

- 1. Which government authority in your country has primary responsibility for the regulation of aviation and the registration of aircraft?**

The regulation of aviation and the registration of aircraft are under the responsibility of the National Civil Aviation Authority (NCAA) especially the “*Division Navigation Aérienne et Infrastructure*”.

- 2. Can foreign-owned aircraft be registered on your national aircraft register, for example when leased to an airline based in your country?**

Yes, foreign-owned aircraft can be registered on Guinean aircraft register if not registered in another State.

- 3. Are there any limits/restrictions on the age of the aircraft that may be registered or operated in your country?**

No but the aircraft must have a valid permit / certificate of airworthiness (“*Certificat De Navigabilité*”) plus according to article 217 of the Guinean Code of Civil Aviation, the aircraft must comply with the limits of use stated in the flight manual and the manual maintenance.

- 4. Who is entitled to have their interests recorded on your national aircraft register?**

The owner and a mortgagee of the aircraft.

- 5. Would a mortgage governed by a foreign law over aircraft and/or engines be recognised in your country?**

Yes, Guinea would generally recognise a mortgage governed by a foreign law over aircraft and/or engines. As noted below Guinea has ratified the Geneva Convention of 1948 on the international recognition of rights in aircraft.

- 6. To be recognised under your laws, must a lease or mortgage over an aircraft and/or engines be in a particular form or language, are there any special terms that it must contain and/or must it be registered or filed anywhere?**

A lease or charter of an aircraft can be registered at the aircraft register at the written request of the owner (Article 116 of Guinean Code of Civil Aviation). The application must state the name, nationality, address of the lessee, the date of the contract and its duration, the characteristics of the aircraft and the airfield base.

A mortgage must be agreed in writing, should be by deed, authenticated by a notary and registered by the mortgagee on the aircraft register.

- 7. If an engine owned by a third party is installed on an aircraft, would your country’s law treat that engine as being subject to the same ownership as the aircraft itself? In other words is there a risk that by physical installation, the engine owner loses its title to the engine or that the engine becomes subject to any mortgage which exists over the aircraft on which it is installed? Would a nameplate fixed on the engine, confirming its separate ownership, make any difference?**

This should not be an issue in Guinea. Article 117-2 of Guinean Civil Aviation Code allows a mortgage over all or individual parts of the aircraft belonging to the same owner (whether installed on the airframe or temporarily removed). Therefore, if the engine does not belong to the owner of the aircraft, he has no ability to transfer ownership to someone else or create a mortgage over it. Evidence might be required in case of dispute to prove and confirm the engine’s different ownership.

8. Has your country ratified and brought into force any of the following aviation related conventions: 1944 Chicago Convention, 1948 Geneva Convention and 2001 Cape Town Convention (with its Aircraft Equipment Protocol)?

The 1944 Chicago Convention and 1948 Geneva Convention have been ratified and brought into force by Guinea. However based on our information, Guinea has not ratified the 2001 Cape Town Convention (or Aircraft Equipment Protocol).

9. Does the local civil aviation authority provide assurances to lessors and financiers as to prompt deregistration of the aircraft (for example the IDERA under the Cape Town Convention)?

We are not aware of any such assurances to lessors and financiers having been given.

10. Are powers of attorney from a local airline in favour of a lessor or mortgagee likely to be effective to allow the lessor or mortgagee to deregister the aircraft? Can such powers be irrevocable, be governed by a foreign law and/or do they need to be in any particular form for local recognition?

No, a request in writing from the registered owner(s) or ex officio by the civil aviation authority is required to deregister the aircraft in Guinea.

11. Are there any charges which would have to be paid before an aircraft can be deregistered from your national register (e.g. local air navigation fees)?

Yes, before an aircraft can be deregistered from the national register in Guinea aeronautical fees and crew wages will need to have been paid. In applicable cases there may also be for example claims made for salvage costs and charges incurred to preserve the aircraft.

12. Would courts in your country generally uphold a choice of law and jurisdiction clause in an aircraft lease or loan document entered into between commercial parties?

Yes

13. If the lease is terminated for lessee default, would the lessor be entitled to repossess (by taking physical possession) of the relevant aircraft or engine or does it need the prior permission or order of a local court or agency?

Repossession (by taking physical possession) is possible in event of termination of lease agreement. According to the article 964 of the Guinean Civil Code, when the termination of the lease agreement is caused by lessee default, the lessor can take back his property.

14. In clear cases of a lessee default is there an effective summary procedure or interim relief available in your courts allowing lessor prompt repossession of the aircraft? Would security be required to avail of such process?

Yes, the "référé" procedure is an interim relief allowing prompt repossession of the aircraft. According to article 146 of the Guinean Civil Procedure Code, this procedure may be subject to the provision of security.

- 15. What is the procedure for a lender to enforce a mortgage over the aircraft or engine in your country when the borrower is in default? For example must the aircraft be sold by the court or can the lender itself take possession and arrange a sale?**

The lender cannot take direct possession or arrange a sale itself. The lender needs to apply to court to enforce the mortgage. The court would order the sale of the aircraft by public auction notified by a bailiff.

- 16. Do the courts in your country have experience of repossession / foreclosure action involving aircraft? If so, please provide some details and indicate the time such proceedings generally would be expected to take from start to finish.**

Courts in Guinea jurisdiction do not have experience of repossession / foreclosure action involving aircraft.

- 17. Where an aircraft is leased to (i.e. not owned by) the airline operating it, can that airline create liens or encumbrances over the aircraft for example if it fails to pay suppliers, airport charges or maintenance providers? If so, would the existence of any such liens (e.g. in respect of unpaid airport charges) prevent an owner or mortgagee from repossessing the aircraft?**

Yes, that airline could create liens or encumbrances over the aircraft for the conduct of its business but the existence of such liens or encumbrance could not prevent an owner or mortgagee from repossessing the aircraft.

- 18. Are there any circumstances under your country's laws where a non-operating lessor, owner or a mortgagee could be held liable for damage caused by the aircraft whilst operated by an airline, even if there is no fault on the part of lessor, owner or mortgagee?**

Yes, under Articles 194 and 202 of the Code of Civil Aviation there can be joint and several liability of the owner and the operator.

- 19. Are there any legal requirements in relation to insurance and/or reinsurance of an Aircraft registered in or operated to/from/within your country? For example is there a minimum liability insurance amount required and must some or all of the cover be taken out with local insurers?**

Any aircraft flying over Guinean territory must be insured for damage to third parties under the Act of the State of Registration (Article 488 of Guinean Code of Civil Aviation). The Authority of Civil Aviation must approve insurance of aircraft registered in Guinea Republic (Article 489 of Guinean Code of Civil Aviation) and according to article 257 of the Community Code of Civil Aviation of the Member States of the UEMOA, the local civil aviation authority is in charge of the control and the verification of the validity of the insurance policy of the operators and service providers of air transport.

- 20. Are there any other specific issues arising under your country's laws that you feel a lessor or financier of aircraft or engines ought to be aware of when considering whether to lease or finance an aircraft to be based or registered in your country?**

No.