under the request of a requesting State Party;
- Establishment and operationalization of the Agency for the Management and Recovery of Seized and Confiscated Assets (AGRASC).

#### **Deficiencies**

- Absence of a communication system to ensure visibility and traceability in the transparent management of these confiscated and/or returned funds;
- Lack of information on mutually acceptable agreements or arrangements for the final disposal of confiscated property with other countries.

#### **4.3 Statistics**

The authorities responsible for investigations provided the coordination team with partial information, while those for the application of repressive measures did not provide any information. Therefore, the various information provided in this part comes from a documentary review.

The National ML/FT Risk Assessment report contains information collected from those subject to it. This data makes it possible to assess threats and vulnerabilities (especially inherent vulnerabilities) in order to propose control approaches. After technical compliance (existence of legal and regulatory measures), the effectiveness of mechanisms and instruments is measured by the method of processing the various offenses committed (application of legal and regulatory texts). This various information is therefore extracted from the National ML/FT Risk Assessment report. Although the evaluation process has been completed since 2020, the report is still not published online to facilitate its accessibility to the public. During the National Risk Assessment of ML/FT, the data collected on offenses, prosecutions and convictions (Period 2017-2020) have been mentioned in this table:

**Table 5: Situation of offenses, prosecutions and convictions (2017-2020)**

<b>Nature of the offense</b>	<b>Cases detected</b>	<b>Number of prosecutions</b>	<b>Number of convictions</b>	<b>Number of people convicted</b>	<b>Value of confiscated property</b>
Forgery and use of forgery	1882	2038	1510	1905	-
Theft of Property	1681	2114	1356	1745	-
Breach of trust	1089	1234	823	562	-
Drug traffic	433	576	392	445	-
Migrant trafficking	132	185	135	207	-
Kidnapping and Sequestration	66	72	60	73	-
Child trafficking	58	72	72	80	-
Illicit trafficking of protected species	50	50	50	60	-
Armed robbery	52	79	60	80	-
Extortion of Property	14	14	10	13	-
Arms trafficking	14	14	12	15	-
Misappropriation of public funds	14	14	13	15	-
Misuse of corporate assets	13	17	15	14	-
Stellionate	06	06	05	05	-

Incitement of minor to debauchery	04	04	03	03	-
Dealing in stolen goods	03	03	03	03	-
Child abduction	20	20	18	18	-
Hostage taking	02	02	02	02	-
Corruption	03	03	03	03	-
Piracy	01	01	01	01	-
<b>Total</b>	<b>5643</b>	<b>6677</b>	<b>4656</b>	<b>5382</b>	

Source: CENTIF Statistics

### Analysis of the threat of ML by underlying offenses:

On the basis of the declarations of suspicion processed by the CENTIF, the cumulative statistics collected highlight the underlying offenses, having generated assets of significant importance in Guinea, which amount to 347,970,852,797 Guinean Francs, 42,040,342.68 Euros and 7,930,372.46 Dollars. These offenses are committed on the Guinean National Territory as shown in the table which presents the cumulative situation of STRs by predicate offenses for money laundering and the associated amounts (2015 – 2019).

**Table 6: Statistics of suspicious transaction reports processed by the CRF**

Year	Number of surveys	Nature of the offense	Amount Incriminated		
			USA	EURO	GNF
2015	11	Forgery and use of forgery	1 577 579	628 000	29 601 927 462
	1	Tax Fraud			7 000 000 000
2016	14	Corruption	354 329	1 200 000	22 225 609 000
	3	Drug traffic	820 340		2 335 410 500
2017	32	Forgery and use of forgery			38 161 641 000
	12	Corruption	376 669		23 710 800 000
	2	Embezzlement of public funds			16 621 580 350
2018	24	Corruption	2 365 152	1 862 190	
	20	Drug traffic	1 800 902		28 315 544 485
2019	19	Corruption			60 617 530 000
	5	Embezzlement of public funds			19 380 810 000
	34	Forgery and use of forgery	635 402	514 153	
<b>Total</b>	<b>177</b>		<b>7 930 372</b>	<b>4 204 343</b>	<b>2 470 852 797</b>

Source: CENTIF statistics



### Threat of ML/TF in the banking sector:

The main objectives of financial criminals are to place large funds obtained from various offenses in the financial system, particularly the banking system.

Fortunately, banking institutions, compared to other financial institutions, have a relatively effective alert system and internal AML/CFT system. The high number of suspicious transactions reported by banks and the importance of the amounts involved sufficiently demonstrate that the banking sector is heavily used to launder a significant portion of the proceeds of crime.

**Table 7: Situation of DOS received by CENTIF by reporting entity (2017 – 2019)**

Reporting entities	Number of DOS received			Total	%
	2017	2018	2019		
Banking institutions	44	28	46	118	95
Decentralized financial system	1	1		2	1.62
Insurance companies					
Independent legal professionals	1			1	0.81
OBNL		1		1	0.81
Financial rule					
Public administration			1	1	0.81
<b>Total</b>	<b>46</b>	<b>30</b>	<b>47</b>	<b>123</b>	

*Source: CENTIF statistics*

In view of the above, we can assess the threat in the banking sector as moderately high.

**Table 8: Situation of DOS whose predicate offenses are committed in foreign jurisdictions**

Year	Number of DOS	Foreign jurisdiction	Amounts in US\$	Underlying offense
2016	02	United States of America	100 000	Forgery and use of forgery
2017	01	Cayman Islands	29 009 000	Tax fraud
2018	01	United States of America	2 226 940	Forgery and use of forgery
	01	Australia	30 000	Forgery and use of forgery
2019	01	Brazil	5 000 000	Forgery and use of forgery
	01	India	1 000 000	Drug traffic
<b>Total</b>		<b>07</b>	<b>37 365 000</b>	

*Source: CENTIF statistics*

### Money Laundering

No data is available as the authorities have not provided information on this subject.

Investigation phase	Year: 2022
Number of cases initiated by law enforcement agencies based on DOS sent by the Financial Intelligence Unit	28
Number of people working full-time (or full time equivalent) on money laundering in law enforcement agencies	21
Number of cases subject to legal action: from DOS, DCT and independent law enforcement investigations	9

The available information obtained is that provided by the central directorate of judicial investigation which became operational at the end of 2021. This incomplete information generally refers to investigations related to money laundering and the misappropriation of public funds. The incriminated personalities are for the most part former dignitaries of the regime deposed by a military coup on September 5, 2021. The establishment of this investigative body is one measure taken by the ruling junta to recover the funds fraudulently misappropriated by the former dignitaries.

Regarding cases that have gone through the judicial phase, the authorities have not agreed to provide the information. After numerous attempts, the authorities in charge of the judicial process (the court of appeal, the court of first instance or even the CRIEF) have always rejected the various meetings to the Greek calendar.

### Asset Recovery

Before the establishment of AGRASC in August 2023, the recovery of seized and confiscated assets fell to the state judicial agency which provided fairly partial information covering statistics related to this issue.

#### 4.4 Information on asset recovery cases

An event trial<sup>81</sup> was held in Geneva from January 11 to 22, 2021. Beny Steinmetz, the Franco-Israeli billionaire, and two other protagonists in a resounding international corruption case were summoned. The trio was on trial for having paid, between 2006 and 2012, millions of dollars in bribes to Mamadie Touré, the 4th wife of Guinean President Lansana CONTE, in exchange for mining permits. An emblematic case of predatory practices in the mining sector, it's a deep dive into the mechanisms of international corruption, set against the backdrop of Guinea, one of world's poorest countries.

Sections	Description
Name	International corruption case
Parties concerned	State of Switzerland, State of Guinea, Mamadie Toure and Beny Steinmetz

<sup>81</sup> Opening in Switzerland of the trial of businessman Beny Steinmetz for corruption during mining transactions in Guinea - Business & Human Rights Resource Centre, <https://www.business-humanrights.org/fr/demi%C3%A8res-actualit%C3%A9s/ouverture-en-suisse-du-proc%C3%A8s-de-l'homme-d'affaires-beny-steinmetz-pour-corruption-lors-de-transactions-mini%C3%A8res-en-guinee/>, consulté le 01/09/2023.

Purpose of the procedure	Breaking a chain of international corruption
Type	Criminal
Origin of the procedure	Mutual legal assistance
Current status of the procedure	Order to pay 50 million US dollars to the Swiss State.
Problems encountered	The accused being in different countries, having several nationalities and the lack of local skills to hold the trial in Guinea, lack of recovery of funds in favor of Guinea.

## **V. Recent Developments**

The system of economic, political and social governance struggles to produce positive effects on the lives of citizens. Guinea remains at the bottom of the UNDP Human Development Index (HDI) ranking, occupying 182<sup>nd</sup> place out of 191 countries in 2021.<sup>82</sup> More than half of the population (53%) lives below the poverty line. According to the World Bank, today around 60% of people live in multidimensional poverty, 55% of people are below the poverty line and less than 3% of the population benefits from social coverage.<sup>83</sup> The incidence of poverty is more perceptible in rural areas (where more than 80% of the population live) than in urban areas. Ranked 147th/180 countries (with 25 points/100) by the latest Transparency International (TI) report on the 2022 Corruption Perception Index (CPI), Guinea is stagnating in efforts to fight corruption.<sup>84</sup>

Despite the existence of a legal framework taking into account both national and international initiatives and standards, the country is struggling to produce convincing results in terms of promoting good governance. Growing corruption and impunity at the top of the State manifest themselves through money laundering practices, the concealment of ill-gotten assets in Guinea or abroad as well as bank accounts and real and movable property. The last regime led by Professor Alpha Condé from 2010 to 2021 was characterized by financial mismanagement orchestrated by a system of governance based on clientelism, favoritism, nepotism, partiality and impunity. This system of governance has contributed to the ineffectiveness of the institutions dedicated to prevention, detection and repression of corruption. This situation has greatly contributed to the impoverishment of citizens, all of which has led to popular protests linked to the manipulation of the constitution.

These determining and recurring factors contributed to excesses which led to an unconstitutional change through a military coup d'état on September 5, 2021. A group of soldiers from the Special Forces regiment seized power led by Colonel Mamady Doumbouya under the name of the CNRD for Development (CNRD). The reasons given by the military boil down on the political level to unfair practices in the electoral competition, differences between political players over the independence of electoral institutions, the recurrence of violence and the systematic repression of electoral protests as well as the rekindling of community conflicts during the electoral period.

In terms of economic governance, it is the level of poverty and the difficult living conditions of the population, the unequal distribution of national wealth and the corrupt practices established as a system of governance which have led to popular uprisings. Upon their arrival, the new authorities undertook to build a State governed by the rule of law and respectful of the content of national legislation. As such, they have put in place mechanisms and instruments that promote effective and efficient management of public assets with the aim of successfully rebuilding and rectifying the country's institutions. The Court for the Repression of Economic and Financial Offences (CRIEF) was thus created following Order No./2021/0007/PRG/CNRD/SGG of December 2, 2021 relating to the Creation, Jurisdiction, Organization and Operation

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<sup>82</sup> <https://fr.countryeconomy.com/demographie/idh>, accessed 25/08/2023.

<sup>83</sup> <https://donnees.banquemondiale.org/country/GN>, accessed 25/08/2023.

<sup>84</sup> <https://www.transparency.org/en/countries/guinea>, accessed 25/08/2023.

of the CRIEF<sup>85</sup> to prosecute any misappropriation greater than or equal to one billion Guinean Francs (approximately 110,000 USD). Measures were then taken to recover the property looted by the former dignitaries.

Consultations were organized to collect the concerns of citizens in order to integrate their opinions/recommendations on the new legislation to be put in place. Consequently, after a year in power, the junta found a compromise in October 2022 with the leaders of ECOWAS for a transition period of 2 years through a timeline containing 10 points.<sup>86</sup>

On August 23, 2023, the Minister of Justice and Human Rights officially launched the activities of the Agency for the Management and Recovery of Seized and Confiscated Assets (AGRASC).<sup>87</sup> This service will have the task of managing assets and property seized by the Court for the Repression of Economic and Financial Offenses, courts and tribunals, and the CENTIF.

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<sup>85</sup> [https://newwebsite.sgg.gov.gn/wp-content/uploads/2022/03/Odonnance-O2021\\_007\\_PRG\\_CNRD\\_SGG\\_Creation\\_CRIEF.pdf](https://newwebsite.sgg.gov.gn/wp-content/uploads/2022/03/Odonnance-O2021_007_PRG_CNRD_SGG_Creation_CRIEF.pdf), accessed 28/08/2023.

<sup>86</sup> <https://gouvernement.gn/chronogramme-de-la-transition/>, accessed 28/08/2023.

<sup>87</sup> <https://lerenifleur224.com/2023/08/justice-charles-wright-lance-les-activites-de-lagence-de-gestion-et-de-recouvrement-des-avoirs-saisis-et-confisques-agrasc/?q=f338378cb897edf4420a73a2f8a03559>, accessed 28/08/2023.

## **VI. Recommendations**

1. Ensure effective independence of administrative bodies/institutions, control and repression of economic and financial crimes;
2. Provide these institutions with qualified human resources; sufficient financial resources and adequate materials and equipment to enable them to accomplish their missions;
3. Accelerate the updating of the national anti-corruption strategy.
4. Carry out the specialization and capacity building of agents of IGAP, ORDEF, CENTIF, ANLC and civil society to enable them to effectively exercise their functions;
5. Establish and make operational an inclusive structure for coordinating the actions of bodies which implement the legal and regulatory provisions to combat corruption and similar offenses in Guinea;
6. Proceed to clean up the civil service file to rid it of fictitious people or civil servants due to retire;
7. Increase the salaries of civil servants and equip control and supervision service agents by granting them incentive bonuses;
8. Organize study and exchange trips for control and supervision service agents;
9. Popularize the legal and regulatory texts governing the fight against corruption and its corollaries, in particular the anti-corruption law, the anti-money laundering law, the criminal code and code of criminal procedure, and the public procurement code for citizens at grassroots level;
10. Organize awareness and advocacy campaigns among decision-makers to make the law on access to public information effective;
11. Develop mechanisms to make the citizen budget accessible to all citizens, including those living in rural areas;
12. Establish mechanisms for the publication of periodic reports on the risks of corruption within the public administration;
13. Accelerate Guinea's membership in the International Conference on Open Data (CIDO);
14. Develop a strategy to combat money laundering and the financing of terrorism and update the national anti-corruption strategy;
15. Support and accompany civil society and media organizations working in the field of good governance;

16. Establish a communications system to ensure visibility and traceability of the transparent management of confiscated and/or returned funds;
17. Establish integrated and secure biometric databases (national identity card, passport, driving license, residence permit, etc.) for the identification of Guinean citizens and foreigners residing in Guinea;
18. Make it mandatory to keep comprehensive statistics on relevant aspects of AML/CFT by all public and private entities involved in this process;
19. Create a court specializing in the prosecution, investigation, judgment and application of penalties related to economic, financial crimes and other predicate offenses of corruption and ML/FT;
20. Approve and make mandatory the use of the cross-border currency declaration form at a threshold of \$10,000.

## **VII. Annex**

### **7.1 Data and Case Information**

See statistical tables in point 4.3.

### **7.2 Table on Freedom of Information requests**

<b>ID number</b>	<b>Institution</b>	<b>Date of request</b>	<b>Date of response</b>	<b>Information requested</b>	<b>Information provided</b>
006/AGT/2023	ORDEF	01/12/2023	01/26/2023	Economic and financial crimes	Legal framework governing crimes
004/RV/AGT	ARMP	01/09/2023	01/31/2023	Legal framework and practical aspects of public procurement regulation	Legal framework for the regulation of public procurement
004/RV/AGT	CRIEF	01/09/2023	No answer	Investigative process and repressive measures	None
004/RV/AGT	Court of Audit	01/09/2023	No answer	Control mechanisms of public bodies	None
004/RV/AGT	MTFP	01/09/2023	01/27/2023	Facilitate collaboration with IGAP	Connection with IGAP
04/RV/AGT	IGAP	01/09/2023	02/03/2023	Legal framework and practical aspect of the public sector	Legal framework and practical aspect of the public sector
004/RV/AGT	Ministry of Economy and Finance	01/09/2023	No answer	Facilitate collaboration with the IGF	None
004/RV/AGT	IGF	01/09/2023	No answer	Legal framework and public finance management	None
004/RV/AGT	BCRG	01/09/2023	No answer	Management of recovered funds	None
004/RV/AGT	ANLC	01/09/2023	01/17/2023	Legal framework and	Legal framework for



				practical aspects of the fight against corruption	the fight against corruption
004/RV/AGT	CENTIF	01/09/2023	01/19/2023	Legal framework and practical aspects of the fight against ML/FT	Legal framework and practical aspects of the fight against ML/FT
004/RV/AGT	AJE	01/09/2023	01/23/2023	Legal framework and practical aspects of asset recovery	Legal framework for asset recovery
004/RV/AGT	IGE	01/09/2023	01/20/2023	Mechanisms and tools for monitoring public bodies	Mechanisms and tools for monitoring public bodies
004/RV/AGT	Supreme Court	01/09/2023	No answer	Legal procedures	Not provided
004/RV/AGT	Court of Appeal	01/09/2023	No answer	Investigations and legal proceedings	None
008/RV/2023	Civil society	03/09/2023	04/13/2023	Level of involvement and participation in the implementation of laws and access to public information	Low involvement and poor access to information
013/RV/AGT	HAC	05/03/2023	No answer	Procedures for access to public information	None
014/RV/AGT	DCIJ	05/02/2023	07/24/2023	Investigation and investigation into ML	Partial statistics

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