



DIGITAL RIGHTS AND INCLUSION IN AFRICA REPORT

DEMOCRATIC REPUBLIC OF CONGO
COUNTRY REPORT

2024

Democratic Republic of Congo



Executive Summary

This report gives an overview of how digital rights and inclusion are being implemented in the Democratic Republic of the Congo, based on both quantitative and qualitative research.

Internet access, online freedom of speech, personal data protection, information access, artificial intelligence and new technologies, digital inclusion, and the Universal Service Fund were among the topics covered in the evaluation of laws and governmental policies.

In order to build administrative regulatory structures and harmonise legislation, as stipulated in the Digital Code, the institutional and regulatory frameworks pertaining to digital technology were examined. The National Digital Plan “Horizon 2025,” for example, is one of the government programs with a comparatively low implementation rate.

Concerning abuses of digital rights, especially with regard to online freedom of speech, internet access, and privacy protection, contrast with the little advancements that have been accomplished.

The paper offers suggestions to help improve the protection of digital rights, given the finding that these rights are not adequately protected or included in society.

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Introduction

On June 11, 2024, the National Assembly swore in the first government of Felix Tshisekedi's second term, which was led by a woman for the first time in the recent political history of the Democratic Republic of the Congo. The government's agenda included plans, projects, and actions aimed at advancing digital rights and inclusion.²⁶⁵

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²⁶⁵ In the Congolese government's Action Program 2024-2028, presented to the National Assembly in preparation for the inauguration of Prime Minister Judith Suminwa's government on June 11, 2024, Pillar III.2 is entitled: Digitization of Congolese society. In this pillar, Strategic Axis III.2.1 is devoted to the development of communications networks and Internet access. Programme-du-gouvernement-congolais-.pdf (accessed November 2, 2024).

Internet Access

The DRC has a low mobile phone subscription rate of 44.8%, in comparison to a sub-Saharan African average of 92%. The mobile internet penetration rate is 22% compared to an average of 43%.²⁶⁶

There has been a significant increase in the number of mobile subscriptions, with approximately 56.26 million subscribers and a penetration rate of 60%. However, the sector's revenue experienced a slight decrease of 3.73% compared to the previous quarter.²⁶⁷

The DRC is one of the countries targeted by the new Global Coalition to work towards mobile phone accessibility.

Launched in July by the Global Association of Telephone Operators (GSMA), this initiative aims to facilitate mobile phone acquisition for populations in low- and middle-income countries (LMICs) located in sub-Saharan Africa and South Asia, to promote internet consumption.

According to the GSMA, mobiles are the primary means of accessing the internet in Africa. As indicated by ARPTIC, in the DRC, 29.98 million people access mobile internet compared to 16 000 who use fixed connection, thus, representing a penetration rate of 31.5% and 0.017%, respectively. In such a country, promoting mobile access can increase internet consumption and generate revenue growth for access providers.²⁶⁸

Digitisation of the judicial system

The DRC's Supreme Council of the Judiciary issued a decision dated August 24, 2024, regarding the use of digital tools and computer equipment within civil and military courts and offices.²⁶⁹ Two software programs, developed with technical support from the UNDP, will be deployed in 14 cities, covering a total of 86 courts and prosecutors' offices.²⁷⁰ However, it is necessary to await their actual use to assess the impact of these two software programs on improving the functioning of the judicial system.

Freedom of Expression

The Constitution is one of the texts that govern freedom of expression. However, it is the 2023 Press Law that presides over issues of content and freedom of expression online.²⁷¹ The Digital Code strengthens these by adding sanctions against misinformation and sexist comments online.²⁷²

Despite this guarantee, freedom of expression, information and opinion are subject to some violations.

266 DRC: disadvantaged areas awaiting state investment in telecoms (accessed November 2, 2024)

267 ARPTC, Mobile Telephony Market Observatory, 1st Quarter 2024 Report (accessed November 2, 2024)

268 Muriel EDJO, Mobile Internet in the DRC: a global coalition to change the game <https://www.agenceecofin.com/inter-net/1307-120283> (accessed November 2, 2024)

269 csm-rdc.cd <https://csm-rdc.cd> (accessed November 3, 2024)

270 These are the Judicial Activities Management Information System (SIGAJ) and the Magistrates' Management Information System (SIGM).

271 Articles 4 and 5 of Ordinance-Law No. 23/009 of March 13, 2023 establishing the modalities for exercising freedom of the press, freedom of information and broadcasting by radio and television, the written press or any other means of communication in the Democratic Republic of Congo, See also Scott MAYEMBA, New press law in the DRC: Progress and status quo of the reform of the law on the exercise of freedom of the press Policy-brief-1.pdf (accessed November 16, 2024)

272 Articles 368 and 369 of Ordinance Law No. 23/010 of March 13, 2023 relating to the Digital Code ISIG-Library: ORDER LAW 23-010 OF MARCH 13 RELATING TO THE DIGITAL CODE (consulted on November 28, 2024)

Restricting the freedom of the press to report on the DRC's armed conflict

The Higher Council for Audiovisual and Communication (CSAC) issued a directive²⁷³ requiring media outlets not to broadcast debates on Congolese army operations without the presence of at least one “expert on the subject.” It also asked journalists to avoid “phone-in programs on military operations” and to refrain from interviewing “negative forces,” a vague and imprecise term that can justify arbitrary bans.²⁷⁴ This CSAC directive constitutes a serious violation of press freedom.²⁷⁵

Similarly, the CSAC recommended that media outlets no longer “broadcast information related to the rebellion in the east of the country without complying with the official government sources.”²⁷⁶ The state’s intention to limit press freedom is shown in this recommendation.

Suspension of a journalist from a public media outlet

For failing to reframe his guest’s (a musician’s) remarks regarding the armed conflict in the Democratic Republic of the Congo (DRC), a journalist from Congolese National Radio and Television (RTNC) was suspended, along with his program.²⁷⁷

Suspension of broadcasts

A political program, Bosolo na Politik, and its host were also suspended from broadcasting for 30 days.²⁷⁸

A plan to regulate traditional and social media

Given the negative consequences of social media use, the CSAC proposed a strategy for social and conventional media regulation to the Head of State.²⁷⁹

Digital identity and the Digital Counter

The law provides that the State shall carry out, employing electronic identification, the general identification of the population and issue a national identity card with a unique identifier to nationals.²⁸⁰

To operationalise this identification, the Prime Minister must issue a decree that outlines the components, technical requirements, methods, and schemes of electronic identification, as well as the interoperability framework and the degree of assurance required to certify the identification.²⁸¹

The Prime Minister’s decree on the operationalisation of electronic identity and the establishment of the Digital Counter in compliance with the law are not being signed quickly enough for the DRC’s Digital Counter (GN-RDC).²⁸² This regrettable situation hinders regulatory development towards an effective digital identity system.

Implementation of the National Digital Plan “Horizon 2025”

The National Digital Plan “Horizon 2025” is a strategic planning document that covers the country’s

273 Press release No. CSAC/002/B/02/2024 of February 23, 2024 Security crisis in the east, DRC: CSAC calls on Congolese media to show patriotism (accessed November 3, 2024)

274 Idem

275 Media Freedom Should Not Be Targeted in DR Congo | Human Rights Watch (accessed November 18, 2024)

276 Recommendation of the CSAC Plenary of April 4, 2024

277 Public media journalist suspended after broadcast with musician - ACP (accessed November 4, 2024)

278 Media: The popular show “Bosolo na politik officielle” suspended for 30 days (accessed November 4, 2024)

279 DRC: a plan to regulate traditional and social media presented to Tshisekedi - ACP (accessed November 4, 2024)

280 Article 172, paragraph 1, Ordinance-Law No. 23/010 of March 13, 2023 relating to the Digital Code

281 Articles 173, Ordinance-Law No. 23/010 of March 13, 2023 on the Digital Code, Congolese Digital Code | <https://droitnumerique.cd/code-du-numerique-congolais-rdc-pdf/>

282 Article 41 of Articles 173, Ordinance-Law No. 23/010 of March 13, 2023 on the Digital Code, Congolese Digital Code | [Droit-Numérique.cd](https://droitnumerique.cd)

digital development strategy by 2025.²⁸³ Although its level of execution is not satisfactory, it is due to expire on December 31, 2025.²⁸⁴

In the absence of updated evaluation reports, it can be assumed that the “remaining” projects are being implemented so that by 2025, all assigned objectives will be achieved.

Data protection

The Digital Code devotes its Title III to the protection of personal data and data related to private life.

The ideal approach would have been to provide for a special law devoted exclusively to data protection, as elsewhere,²⁸⁵ instead of inserting the relevant provisions into a “Digital Code”.

Even then, the Data Protection Authority provided for in the Digital Code²⁸⁶ has not yet been established. Curiously, the authority to carry out all the missions assigned to it has been assigned to ARPTIC.²⁸⁷

This leads to regulatory chaos, which may make it more difficult to put in place a reliable data protection strategy.

Regulatory Authority

Although the Digital Code calls for the establishment of multiple autonomous administrative bodies tasked with overseeing the digital industry,²⁸⁸ the Prime Minister’s directive.²⁸⁹ The supervisory minister has given ARPTIC the duties previously assigned to three of these organisations.²⁹⁰ These are the Digital Regulatory Authority, the National Electronic Certification Authority and the Data Protection Authority.²⁹¹

This decision may give rise to a conflict of jurisdiction. It is also questionable whether ARPTIC has the resources and expertise necessary to fully assume all these responsibilities.²⁹²

In light of this regulatory clamour, we must push for the revocation of this order and the creation of legally mandated regulatory bodies.

Lastly, there is currently little sign that the independence of these administrative regulatory

283 PRESIDENCY OF THE REPUBLIC, National Digital Plan, Horizon 2025, for a connected and efficient DR Congo, Kinshasa, September 2019, pp. 1-126. DRC Presidency (accessed November 28, 2024)

284 The only official evaluation report on the implementation of this plan that is available indicates that of the 69 projects included in the PNN, 33 have been initiated, 15 of which are fully completed and 18 are in the operational phase. See Agence pour le Développement du Numérique, RAPPORT-EVALUATION-DE-LA-MISE-EN-IMPRE-DU-PNN-HORIZON-2025-_VF03.pdf, (accessed November 6, 2024)

285 The example of South Africa, Protection of Personal Information Act (POPI Act) - POPIA, of Cameroon Law No. 2024/017 of December 23, 2024 relating to the protection of personal data in Cameroon of Côte d'Ivoire, Law No. 2013-450 relating to the protection of personal data, of Senegal Law No. 2008 – 12 on the Protection of personal data, and of Zimbabwe Cyber and Data Protection Act, 2021 - ZimLII (consulted on February 9, 2025)

286 Based on the provisions of Article 186 Articles 173, Ordinance-Law No. 23/010 of March 13, 2023 relating to the digital code, Congolese digital code | Droit-Numérique.cd

287 Article 1 of Ministerial Decree No. CAB/MIN/PT&N/AKIM/KL/KBS/051/ 2024 of August 17, 2024 harmonizing the methods of implementing the regimes of Ordinance-Law No. 023/010 of March 13, 2023 Official Journal – Special Issue – September 18, 2024,

288 The National Digital Council, the Digital Regulatory Authority, the National Electronic Certification Authority, the Data Protection Authority, the National Cybersecurity Agency, and the Digital Counter of the DRC

289 Articles 7 and 9 of the Congolese Digital Code

290 Brozeck KANDOLO, Digital regulation in the DRC: ARPTIC invested as single authority for digital regulation, electronic certification and data protection Droit-numérique.cd - file n° 4 – October 2024, Regulation-du-numérique-en-RDC-IARPTIC-Brozeck-Kandolo-3 (3).pdf (accessed November 4, 2024)

291 Article 1 of Ministerial Decree No. CAB/MIN/PT&N/AKIM/KL/KBS/051/2024 of August 17, 2024 harmonizing the implementation procedures of the regimes of Ordinance-Law No. 023/010 of March 13, 2023 on the Digital Code and Law No. 20/017 of November 25, 2020 relating to telecommunications and information and communication technologies in the Democratic Republic of Congo, Official Journal – Special Issue – September 18, 2024, Op.cit.

292 Idem

authorities will be effective. To evaluate their level of autonomy in overseeing the nation’s digital industry, we must wait for their actual establishment.

Access to information

On October 30, 2024, a measure was presented to the National Assembly to ensure “access to information and transparency in public life” in the DRC.²⁹³ Article 24 of the Constitution, which guarantees respect for public order and the rights of others while enshrining the freedom of the press and expression, is materialised in this law, which has 75 provisions.

It is anticipated that this bill will close the legal gap on information access in the Democratic Republic of the Congo once it is adopted and enacted, which may happen in 2025.

Artificial Intelligence

Given the underdeveloped nature of legislation and considering the benefits, it is time for the Congolese authorities to legislate on artificial intelligence. At the regional level, however, the continental strategy and the African Digital Compact²⁹⁴ lay the foundations for the future.

Digital Inclusion

In the DRC, the Universal Service Fund (FSU) is not implemented effectively. It is not being managed at its best by the Universal Service Development Fund (FDSU). On the one hand, telecom firms have not made their complete 2024 mandatory contributions.²⁹⁵ Neither the FDSU nor the Congolese government have released a report on the precise amount that telecom companies have paid. Given that the Decree creating, structuring and running the FDSU does not outline the penalties to which these businesses are subject in the event that their contributions are not paid, this lack of transparency is all the more concerning. Additionally, Gigabytes, the most popular mobile internet bundles in the nation, are still thought to be expensive.

293 Bill transmitted to the President of the National Assembly by MP Jacques NDJOLI ENSEG'EKELI by his correspondence referenced No. 081/AN/RAPP/DEJ/SECAB/ELG/2024 on October 30, 2024

294 44005-doc-FR_The_African_Digital_Pact.pdf | African Union (accessed November 16, 2024)

295 Article 33. 2 Decree No. 22/51 of December 30, 2022 establishing, organizing and operating a public establishment called the Universal Service Development Fund, FDSU in acronym, stipulates that The financial resources of the FDSU consist in particular of a levy of 3% of the turnover of operators in the telecommunications and information and communication technologies sector Decree No. 22/51 of December 30, 2022 establishing, organizing and operating a public establishment called the Universal Service Development Fund, FDSU in acronym

Conclusion:

An institutional structure that is lacking and a regulatory framework that could be enhanced

Due to statutory loopholes, an unfinished institutional framework and dysfunctions that erode the protective framework, the DRC's digital rights guarantee is often inadequate.

Legislation must therefore be harmonised, and implementing measures for the digital code must be developed. To finish the reforms in the fields of cybersecurity, data protection, electronic certification and digital identification, different regulatory bodies will be set up.

Given the pervasive ignorance and frequent infractions, it is highly recommended that people receive legal knowledge and digital training.

Moreover, it is the government's responsibility to promote inclusion by taking the necessary measures to facilitate access to the Internet for populations living in rural areas.

Recommendations

Government

- Accelerate the implementation of measures implementing the Digital Code
- Publish the implementation report of the National Digital Plan “Horizon 2025”
- Promote digital training
- Invest in the expansion of telecommunications infrastructure to improve internet access
- Adhere to the African Union (AU) Convention on Cybersecurity and the Protection of Personal Data

Parliament

- Accelerate the adoption of the Access to Information Act.
- Legislate on artificial intelligence.

Civil Society Organizations

- Advocate for each telecommunications company to make 3% of its turnover available to the FDSU
- Working with the media, raise awareness against hate speech in the digital public space
- Investigate digital rights violations

Media

- Strengthen digital capabilities
- Respect professional ethics
- Avoid spreading misinformation and hate speech

The Score Index

Key Indicators of Londa 2025	ACHPR Statement	Score	Justification
Internet Outages	P38(2)	3	Since 2019, there have been no internet shutdowns during elections or protests
Lack of laws, policies and other measures to promote universal, equitable, affordable and meaningful access to the Internet	P37	3	There are some policies and initiatives, but more implementation measures and political will are needed.
Criminalisation of fake news	P22(2)	1	The Criminal Code (Art. 199) and the Digital Code (Art. 360) criminalize fake news and false rumors, including those committed through social networks, computer systems, electronic communication networks or any form of electronic media.
Sedition Legislation	P22(2)	1	Laws that are unclear and noncompliant. Article 68 of the penal code refers to the detention of individuals to sell them as slaves, while Article 68 of the military penal code refers to rebellion and insurrection.
Arbitrary arrests and harassment of media, human rights defenders and citizens	P20(1) & (2)	1	In 2024, several arbitrary arrests and detentions of HRDs, journalists and pro-democracy activists were reported by the United Nations and human rights NGOs.
Data protection legislation.	P42	3	The legislation exists. Not its implementing measures.
States intervene and demand the removal of online content by internet intermediaries	P38 and P39(4)	3	Lack of clear policy and illustrative cases
Invasion of communications privacy	P41	2	Intelligence services and police violated the confidentiality of communications to justify prosecutions of journalists, HRDs and opponents
Failure of the government to proactively disclose and disseminate information about digital technologies.	P29(3)	2	Lack of a national digital awareness policy

National strategies on artificial intelligence and emerging technologies	P39(6)	2	Absence of specific national legislation.
Adoption of laws, regulations, and policies tailored to children that support their online privacy and safety	P37 (5)	3	Legislation exists. Lack of specific measures promoting digital security and children's privacy online.
Digital inclusion	P37(3)	2	Some initiatives and policies, but are deficient
TOTAL (up to 60)		26	

