

LONDA

DRC DIGITAL RIGHTS AND INCLUSION

A PARADIGM INITIATIVE PUBLICATION



2020 REPORT

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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 DRC, examining violations and gaps, investigating the use and application of policy and legislation, highlighting milestones and proffering recommendations for the digital landscape in DRC. 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.

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The Democratic Republic of Congo¹ is the largest country in Central Africa with over 88 million inhabitants, making it the fourth most populous country in Africa behind Nigeria, Ethiopia and Egypt.²

INTRODUCTION

DIGITAL RIGHTS AND INCLUSION IN DEMOCRATIC REPUBLIC OF CONGO

The country is ranked 49th out of 54 African countries in global governance with a score of 31.7 out of 100.0³ and a GDP of 47.22 billion (USD) in 2018⁴ compared to 38.01 billion (USD) in 2017.⁵ The whole country is covered by four telephone networks which are: Airtel, Orange, Africel and Vodacom and numerous internet service providers. As of today, the country has around 16.35 million internet users on different devices, with a penetration rate of 19%.⁶

The Democratic Republic of the Congo has nine neighbouring countries. The country is headed by President Antoine-Félix Tshisekedi, following the December 2018 elections in which the Constitutional Court proclaimed him winner and successor of Joseph Kabila who led the country for 18 years.⁷



16.35 Million
Internet users

1. Banque Mondiale, <https://www.worldbank.org/en/country/drc/overview#1>

2. Wikipedia: https://fr.wikipedia.org/wiki/R%C3%A9publique_d%C3%A9mocratique_du_Congo

3. Mo Ibrahim FOUNDATION Rapport -2019: <http://iiag.online/app.html?loc=CD&meas=PRI&view=overview>

4. Banque Mondiale -2020:

https://www.google.com/publicdata/explore?ds=d5bncppjof8f9_&met_y=ny_gdp_mktp_cd&idim=country:COD:RWA:UGA&hl=fr&dl=fr

5. Banque Mondiale -2020:

https://www.google.com/publicdata/explore?ds=d5bncppjof8f9_&met_y=ny_gdp_mktp_cd&idim=country:COD:RWA:UGA&hl=fr&dl=fr#!ctype=c&strail=false&bc=s-d&nslm=s&met_y=ny_gdp_mktp_cd&scale_y=lin&ind_y=false&idim=country:COD&ifdim=country:region:SSF&pit=1511647200000&hl=fr&dl=fr&ind=false

6. Datareportal - Janvier 2020: <https://datareportal.com/reports/digital-2020-democratic-republic-of-the-congo>

7. Wikipedia: https://fr.wikipedia.org/wiki/Joseph_Kabila

Over the past 10 years, the country has drawn the attention of several actors on issues of human rights violations in Africa. The authorities have strategically put in place means to stifle public demonstrations and speeches against those in power by shutting down the internet, including messaging services, and by also performing filtering.⁸

Under Article 46 of the Framework Act which governs the postal sector and telecommunications, the authorities had the power to interrupt “partially or completely and for a period that they determine the use of telecoms installations” for public safety and national defense reasons.⁹ Under the same Act, the government also had the power to requisition telecommunications facilities.

INTERNET POLICIES AND REGULATIONS

The country introduced a bill in April 2017, initiated by the government, which was adopted by the National Assembly on May 7 2018 and adopted November 22 2018 at the Senate level. On November 25 2020, the new Telecoms Law (Law No. 20/17 of November 25 2020) replaced¹⁰ the Framework Law No. 013-2002 of October 16 2002¹¹ on post and telecommunications in the Democratic Republic of the Congo. In his first year as the Head of the country, President Félix Tshisekedi adopted an ambitious plan called the “National Digital Plan” in order to “prepare the country for the advent of the fourth industrial

revolution”.¹² On 7 February 2020, a Member of the National Assembly introduced a bill on cyber security and cybercrime in the hope of filling the legal gap in this sector.¹³ On 24 September 2020, the DRC launched, via the Ministry of Post, Telecommunications and New Information and Communication Technologies (PTNTIC), the automatic identification of all telephones in service in the country, with the introduction of the Mobile Device Registry (MDR).¹⁴

HUMAN RIGHTS AND DIGITAL EXCLUSION

Although internet penetration rates rose from 17% in 2019 to 19% in 2020, there still remains a digital divide in terms of access, accessibility and inclusion of communities in the Democratic Republic of Congo.¹⁵

According to a 2018 report released by Global System for Mobile Applications (GSMA) titled, “Reforming the taxation of mobile telephone in the Democratic Republic of the Congo to support economic growth through a more favourable fiscal framework”, it is stated that taxation is an “impediment” to digital inclusion in DRC, as the price of mobile communications weighs heavily on the household budget.¹⁶

With the introduction of the mobile device tax in the Democratic Republic of Congo, telecommunication service users will have to pay between USD 0.17 for a 2G device and USD 1.17 for

8. QUARTZ AFRICA : <https://qz.com/africa/1187727/the-dr-congo-is-using-a-decades-old-law-to-shut-down-the-internet/>

9. LEGANET.CD – Lois cadre Telecoms RDC: <http://www.leganet.cd/Legislation/JO/2003/JO.25.01.2003.PT.pdf>

10. SCOOPRDC.NET : <https://scooprdc.net/2020/12/16/nouvelle-loi-sur-les-telecoms-et-tic-voici-quelques-innovations/#:~:text=La%20loi%20sur%20les%20t%C3%A9l%C3%A9communications,par%20le%20pr%C3%A9sident%20F%C3%A9lix%20Tshisekedi>

11. LEGANET.CD – lois cadre telecomms RDC: <http://www.leganet.cd/Legislation/Droit%20economique/telecommunication/LC.013.2002.16.10.2002.htm>

12. Zoom-Eco – Plan national du Numerique: <https://zoom-eco.net/a-la-une/rdc-enfin-le-plan-national-du-numerique-valide/>

13. Proposition de lois sur la Cyber-securite et Cyber-Criminalite: <https://www.radiookapi.net/2020/02/19/emissions/parole-aux-auditeurs/la-proposition-de-loi-sur-la-cybersecurite-et>

14. Lancement RAM: <https://econews.cd/g?post=1037>

15. <https://www.gsma.com/mobilefordevelopment/wp-content/uploads/2016/01/gsma-inclusion-num%C3%A9rique-et-fiscalit%C3%A9-dans-le-secteur-de-la-t%C3%A9l%C3%A9phonie-mobile-en-r%C3%A9publique-d%C3%A9mocratique-du-congo-summary.pdf>

16. <https://www.gsma.com/mobilefordevelopment/wp-content/uploads/2016/01/gsma-inclusion-num%C3%A9rique-et-fiscalit%C3%A9-dans-le-secteur-de-la-t%C3%A9l%C3%A9phonie-mobile-en-r%C3%A9publique-d%C3%A9mocratique-du-congo-summary.pdf>

3G/4G/+ devices once a month over a six-month period.¹⁷ The poor quality of digital services has raised waves of indignation from individuals, consumer groups and citizen movements across the country.

Since March 2019, LUCHA, a youth citizen movement, organized peaceful demonstrations in front of the premises of telecommunication companies to demand better quality services and more cooperation with the security forces to address the problems of kidnappers who use telecommunications services to intimidate victims' families and receive ransoms.¹⁸ On 18 August 2020, a citizen filed a complaint with the Commercial Court of Kisangani (Tshopo province) accusing Orange DRC, a subsidiary of the French multinational telecommunications group Orange, of "breach of trust".¹⁹

POSITIVE DEVELOPMENTS FOR THE PROMOTION OF INCLUSION AND HUMAN RIGHTS

On November 25 2020, the Democratic Republic of the Congo adopted a new law that would govern telecoms in place of the Framework law of October 16 2020 that governed this sector for almost 18 years and in which some provisions were already viewed to be problematic with the reality in relation to the evolution of new Information and Communication Technologies.

But also, in the third quarter of his first year in power, President Félix Tshisekedi adopted a digital plan while being convinced that ICTs will undoubtedly contribute to the performance of the Congolese economy, at the same time strengthening sociability, improvement of knowledge, the effectiveness of institutions and the fight against poverty.²⁰

On 7 February 2020, a bill on cybersecurity and cybercrime was submitted by the Deputy in the Office of the National Assembly of the Democratic Republic of the Congo.



17. Site web du Service RAM: <https://www.ram.cd/FAQ.aspx>

18. La Lucha en Revendication devant les telecoms: <https://www.rfi.fr/fr/afrique/20190511-rdc-lucha-manifestations-airtel-telecommunications-geolocalisation-kidnapping>

19. Orange RDC assignee en justice: <https://zoom-eco.net/a-la-une/rdc-la-societe-orange-assignee-en-justice-par-un-de-ses-abonnes-pour-abus-de-confiance/>

20. Validation du plan national du Numerique: <https://zoom-eco.net/a-la-une/rdc-le-chef-de-letat-lance-les-travaux-de-validation-du-plan-national-du-numerique/>

In his speech, he expressed his frustration that none of the laws passed in this country dealt with the protection of individuals in cyberspace.

This makes it difficult, at the current stage, to block cybercriminals in order to control their behaviour while simultaneously “normalizing the virtual space, so that it is a digital place where it is good to live.”

CONCLUSION AND RECOMMENDATIONS

Over the past two years, the Democratic Republic of Congo has experienced major turning points directly affecting the issue of digital inclusion and human rights.

Among other things, there are violations of users’ rights by - on the one hand, the powers in place and on the other hand by the providers of digital services under a vague and obsolete law.²¹ Some policies and regulations could be implemented in the perspectives: to mitigate the digital divide, to enhance the human rights of Congolese citizens and to ensure national security etc.

In relation to factors that limit digital inclusion and human rights in the Democratic Republic of Congo, we note:

- 87.5% of our key informants cited digital illiteracy as a key element limiting digital inclusion in general;
- 37.5% said that the lack of cooperation between digital stakeholders undermines the promotion of human rights and the inclusion of communities.
- 37.5% of our key informants mentioned that inadequate legislation also constitutes a limit to the promotion of digital rights in the DRC

Various stakeholders in the digital ecosystem in the DRC from civil society, the media, the private sector, and the public sector have issued various recommendations to promote digital inclusion as well as human rights. These include:

- Strengthen cooperation between stakeholders involved in the digital sector in the Democratic Republic of Congo.
- To promote education on new information and communication technologies within communities.
- Raise citizens’ awareness of their online rights.
- Increase lobbying to review digital policies and regulations in the Democratic Republic of Congo.
- Making NTICs tools, including the Internet, accessible to all citizens;
- Develop the digital legal framework and infrastructures.



21. Quartz Africa: <https://qz.com/africa/1187727/the-dr-congo-is-using-a-decades-old-law-to-shut-down-the-internet/>

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