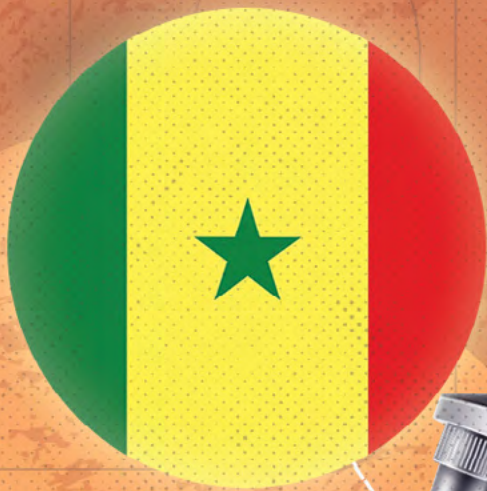


# LONDA

DIGITAL RIGHTS AND INCLUSION IN AFRICA REPORT

SENEGAL





2022

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**Digital Rights and Inclusion in Africa Report 2022**

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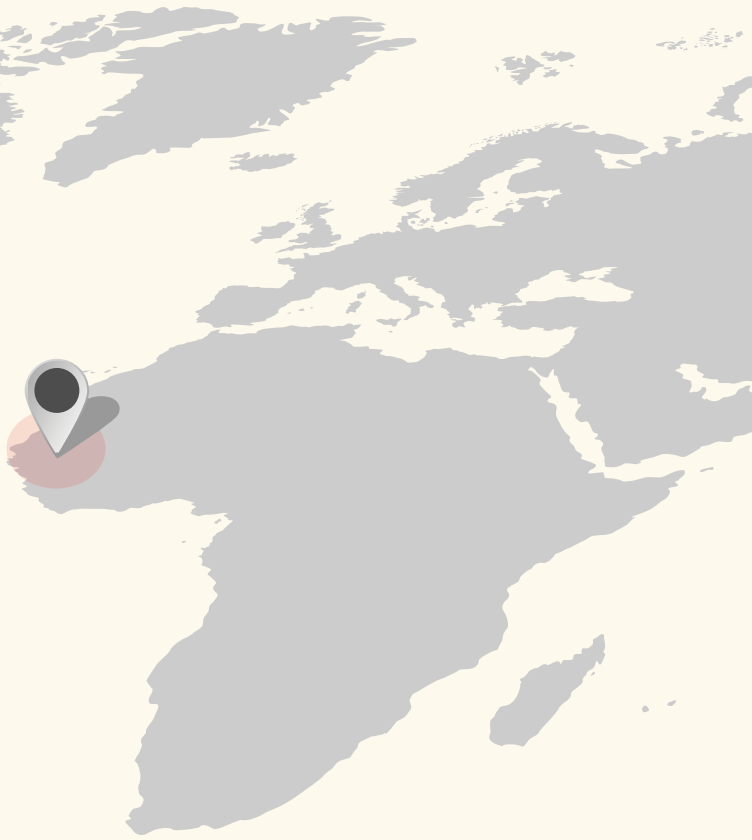
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# Senegal



## ► Executive Summary

This report comes at a time when Senegal has put in place a national data centre to promote digital rights, in accordance with the country's *2025 Digital Strategy*. The establishment of this data centre constitutes a digital revolution that is aimed at breaking down administrative procedures, hosting and migration of administrative data. The main objective of this report is to build capacities for stakeholders (State, private sector and civil society).

Further, this report aims to provide an overview of digital rights. Moreover, it looks at the issues around access to internet, data governance, review of the Universal Service Fund and the evolution of Senegal's ICT and emerging technologies for 2022. At the end of the report, recommendations to strengthen and promote human rights in the digital age, have been put forward to industry players.



## Introduction

Since Senegal officially connected to the internet in 1996<sup>1</sup>, its connectivity has continued to improve over the years, with the progressive enlargement of the bandwidth link, one of the largest in West Africa.

On December 14, 2016, the President of the Republic of Senegal signed two decrees which constitute major decisions for the creation of an ecosystem for developing the digital economy in Senegal: Decree No. 2016-1987 relating the terms and conditions for granting the infrastructure operator authorisation and Decree No. 2016-1988 relating to the sharing of telecommunications infrastructure<sup>2</sup>. Mobile network sharing can play a role in access to information and communication technologies, improve the quality of life and help the country achieve the Goals of the World Summit on societal information.

Senegal is actively developing widespread use of information and communication technologies through its various national initiatives as described in its *"Digital Senegal 2025"*<sup>3</sup> strategy, backed by the development framework of the Emerging Senegal Plan (PSE), adopted in 2012<sup>4</sup>. It is a long-term vision made up of prerequisites and priorities articulated around the slogan *"digital for all and for all users in 2025 in Senegal with a dynamic and innovative private sector in a high-performance ecosystem"*.

These initiatives have led to a transformation of Senegal into a digital and inclusive society.

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<sup>1</sup> Although the country was officially connected to the Internet in March 1996, the first online Web server historically appeared in November 1995 at the SYFED-REFER Center in Dakar, see History of the Internet in Senegal from 1989-2004 by Olivier Sagna, Christophe Brun and Stephen Huter, p.8, available at: [https://nsrc.org/sites/default/files/archives/case-studies/SenegalBook\\_French\\_Final.pdf](https://nsrc.org/sites/default/files/archives/case-studies/SenegalBook_French_Final.pdf)

<sup>2</sup> Study on the sharing of telecommunications and ICT infrastructures in Senegal, Groupe Défis § Strategies/ Titane Conseil, Final report May 2019, [https://www.adie.sn/sites/default/files/lois/SN-Rapport%20final\\_Partage%20of%20infrastructure%20and%20outsourcing\\_v080719.pdf](https://www.adie.sn/sites/default/files/lois/SN-Rapport%20final_Partage%20of%20infrastructure%20and%20outsourcing_v080719.pdf)

# Country Analysis

## INTERNET FREEDOM

### INTERNET ACCESS AND DISRUPTIONS

Senegal has adopted a new Code on electronic communications<sup>5</sup>, which is law 2018-28 of December 12. Its objective is to *"promote the development and modernisation of electronic communication networks and services in Senegal through the creation of an effective, flexible and transparent legal framework"*<sup>6</sup>.

In 2018, three new internet providers were introduced in the Senegalese market, namely, ARC Telecom, WAW Telecom and Africa Access, joining already existing players such as the company Sonatel, Free (licensed under SENTEL and later renamed Tigo) and Espresso Senegal. The Senegalese State aims to make the internet more accessible and competitive for its people by opening up the market to other players. The initiative of opening up the market to new players has allowed the nation to have access to high-speed and competitive internet.

In addition to whatever may be said of State policies, the high costs of internet connectivity greatly contribute to difficulties in accessing services provided by ICT. Also, the quality of the network remains defective in certain areas of the country. The internet was disconnected on March 5, 2021, during demonstrations to protest the arrest of Ousmane Sonko, President of the opposition political party – Patriots of Senegal for Work, Ethics and Fraternity (Pastef-

Patriotes)<sup>7</sup>. Netblock<sup>8</sup>, an internet observatory specialising in monitoring disruptions and cuts, announced that social networks and messaging applications were restricted in Teranga (Senegal).

These internet disruptions are a violation of the digital rights of internet users and a violation of Article 8 of the Constitution of Senegal which *"guarantees all citizens the fundamental individual freedoms, including the freedoms of opinion, expression, press, association, assembly, movement and demonstration"*<sup>9</sup>. Moreover, it is a violation of international law which was adopted by consensus resolution, by the United Nations Human Rights Council and the United Nations General Assembly, a law which condemns internet shutdowns and similar restrictions on freedom of expression online<sup>10</sup>.

Another supporting resolution is by the African Commission on Human and Peoples' Rights (ACHPR) adopted in 2016<sup>11</sup> on the right to freedom of information and expression for the Internet in Africa. This resolution expresses concern about *"African states interrupting or limiting access to telecommunications services such as the internet, social media and messaging services, a practice that is increasingly common during elections."*

<sup>3</sup> In 2016, Senegal launched its "Digital Senegal 2025" strategy.

<sup>4</sup> PSE aims to stimulate sustained and inclusive economic growth and make Senegal an emerging economy by 2035. <https://www.sec.gouv.sn/publications/lois-et-reglements/code-des-communications-electroniques>.

<sup>5</sup> Article 5 of the Electronic Communications Code.

<sup>6</sup> A map of network disruptions in West Africa in 2021, <https://www.mfwa.org/fr/issues-in-focus/une-cartographie-des-perturbations-de-reseau-en-afrique-de-louest-en-2021/>, (accessed December 12, 2022)

<sup>7</sup> Political Tensions in Senegal: Internet Disruptions and Shutdowns Reported, <https://afriqueitnews.com/tech-media/tensions-politiques-senegal-perturbations-coupures-internet-signalees/> (accessed December 12, 2022).

<sup>8</sup> Constitution of January 7, 2001 (JORS, n° 5963 of January 22, 2001).

<sup>9</sup> United Nations Human Rights Council in its resolution A/HRC/RES/32/13, July 1, 2016 <https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=57e916644> (accessed December 12, 2022).

<sup>10</sup> 362 Resolution on the Right to Freedom of Information and Expression on the Internet in Africa - ACHPR/Res.362(LIX) 2016, [https://www.achpr.org/en\\_sessions/resolutions?id=374](https://www.achpr.org/en_sessions/resolutions?id=374).

## FREEDOM OF EXPRESSION AND MEDIA FREEDOMS

Freedom of the press is a constitutional freedom in Senegal, a fundamental freedom that is pivotal, as its existence is one of the essential guarantees of respect for other rights, other freedoms and national sovereignty. Freedom of expression is a *sine qua non* of democracy (an essential part). Freedom of expression is guaranteed by the Declaration of Principles on Freedom of Expression in Africa adopted at the 32nd Ordinary Session, October 17-23,



2002 by the African Commission on Human and Peoples' Rights.<sup>12</sup> Article 10 of the 2001 Constitution of Senegal strongly enshrines freedom of expression.

Article 5 of Law No. 2008-10 of January 25, 2008, also supports that and speaks on the orientation law on the Information Society<sup>13</sup> and Law No. 2011-01 of January 27, 2011, on the Code of Telecommunications<sup>14</sup>.

The 2017 Press Code aims to promote the exercise of freedom of the press and to guarantee the freedoms of expression, opinion and communication while respecting the dignity of humans, the privacy of citizens and human rights as a whole. The new Code on electronic communications, in support of article 5 of law 2018-28 of December 12 aims to: "*promote the development and modernization of networks and electronic communications services in Senegal by creating a legal framework which is efficient, flexible and transparent*".

With a strong legal framework that facilitates access to information, freedom of expression and press, there is a decline in democracy. For example, in March 2021, the National Audio-visual Regulatory Council suspended *Walf TV* and *Sen TV* for 72 hours on the grounds that these two television channels had broadcasted live footage of demonstrations; the council considered that by acting this way, they further engaged in an "apology for violence" and an "irresponsible coverage of the situation"<sup>15</sup>.

The arrest and constant detention of journalists sparked a wave of criticism of press freedom. The 20th edition of the World Press Freedom Index, compiled by Reporters Without Borders (RWB)<sup>16</sup>, reveals that Senegal is on position 73, a decline of 24 places from last year's ranking.

## PRIVACY AND SURVEILLANCE

Senegal adopted its first law on the protection of personal data and its implementing decree in 2008<sup>17,18</sup>. The purpose of this law is to protect the privacy of individuals' information and communication technologies; to fight against invasions of privacy likely to be caused by the collection, processing, transmission, storage and mass surveillance. The rationalisation<sup>19</sup> of personal data, the profusion of intrusive techniques (geolocation, cyber-surveillance, etc), the use of social networks and digitisation

<sup>12</sup> <https://www.article19.org/data/files/pdfs/igo-documents/declaration-of-principles-ua-french.pdf>

<sup>13</sup> JORS, n°6406 of May 3, 2008, p. 419 et seq.

<sup>14</sup> JORS, no. 6576 of March 14, 2011, p. 273 et seq.

<sup>15</sup> Annual report 2021: Serious threats to freedoms in Senegal, March 29, 2022, <https://www.amnesty.sn/rapport-annuel-2021-de-lourdes-menaces-sur-les-libertes-au-senegal/>, (accessed December 10, 2022).



of the Union on June 27, 2014 in Malabo, Equatorial Guinea; an additional Act A/SA.1/01/10 of medicine, expose the privacy of people to new risks. Through a Bill dating from 2019, the State deems it necessary to overhaul the personal data protection system.

In reality, this project is innovative in the sense that it provides a framework for new areas such as the cloud, artificial intelligence, biometrics, big data, geolocation and the development of specific regimes for the processing of medical data. In terms of cooperation and for better protection of privacy, Senegal has adhered to Convention No. 108 of January 28, 1981 of the Council of Europe for the protection of individuals with regard to the automatic processing of data and of a personal nature<sup>20</sup>. Senegal has also ratified the African Union (AU) Convention on Cybersecurity and the Protection of Personal Data which was adopted at the 23rd Ordinary Session of the Assembly relating to the protection of personal data noted in the ECOWAS (Economic Community of West African States) region, Abuja February 16, 2010.

## DATA GOVERNANCE

The importance of the digital economy and strategic thinking in the 21<sup>st</sup> century is now at the heart of many companies' activities, hence there is need to manage this data well, to ensure its accuracy and integrity through good governance. Senegal is the first ECOWAS country to launch the biometric identity card, as of Law No. 2016-09 of March 14, 2016, establishing an ECOWAS biometric identity card and its implementation decree<sup>21</sup>.

The launch of the National Digital Identity (NDI)<sup>22</sup> project by the Ministry of Digital Economy and Telecommunications is part of the "Digital Senegal 2025" Strategy, a Digital Governance Support Project (PAGNUM) constituting good data policy governance. The National Digital Identity is based on the national sovereignty of digital data, advanced technologies such as artificial intelligence or connected objects.



2022, <https://lequotidien.sn/classement-liberte-de-la-presse-le-senegal-fouonnant-est-a-la-73rd-place/>.

<sup>17</sup> Law n° 2008-12 of January 25, 2008, on the protection of personal data (JORS, n°6406, of May 3, 2008, p.434).

<sup>18</sup> Decree No. 2008-721 of June 30, 2008 implementing Law No. 2008-12 of January 25, 2008 on the protection of personal data, OJ No. 6443 of Saturday December 20, 2008.

<sup>19</sup> Legacy or monetization or commercialization involves generating revenue from personal data held by a company.

<sup>20</sup> <https://rm.coe.int/1680078b39> and multi-sectoral data recovery policy favourable to innovation, digital trust, protection of fundamental rights and economic development."<sup>24</sup>

<sup>21</sup> Decree No. 2016-1536 of September 29, 2016 implementing Law No. 2016-09 of March 14, 2016 establishing an ECOWAS biometric identity card: [https://www.icnl.org/wp-content/uploads/Senegal\\_biometric.pdf](https://www.icnl.org/wp-content/uploads/Senegal_biometric.pdf)

<sup>22</sup> National Digital Identity – Senegal towards a phase of "transformation of its services", <https://www.socialnetlink.org/2022/06/25/identite-numerique-nationale-le-senegal-vers-une-phase-de-transformation-de-ses-services/>, (consulted on December 14, 2022)

<sup>23</sup> Incursion into the Diamniadio Data Centre: an infrastructure of 10 billion FCFA built on more than 1 ha ... more than 15,000 jobs in perspective, <http://www.osiris.sn/Incursion-au-Data-center-de.html>

## UNIVERSAL SERVICE FUND REVIEW

At the institutional level, data governance is assessed through the creation of a new national company, Sénégal Numérique SA (SENUM SA), authorised by Law No. 2021-39 of 13-12-2021 which attributes significantly to data governance. It is a company that also allows the deployment of infrastructures, hosting and technological innovation. It works in collaboration with various players including operators, internet service providers and content creators. The *Digital Senegal Strategy* aims to make the country a driving force in the sub-region in terms of digitalisation and good governance.

The Diamniadio Data Centre, inaugurated on June 22, 2021, is presented as a “*digital sovereignty tool*”, which will make it possible to store data from the administration and that of the private sector<sup>23</sup>. Senegalese President Macky Sall instructed the government and State structures to host all State data and platforms through this standard infrastructure and proceed with the rapid migration of data hosted abroad or elsewhere, getting rid of anything that doesn't comply with international standards.

The Direction Générale du Chiffre et de la Sécurité Systèmes d'Information (DCSSI) plays a very important role in data governance. It has stemmed from Decree No. 2021-35 of 14-01-2021 on the creation and organisation of the DCSSI, a National Cybersecurity Authority that strengthens the protection of the secrecy of internal and external state information. The Senegalese government is in the process of putting together a national data governance strategy. According to Yankhoba Diatara, former minister of the digital economy and telecoms, the objective of this initiative is to “*lay down the principles of governance and lay the foundations for a harmonised multi-actor*”. As part of its public service mission, the Senegal introduced the concept of universal

access/ service through Law No. 2001-15 on the Telecommunications Code. With a dynamic and evolving approach, the universal service takes into account the evolution of information and communication technologies, markets, the needs and usage by consumers<sup>25</sup>. Access to



universal service is defined by Article 4 of the Electronic Communications Code<sup>26</sup> as a: “*minimum set of good quality electronic communications and ICT services which, regardless of geographical location, is accessible to the entire population in affordable pricing.*”

In addition, the ECOWAS supplementary Act No. A/SA/6/01/07 of 19/01/2007 defines Universal Access/Service as “*access to a minimum set of services, in the territory of ECOWAS Member States to the entire population, regardless of their geographical location and at affordable tariff conditions.*”

<sup>16</sup> RSF – Press freedom ranking: Senegal falls 24 places, 4 May

<sup>24</sup> <https://ciberobs.com/2022/03/16/le-senegal-concocte-sa-strategie-nationale-de-gouvernance-de-la-donnee-et-de-lintelligence-artificielle/>

<sup>25</sup> Universal Telecommunications Service Development Fund, <http://www.adl.sn/acteur/fdsut>

<sup>26</sup> Law 2018-28 of December 12, 2018.



The Universal Telecommunications Service Development Fund (UTSDF) is established by Decree No. 2007-593 of May 10, 2007, setting the terms and conditions for the development of the universal telecommunications service as well as the rules for the organisation and operation of the universal telecommunications service development fund<sup>27</sup> which aims to avail to all, a minimum service consisting of telephone service of specified quality at an affordable price, as well as the routing of emergency calls and the service of the national territory respecting the principles of equality, continuity, universality and adaptability.

According to Thiongane<sup>28</sup>, the UTSDF aims to fight against the digital divide within the country and to which more than 7 billion FCFA has been mobilised by the fund to support projects and programs relating to universal service, including:

- Access to digital technology in the fields of education and higher education;
- Population access to Digital Terrestrial Television (DTT) for an approximate amount of 3 billion FCFA with the purchase of 120,000 decoders for disadvantaged households;
- The establishment of solar stations in thirty (30) villages to recharge smartphones,
- Universal access with the universal access pilot project, P2AU, launched on November 03, 2020, including all telecommunications players in Senegal, the general objective of which is to identify viable coverage models that can be replicated in order to reach the entire territory and reach 2.6 million Senegalese by 2024<sup>29</sup>.

Therefore, in Senegal, the universal service fund is designed by the State as a means of drastically reducing the digital divide

and contributing effectively to the digital development of the country.

## EVOLUTION OF ICT AND EMERGING TECHNOLOGIES

In relation to emerging technologies such as AI and robotics, the ACHPR (African Commission on Human and Peoples' Rights) adopted Resolution 473<sup>30</sup> on the need to develop a study on human and peoples' rights and artificial intelligence (AI), robotics and other new and emerging technologies in Africa. In this resolution, the ACHPR affirms that *"new and emerging technologies present both opportunities and threats for the promotion and protection of human and peoples' rights in Africa"*<sup>31</sup>.

In compliance with this, Senegal has launched its Initiative for the Development of Artificial Intelligence (IDIA)<sup>32</sup>. This is a research project that aims to improve and strengthen the use of AI in the region, especially in areas such as agriculture, education, health and the environment. The implementation of this project requires working in synergy with structures such as IPAR, CURI-ICAD and JUNCTION and the Virtual University of Senegal for the adoption of common regional and national policies, strategies and to guarantee responsible use.

Also, the use of artificial intelligence, robotics and other new and emerging technologies must be compatible with the rights and duties enshrined in regional and international human rights instruments in order to maintain the human dignity, privacy, equality, non-discrimination, inclusion, diversity, safety, fairness, transparency and accountability.<sup>33</sup>

<sup>27</sup> [http://www.osiris.sn//IMG/pdf/document\\_Decret\\_relatif\\_au\\_service\\_universel\\_39.pdf](http://www.osiris.sn//IMG/pdf/document_Decret_relatif_au_service_universel_39.pdf)

<sup>28</sup> O. THIONGANE, Digital promises - Senegal and Africa connect, Sédar, December 2020, p. 46-47.

<sup>29</sup> The Coordination and Management Unit (UCG) of the FDSUT, installed in December 2019, intends to ensure other projects according to O. THIONGANE, in Digital promises - Senegal and Africa connect, Sédar, December 2020.

# Conclusion and Recommendations

This report is intended as a source of information for authorities, stakeholders and the general public. One of the objectives is to provide an overview of the country's situation regarding respect for human rights in the digital age. It is therefore necessary to strengthen the legal and regulatory framework for data governance by involving all stakeholders to promote digital inclusion. It is also time for Senegal to reclaim our democracy through a strong guarantee of freedom of expression and of the press.

GOVERNMENT	PRIVATE SECTOR	CIVIL SOCIETY
<ul style="list-style-type: none"> <li>The Senegalese government must further guarantee internet freedom. Any restrictions on freedom of expression and of the press must be provided for by law, be proportionate, legitimate, and necessary in a democratic society.</li> <li>The government must constantly inform citizens about surveillance practices in order to guarantee respect for the right to privacy and the protection of personal data.</li> <li>The State should implement laws and policies on digital identity systems while paying particular attention to privacy and recognising international data</li> </ul>	<ul style="list-style-type: none"> <li>The sector in collaboration with the State must ensure that all citizens benefit from the advantages of the universal service fund.</li> <li>Private companies must respect privacy in the practices of collecting and processing personal data.</li> </ul>	<ul style="list-style-type: none"> <li>Civil society organisations should continue to play a key role in advocating and protecting digital rights by ensuring digital inclusion for all citizens.</li> <li>Civil society organisations should work hand in hand with stakeholders, such as the government, the private sector, the media and the public to promote an understanding of data governance and emerging technologies.</li> <li>Civil society organisations should conduct awareness and advocacy campaigns on digital rights and digital inclusion in Senegal.</li> </ul>

<sup>30</sup> ACHPR/Res.473(XXXI) 2021

<sup>31</sup> [https://www.achpr.org/fr\\_sessions/resolutions?id=504#:~:text=473%20R%C3%A9solution%20sur%20la%20n%C3%A9cessit%C3%A9,473\(XXXI\)%202021](https://www.achpr.org/fr_sessions/resolutions?id=504#:~:text=473%20R%C3%A9solution%20sur%20la%20n%C3%A9cessit%C3%A9,473(XXXI)%202021)

<sup>32</sup> Senegal: launch of an initiative for the development of AI in French-speaking Africa, <https://comprendre.media/senegal-lancement-dune-initiative-pour-le-developpement-de-lia-en-afrique-francophone/>

<sup>33</sup> 473 Resolution on the Need to Develop a Study on Human and Peoples' Rights and Artificial Intelligence (AI), Robotics and Other New and Emerging Technologies in Africa - ACHPR/Res.473(XXXI) 2021.

GOVERNMENT	PRIVATE SECTOR	CIVIL SOCIETY
<p>protection principles.</p> <ul style="list-style-type: none"><li data-bbox="140 291 486 739">• The State must inform decision-makers and users of AI systems and potentially initiate a process of reflection for legislative reforms aimed at improving public policies in favour of responsible artificial intelligence.</li><li data-bbox="140 750 486 1120">• The State should develop a legal and ethical governance framework for AI, robotics and other new and emerging technologies, in accordance with international standards.</li></ul>		





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