



## COI QUERY

<b>Country of Origin/Topic</b>	<b>Guinea</b>
<b>Question(s)</b>	<ol style="list-style-type: none"><li>Information on the document <i>Avis De Recherche</i>:<ul style="list-style-type: none"><li>Meaning of the document</li><li>Consequences in case the persons issued the <i>Avis de Recherche</i> do not present themselves to the issuing authority</li><li>Validity of the document</li></ul></li><li>Information on Article 106 of the Guinean Penal Code:<ul style="list-style-type: none"><li>legal framework</li><li>implementation</li><li>whether it can be used to accuse a person for participation in a <i>coup d'état</i> (prior to its revision in 2016)</li></ul></li><li>Information on the correlation between the attempted coup in 2011 and the 2013 trials</li></ol>
<b>Date of completion</b>	12 June 2019
<b>Query Code</b>	<b>Q15</b>
<b>Contributing EU+ COI units (if applicable)</b>	

### ***Disclaimer***

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*The information provided in this response has been researched, evaluated and processed with utmost care within a limited time frame. All sources used are referenced. A quality review has been performed in line with the above mentioned methodology. This document does not claim to be exhaustive neither conclusive as to the merit of any particular claim to international protection. If a certain event, person or organisation is not mentioned in the report, this does not mean that the event has not taken place or that the person or organisation does not exist. Terminology used should not be regarded as indicative of a particular legal position.*

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## COI QUERY RESPONSE

### Background information

On 19 July 2011, a failed assassination attempt against the President Alpha Condé, the first democratically elected leader in Guinea, took place at the President's house in Guinea.<sup>1</sup>

A number of sources, including the President himself, described the attempt as an assassination attempt and not a coup,<sup>2</sup> while other sources described it as a coup.<sup>3</sup>

Approximately thirty-seven soldiers were arrested by the authorities in relation to this attempt.<sup>4</sup> According to Freedom House, the authorities arrested approximately fifty individuals, both military personnel and civilians, in relation to the attack.<sup>5</sup> Part of the suspects arrested were members of the military juntas that ruled Guinea between 2008 and 2010.<sup>6</sup>

### 1. Information on the document *Avis De Recherche*: Meaning of the document; Consequences in case the persons issued the *Avis de Recherche* do not present themselves to the issuing authority; Validity of the document

According to a 2016 query response by the Immigration and Refugee Board of Canada (IRB), the *avis de recherche* means a wanted notice. Judicial police officers issue it, but it can also be issued by the prosecutor and an investigative judge.<sup>7</sup> The authorities issuing it have not changed between 2011 and 2016.<sup>8</sup>

The same source stated that an *avis de recherche* 'can be issued for alleged perpetrators of criminal offences', to 'back arrest warrants' and 'only when the wanted person is the subject of an arrest warrant issued by the investigative judge'.<sup>9</sup>

<sup>1</sup> France 24, Dozens of soldiers arrested after failed assassination attempt, 20 July 2011, [url](#); Guardian (The), Guinea's president survives assassination attempt, 19 July 2011, [url](#)

<sup>2</sup> France 24, Dozens of soldiers arrested after failed assassination attempt, 20 July 2011, [url](#); Human Rights Watch, World Report Chapter: Guinea Events of 2011, 22 January 2012, [url](#); Guardian (The), Guinea's president survives assassination attempt, 19 July 2011, [url](#)

<sup>3</sup> European Parliament, The democratic transition in Guinea reaches a critical point, June 2013, [url](#), p.7; PRI, Arrests follow Guinea coup attempt, 21 July 2011, [url](#)

<sup>4</sup> France 24, Dozens of soldiers arrested after failed assassination attempt, 20 July 2011, [url](#); PRI, Arrests follow Guinea coup attempt, 21 July 2011, [url](#)

<sup>5</sup> Freedom House, Freedom in the world 2013, Guinea, [2013], [url](#)

<sup>6</sup> PRI, Arrests follow Guinea coup attempt, 21 July 2011, [url](#); AJ, Guinea arrests troops after assassination bid, 22 July 2011, [url](#)

<sup>7</sup> This information was provided to IRB by a lawyer in Conakry, a lawyer in Kaloum and the President of the *Association des jeunes avocats de Guinée*. Canada, IRB, Guinea: Wanted notices and arrest warrants, including the authorities who issue them, their appearance, format, content and the reasons why they are issued (2011-June 2016), 29 July 2016, [url](#)

<sup>8</sup> Canada, IRB, Guinea: Wanted notices and arrest warrants, including the authorities who issue them, their appearance, format, content and the reasons why they are issued (2011-June 2016), 29 July 2016, [url](#)

<sup>9</sup> Canada, IRB, Guinea: Wanted notices and arrest warrants, including the authorities who issue them, their appearance, format, content and the reasons why they are issued (2011-June 2016), 29 July 2016, [url](#)



According to an oral source consulted for the aforementioned IRB query ““wanted notices are ... very rarely used in Guinea””.<sup>10</sup>

The only information available on the appearance and content of the wanted notice states that in 2016 the wanted notice maintained the same format and content since 2011.<sup>11</sup>

Article 214 of the 2016 *Nouveau Code de procédure pénale* [New Code of Criminal Procedure] states that all notices, including wanted notices, specify the identity of the individual to whom it is handed, are dated and signed by the magistrate who issues them. The wanted notice further mentions the deeds attributed to the individual, their legal classification and the applicable law.<sup>12</sup>

The French *Office français de protection des réfugiés et apatrides* (OFPRA) November 2017’s mission report to Guinea indicates that an officer, an agent of the judiciary police or a law enforcement officer executes the wanted notice and notifies the individual concerned. The officer displays the wanted notice to the individual concerned and issues them a copy of the wanted notice. In case of an emergency, the wanted notice can be disseminated by any means. The individuals detained for questioning do not have access to wanted notices issued against them, since they constitute internal administrative documents.<sup>13</sup>

No information could be found on the validity of an *avis de recherche* among the sources consulted within the time constraints of this query answer.

## **2. Information on Article 106 of the Guinean Penal Code: legal framework; implementation; whether it can be used to accuse a person for participation in a *coup d'état* (prior to its revision in 2016)**

The *Loi N ° 98/036 Du 31 Decembre 1998 portant Code Pénal* [Law N ° 98/036 of 31 December 1998 establishing the Penal Code] constituted the former Penal Code in Guinea.<sup>14</sup>

Article 106 defined the mandatory need to notify the competent authorities of all public meetings, processions and parades, and in general, all events taking place in public spaces and areas. This obligation did not cover outings in public spaces in accordance with local customs (religious and traditional ceremonies and sports activities).<sup>15</sup>

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<sup>10</sup> Canada, IRB, Guinea: Wanted notices and arrest warrants, including the authorities who issue them, their appearance, format, content and the reasons why they are issued (2011-June 2016), 29 July 2016, [url](#)

<sup>11</sup> Although the IRB query response mentions two warrant notices as attachments, they are not available and therefore cannot be consulted for the purposes of answering this query. Canada, IRB, Guinea: Wanted notices and arrest warrants, including the authorities who issue them, their appearance, format, content and the reasons why they are issued (2011-June 2016), 29 July 2016, [url](#)

<sup>12</sup> République de Guinée, Ministère de la Justice, Nouveau Code de procédure pénale, Février 2016, [Republic of Guinea, Ministry of Justice, New code of criminal procedure, February 2016, [url](#)], p.26

<sup>13</sup> France, OFPRA, Rapport de mission en Guinée du 7 au 18 novembre 2017, [Mission Report in Guinea from 7 until 18 November 2017], 2018, [url](#), p. 27

<sup>14</sup> République de Guinée, Code penal de la République de Guinée [Republic of Guinea, Penal Code of the Republic of Guinea], 31 December 1998, available at: [url](#); Guineematin, Attaque du domicile d’Alpha Condé : « on m’a pris en otage », dit AOB à la barre, 9 Avril 2018, [Attack on Alpha Condé’s home: "I was taken hostage," says AOB in court, 9 April 2018], [url](#)

<sup>15</sup> République de Guinée, Code penal de la République de Guinée, [Republic of Guinea, Penal Code of the Republic of Guinea], 31 December 1998, available at: [url](#)



The Penal Code was revised in 2016 and replaced with the *Nouveau Code Pénal, Février 2016* [New Penal Code, February 2016].<sup>16</sup> The revised Penal Code has similar dispositions laid down in article 621.<sup>17</sup>

No information could be found on the use of Article 106 of the 1998 Guinean Penal Code in relation to a coup, among the sources consulted within the time constraint of this query.

However, Human Rights Watch noted already in 2015 that articles 106-108 of the 1998 Guinean Penal Code defined the need to notify the competent authorities of foreseen events:

‘Articles 106 to 108 of the Penal Code define the process for seeking approval for a demonstration, and consequences if denied. It specifies that “there must be a prior declaration with intended date, route, and itinerary, and permission from the government” for public meetings and demonstrations, presented in writing between 3 and 15 days before the planned event. The administrative authority may prohibit meetings if they suspect the public order will be disturbed.’<sup>18</sup>

Participants in unauthorised events could be fined (up to 1 million Guinean Francs) and sentenced to two to five years in prison.’<sup>19</sup>

Amnesty International mentioned the use of Article 106 in relation to incidents of excessive force and ‘arbitrary’ arrests by police during election-related opposition protests in 2015:

‘The excessive use of force in demonstrations in April and May 2015 show, however, that further reform is urgently needed. Six demonstrators and bystanders were killed during these demonstrations and over 100 others, including children, were injured. Hundreds of protestors were arrested, often in circumstances amounting to arbitrary arrest.’<sup>20</sup>

The same source further added that ‘although there is some protection of the right to peaceful assembly under Article 10 of Guinea’s Constitution, which provides that “every citizen has the right to protest and take part in processions” the country’s current legal framework, including the Criminal Code and the recently-adopted Law on Maintaining Public Order, place restrictions on freedom of assembly which go beyond those permissible under international law’.<sup>21</sup>

### 3. Information on the correlation between the attempted coup in 2011 and the 2013 trials

In 2013, the trial of the individuals charged in relation to the 2011 attempt against President Alpha Condé was concluded and five people were sentenced to life in prison.<sup>22</sup> The court sentenced commanders Alpha Oumar Boffa Diallo Aob and Jean Guilavogui to life in prison. The rest of the

<sup>16</sup> République de Guinée, Nouveau Code Pénal, [Republic of Guinea, New Penal Code], February 2016, [url](#)

<sup>17</sup> République de Guinée, Nouveau Code Pénal, [Republic of Guinea, New Penal Code], February 2016, [url](#)

<sup>18</sup> Human Rights Watch, Guinea: Security Force Excesses, Crimes Before Elections, Improve Oversight, Accountability, Training, 30 July 2015, [url](#)

<sup>19</sup> Human Rights Watch, Guinea: Security Force Excesses, Crimes Before Elections, Improve Oversight, Accountability, Training, 30 July 2015, [url](#)

<sup>20</sup> Amnesty International, Guinea: Preventing the Excessive Use of Force and Respecting Freedom of Peaceful Assembly in the Run-Up to the 2015 Elections and Beyond – A Call to Action, 2015, [url](#), p. 4

<sup>21</sup> Amnesty International, Guinea: Preventing the Excessive Use of Force and Respecting Freedom of Peaceful Assembly in the Run-Up to the 2015 Elections and Beyond – A Call to Action, 2015, [url](#), p. 18

<sup>22</sup> Reuters, Five sentenced for life over attack on Guinea president, 13 July 2013, [url](#)



accused received lighter punishments, ranging from fifteen years imprisonment<sup>23</sup> to full exoneration.<sup>24</sup> In March 2017, the Supreme Court overturned the verdict of the 2013 trial of Commander Alpha Oumar Boffa Diallo (known as AOB), Fatou Badjar Diallo and Jean Guilavogui<sup>25</sup> in relation to their role in the attack against President Alpha Condé. The authorities reopened the case on 9 April 2018.<sup>26</sup>

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<sup>23</sup> Madame Fatou Badiar Diallou, Almamy Aguibou Diallo and Mamadou Alpha Diallo were sentenced to fifteen years of imprisonment. RFI Afrique, Attaque du domicile d'Alpha Condé en Guinée: les principaux prévenus échappent à la peine de mort, [Attack on Alpha Condé's home in Guinea: the main defendants escape the death penalty], 13 July 2013, [url](#)

<sup>24</sup> RFI Afrique, Attaque du domicile d'Alpha Condé en Guinée: les principaux prévenus échappent à la peine de mort, [Attack on Alpha Condé's home in Guinea: the main defendants escape the death penalty], 13 July 2013, [url](#)

<sup>25</sup> Guineematin, Attaque du domicile d'Alpha Condé : « on m'a pris en otage », dit AOB à la barre, 9 Avril 2018 [Attack on Alpha Condé's home: "I was taken hostage," says AOB in court, 9 April 2018], [url](#)

<sup>26</sup> USDoS, 2018 Country Reports on Human Rights Practices: Guinea, 13 March 2019, [url](#)



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