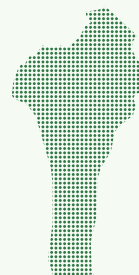


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BENIN DIGITAL RIGHTS AND INCLUSION

A PARADIGM INITIATIVE PUBLICATION



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Report written by Sinatou Saka

Editorial Team: 'Gbenga Sesan, Kathleen Ndongmo, Koliwe Majama, Margaret Nyambura Ndung'u,

Mawaki Chango, Nnenna Paul-Ugochukwu and Thobekile Matimbe.

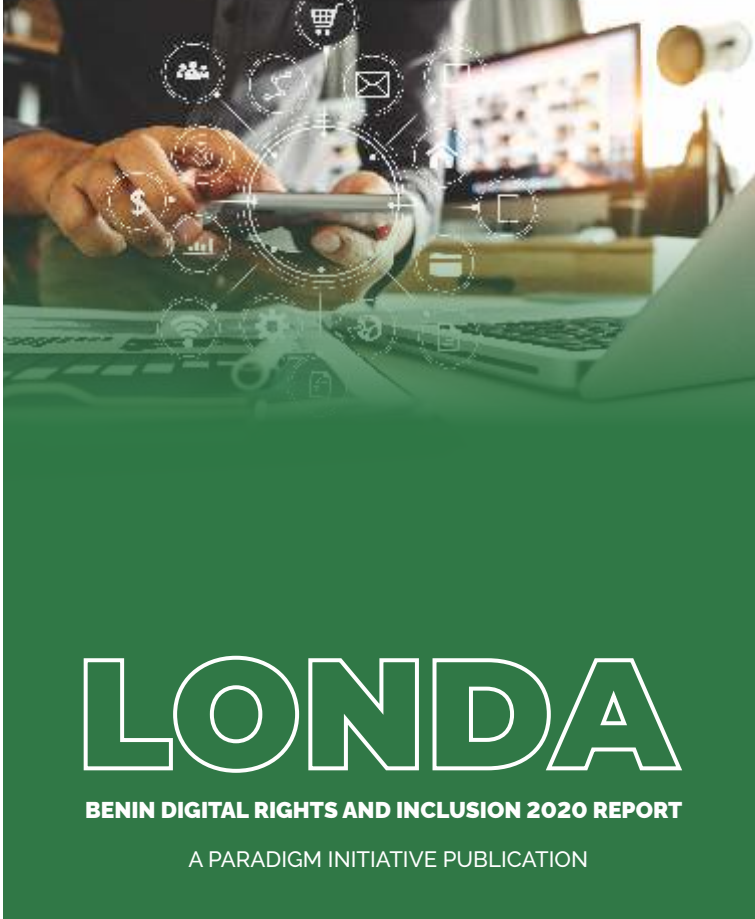
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Civil society organizations continue to work to advance digital rights and inclusion in Africa, ensuring best practices are adopted into policy and legislation. This report analyses the state of digital rights and inclusion in Benin, examining violations and gaps, investigating the use and application of policy and legislation, highlighting milestones and proffering recommendations for the digital landscape in Benin. This edition captures among other issues, the digital divide worsened by the COVID-19 pandemic and unearths infractions on different thematic areas such as privacy, access to information, and freedom of expression with the legislative and policy background well enunciated.

CONTENTS

INTRODUCTION	1
INTERNET INFRASTRUCTURE	1
INTERNET LEGAL FRAMEWORK	2
FREEDOM OF EXPRESSION ON THE DIGITAL PLATFORMS	2
CONCLUSION AND RECOMMENDATIONS	4



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Bordered to the North by Niger, to the East by Nigeria, to the west by Togo and to the South by the Atlantic Ocean, Benin is situated at the center of Western Africa. The country is structured into 12 regions, with a land area of 114,764 km².

INTRODUCTION

DIGITAL RIGHTS AND INCLUSION IN BENIN

Benin opened up to the world of the internet during the sixth summit of the Heads of States and Governments of the Francophone in November 1995.¹ Today, the mobile 3G internet covers an average of 60% of the population, (The Master Plan for ICT and telecommunications in Benin, June 2017). According to the statistics published by ARCEP, the internet penetration rate is 48,02%.

According to the Association of Developers and Coders in Benin, there are between 500 and 600 developers. In 2017, Benin's Internet Development Index (IDI) was 1.94, placing the country at number 161 globally, behind Togo, Mali, Senegal and the Ivory Coast. Benin's mobile connectivity rate for the year 2017 was 37.3. As for the Network Readiness Index, Benin is 128th globally out of 139 countries with an index of 2.9 in 2016.

 **60%**
of the population
is covered by the
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INTERNET INFRASTRUCTURE

After its adoption in 2016, the Sector Policy Statement (SPS)² became the digital roadmap in Benin. According to national authorities, on high and highest speed, a

1. <https://www.google.com/url?q=https://cursus.ebsi.umontreal.ca/vol6no1/bai.html%23:~:text=3DL%27histoire%2520d%27Internet%2520a,couvri%2520les%2520activit%25C3%25A9s%2520du%2520Sommet&sa=D&source=editors&ust=1617863321683000&usg=AOvVaw003ul3QW8t4dfEZHmeaPv9>
2. Sector Policy statement – Strategic orientations 2021 in the digital economy sector: <https://numérique.gouv.bj/images/DPS.pdf>

network of more than 2000km of fiber optics has been put in place in 60 of the 77 municipalities.

According to official sources, the incumbent operator, Benin Telecom Infrastructures (BTO) has reduced its costs by 50% on average on capacity and 40 commune capitals have a capacity of 50 Mbps with the establishment of three services namely: Community digital points, free Wi-Fi terminals in certain public places with a capacity of 4 Mbps and a subscription service for individuals with a capacity of 36 Mbps.

INTERNET LEGAL FRAMEWORK

Law n° 2017-20 of April 20 2018 on the digital code in Benin is the only legal anchoring of the digital sector in Benin since 2018. The Digital Code deals with electronic communications, networks and services. It sets the rules applicable to operators and electronic communications activities. Electronic tools and documents, the rules applicable to trust service providers are also guided by this code, which also lists the provisions applicable to the protection of personal data and those relating to Cyber Crime and Cyber Security.

Compared to Law no° 2014 of July 9 2014, the scope of the current law on the Digital Code is broader. Not only does it contain the updated provisions concerning activities relating to electronic communications networks, services and personal data, but it also sets out the legal rules applicable to electronic commerce and communication, cybercrime and domains previously characterised by a legal vacuum. It regulates the criminal law applicable to crimes and offences committed online.

In its last report, the ARCEP (Regulatory Authority for Electronic Communication and the Post)

stipulates that network neutrality is a legal principle in the republic of Benin. “Operators providing internet access do not apply traffic management measures”. In essence, they must refrain from blocking, slowing down, modifying, restricting, degrading or discriminating against content, applications or specific content and application services.

The protection of privacy is also of great interest to the Beninese legislator. The Personal Data Protection Authority (APDP) exists to ensure the solicitation of legal provisions relating to the protection of personal data. Since its creation in 2009, it has only supplied 300 authorisations for the collection or deletion of personal data and registered around ten complaints.



FREEDOM OF EXPRESSION ON THE DIGITAL PLATFORMS

For the first time in the country's history, the internet was cut off all day during the legislative elections, on the April 28 2019.

“The decision to shut down access to the internet and social media on the day of elections is a direct violation of the right to freedom of expression”, affirms Francois Patuel, West Africa Researcher at Amnesty International.

Former journalist, Aziz Imorou was arrested on September 17 2020³ after posting an article on Facebook in which he denounced an alleged act of aggression against himself by a bodyguard of Armand Ganse, Director General of the Société de Gestion des Marchés Autonomes (SOGEMA), the state-owned company that manages public markets. He told the West Africa Media Foundation that he was assaulted by Mr. Ganse's bodyguard while taking pictures of a vehicle that hit a commercial motor cyclist. Whilst he was taking those photos, four people assaulted him and snatched his mobile.

A day after the publication on Facebook, Aziz Imorou was summoned to the Central Office for the Repression of Cyber Crime (OCRC) following the complaint filed by the Director of SOGEMA. After questioning him, Aziz Imorou was brought before a court of first instance in Cotonou. Without rendering a judgement, the judge returned the accused to Cotonou Civil Prison for defamation. The court released him for the benefit of the doubt on October 6 2020.

This is not the first case in the country. The Benin prosecutor, Mario Metonou, initiated the arrest, prosecution and imprisonment of Ignace Sossou, a journalist at Benin Web TV in December 2019.⁴

The prosecutor complained that a tweet, from the journalist claiming to quote words spoken at a conference, was incorrect. Imprisoned on December 24 2019, Ignace Sossou was released on June 24 2020 after a successful appeal against his 18-month prison sentence.

On July 8 2020, the High Authority of Audiovisual and Communication of Benin issued a statement, threatening websites to “put an end to all publications”. The latter would not have the publication authorization granted by the regulatory body.

This decision comes at a time when several press officials, having requested their publication authorization for several months, have never received a response from the HAAC. This move in particular would limit the spread of fake news on the internet.

According to Jeune Afrique, a spokesperson for the Beninese High Authority for Audiovisual and Communication (HAAC), evokes the imperative obtaining of a prior authorisation to claim the status of media support, notably via “inquiries of morality” the content of which is totally unknown and especially if these surveys are carried out by independent persons.

The Personal Data Protection Authority (APDP) exists to ensure the solicitation of legal provisions relating to the protection of personal data.



3. https://www.google.com/url?q=https://www.24haubenin.info/?Le-journaliste-Aziz-Imorou-arrete&sa=D&source=editors&ust=1617864857954000&usg=AOvVawOnne_1HsaFWp_2MPLYZtl

4. https://www.google.com/url?q=https://www.liberation.fr/planete/2020/01/23/journaliste-beninois-emprisonne-ce-qu-il-s-est-passe-est-une-aberration_1774894/&sa=D&source=editors&ust=1617863321688000&usg=AOvVaw1wuzTJaLlBwzblGVHcVXKN

HITIMISHO NA MAPENDEKEZO



The year 2020 was characterised by the arrest of two journalists for their online activity. The latest decision of the High Authority for Audiovisual and Communication, constitutes a regression of fundamental freedoms online.

From a technical standpoint, the recently launched standardized billing platform, the interfacing between mobile money and banks, the interoperability platform for government information systems and the launch of more than 250 e-services, are as many examples which testify to the progressive centrality of the Internet in the daily life in Benin. Digital Rights, linked to freedom of expression, to the quality and technical robustness of infrastructures, in terms of security, should be at the heart of Benin's digital transformation, as the expert Pierre Dandjinou reminds us.

Also, the 2016 activity report of the former CNIL Bénin (current APDP) indicates that: "for most cases, the illegalities observed here and there in the abusive appeals relating to the collection and manipulation of personal data personnel, derive their source from the ignorance of the texts which frame the matter and that is risky".

It would therefore be wise, as the lawyer Christine Tossavi recommends, to increase the protection of personal data in companies by updating the labor code to take into account the use of IT tools and updating the knowledge of labor inspectors and magistrates on the application of the Benin digital code. Collaboration between the APDP and the Directorate General of Labor would be a great asset in preserving the employee's right to privacy in the digital age.

The existing legal framework must not become more politicized to the detriment of citizens and Internet users. All citizens must be equal before the law, no one can use a legal provision for his own interests.

Digital Rights, linked to freedom of expression, to the quality and technical robustness of infrastructures, in terms of security, should be at the heart of Benin's digital transformation.

PIERRE DANDJINOU

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