

# Internet Access Cut to the Test of Law in the Democratic Republic of Kongo: Violation of the Rights of the Users or Imperative Security?

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**Abstract.** This article discusses the freedom of expression and the right to information that are constitutionally guaranteed. The authors emphasize that the use of the Internet is a right but the fact of depriving this right to the population constitutes a violation of rights and individual liberties of citizens and implicates the democracy.

**Keywords:** cutting; internet; political democracy; the rule of law; constitution; fundamental freedoms.

## Интернет-доступ в свете закона в Демократической Республике Конго: нарушение прав пользователей или императив безопасности?

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**Аннотация.** В статье рассматривается свобода выражения мнений и право на информацию, гарантируемую конституцией. Авторы подчеркивают, что пользование Интернетом является правом, но факт лишения этого права для населения представляет собой нарушение прав и индивидуальных свобод граждан, что противоречит принципам демократии.

**Ключевые слова:** Интернет; политическая демократия; верховенство закона; конституция; основные свободы.

## INTRODUCTION

The Congolese State has expressed in its Constitution the will to build the rule of law and a nation based on true political democracy<sup>1</sup>. However, these two related concepts imply, for the former, a State which all the authorities act in accordance with the rules of law in force and in which all individuals also enjoy guarantees and fundamental freedoms<sup>2</sup>. For the second, he expresses the idea that citizens participate in power. The idea that freedom is natural to man and that the state does not have to intervene to 'create' it, but must confine itself to recognizing it and allowing it to be exercised without hindrance<sup>3</sup>.

However, it is found that this willingness, and therefore contradictory, what is involved, access to the internet in D.R. Congo cuts have become like a habit. About, every time during the uprisings caused by political demands, the Congolese State deprives users internet access<sup>4</sup>. The last two report January 2015<sup>5</sup> and December 2016<sup>6</sup>. The first was during a popular uprising raised by the challenge of changing the

electoral law<sup>7</sup>. The second, by the contestation of the continuation of the mandate of the President of the Republic, after exhausting his two constitutional terms<sup>8</sup>. In this regard, Japheth TEKILA notes that: "sometimes the public authorities block access to web sites containing keywords such as 'Yebela', 'Avisé-toi', 'Article 64' (Const. R.D. Congo), 'Do not touch to my constitution', etc."<sup>9</sup>

In the light of the foregoing, it seems necessary to ask ourselves the following questions: what are the right of expression and the right to information? What are the circumstances, the cause and the purpose of the cutoff of internet access which took place in DR Congo? The decision to cut access to the internet, is it consistent with respect for freedom of expression and the right to information?

Answering these questions requires identifying the notion of freedom of expression and the right to information, address the issue of the circumstances, causes and purpose of these decisions of cuts and finally, to analyze the nature of these decisions against one side of the edge the exercise of freedom of expression and the right to information and the other side to the character of the sanction arising from beyond the limits of this freedom and right.

## I. NOTIONS OF FREEDOM OF EXPRESSION AND THE RIGHT TO INFORMATION

It is about to do a cap on their legal basis, then define the limits of their exercise, and finally

<sup>1</sup> Cf. Préambule de la Constitution de la République démocratique du Congo telle que révisée par la loi N° 11/002 du 20 Janvier 2011 portant révision de la Constitution de la République démocratique du Congo du 18 Février 2006, *J.O.R.D.C.*, N° spécial, 52<sup>ème</sup> Année, du 5 Février 2011.

<sup>2</sup> Raymond, Guillien, & Vincent, Jean. (2005). *Lexiques des termes juridiques* [Glossaries of legal terms]. 15<sup>ème</sup> éditions. Paris, France: DALLOZ, p. 273. s.v *État de droit*.

<sup>3</sup> *Ibidem*, p. 217. S.V *Démocratie politique*.

<sup>4</sup> Cf. Tekila, Japhet. (2017). La liberté d'expression sur internet au carrefour des droits de l'homme et des peuples en Afrique centrale. Ce dont on ne parle pas [The freedom of expression on the internet at the crossroads of the rights of man and of peoples in central Africa. What we do not speak]. *Congo-Afrique: économie, culture, vie sociale*, 514, pp. 330–340.

<sup>5</sup> Cf. OKAPI, «SMS et internet coupés en RDC», In *Radio OKAPI*, [En ligne] disponible sur [www.radiookapi.net/actualite/2015/01/20/sms-internet-coupees-en-rdc](http://www.radiookapi.net/actualite/2015/01/20/sms-internet-coupees-en-rdc), (Page consultée le 01.01.2017 à 08h41).

<sup>6</sup> Cf. *Matin infos*. «L'internet sera coupé dès ce 18 décembre 2016». *Matin infos*, [www.matininfos.net/rdc-le-service-internet-sera-coupe-des-ces-18-decembre-2016](http://www.matininfos.net/rdc-le-service-internet-sera-coupe-des-ces-18-decembre-2016).

<sup>7</sup> Cf. RFI. «RDC: empoignades sur la loi électorale dans la rue et au parlement». *RFI Afrique*, [www.rfi/afrique/2015113-rdc-empoignades-loi-electorale-rue-parlement-badibangaramazani-shasari](http://www.rfi/afrique/2015113-rdc-empoignades-loi-electorale-rue-parlement-badibangaramazani-shasari).

<sup>8</sup> Cf. *Paris Match*, «RDC: manifestations à Kinshasa pour la fin du mandat de Kabila», In *Paris Match*, [En ligne] disponible sur [www.parismatch.com/actua/international/RDC-manifestation-a-kinshasa-pour-la-fin-du-manda-de-kabila-1148063](http://www.parismatch.com/actua/international/RDC-manifestation-a-kinshasa-pour-la-fin-du-manda-de-kabila-1148063).

<sup>9</sup> Cf. Japhet Tekila, *Art. Cit.*, pp. 330-340.

address the issue of their importance in a democracy.

The legal foundations of freedom of expression and the right to information are internal and international. At the internal level, reference is made to the Constitution, in its articles 23, paragraph 1, and 24, paragraph 1, which have respectively for the first: "Everyone has the right to freedom of expression"<sup>10</sup> and for the second: "everyone has the right to information."<sup>11</sup> According to the international level, there is, for example, the African Charter of the rights of man and peoples of 1981 which article 9 stipulates: "1. Everyone has the right to information. 2. Any person has the right to express and disseminate his opinions within the laws and regulations."<sup>12</sup> We can also mention the Universal Declaration of human rights which article 19 states: "Everyone has the right to freedom of opinion and expression, which implies the right to not be worried about his opinions and to seek, receive and to spread, without consideration of borders, information and ideas by any means of expression whatsoever."<sup>13</sup>

How to understand the freedom of speech and the right to information? Freedom of expression is recognized latitude individually any person to be able to express his opinion by all means: speaking, writing, image, gesture, etc.<sup>14</sup> The right to information about him can be defined as a prerogative of individually recognized a person to enjoy, for information. Freedom of expression is manifested by the show, while the right to information is manifested by the reception. Both are corollaries

<sup>10</sup> Article 23 alinéa 1 de la Constitution de la République démocratique du Congo telle que révisée par la loi N° 11/002 du 20 Janvier 2011 portant révision de la Constitution de la République démocratique du Congo du 18 Février 2006, *J.O.R.D.C.*, N° spécial, 52<sup>ème</sup> Année, du 5 Février 2011.

<sup>11</sup> Article 24 alinéa 1 de la Constitution de la République démocratique du Congo telle que révisée par la loi N° 11/002 du 20 janvier 2011 portant révision de la Constitution de la République démocratique du Congo du 18 Février 2006, *J.O.R.D.C.*, N° spécial, 52<sup>ème</sup> Année, du 5 Février 2011.

<sup>12</sup> Article 9 de la Charte Africaine des Droits de l'Homme et des Peuples de 1981.

<sup>13</sup> Article 19 de la Déclaration Universelle des Droits de l'Homme du 10 décembre 1948.

<sup>14</sup> Cf. Pierre Tourev. *Dictionnaire en ligne la toupie*. [www.toupie.org/Dictionnaire/liberte\\_d'expression.htm](http://www.toupie.org/Dictionnaire/liberte_d'expression.htm), s.v. liberté d'expression.

of the freedom of the press, of assembly, of demonstration, of association, etc.<sup>15</sup>

Junction points between freedom of expression and the right to information are that they are both legally guaranteed and protected, individual, usable by the same means and limited in their exercise.<sup>16</sup>

1. Legally guaranteed and protected: exist based on the law and their violation is also constitutive of a legal sanction;

2. Individual: their exercise is not conditioned by a group, which means that we can exercise it individually;

3. Can be used by the same means: freedom of expression and the right to information are almost exercisable by the same means, it is among others, print media, radio, television; Internet; conferences, debates, points of Press, songs, slogans, meetings; of literary and artistic works in all their forms (written publications, shows, movies, etc.)<sup>17</sup>;

4. Limited: that is their exercise is subject to certain limits that must not exceed under penalty of committing offences.

As mentioned above in point 4, the exercise of freedom of expression and the right to information knows limits.

Indeed, there are for example article 23 paragraph 2 and article 24 paragraphs 2 and 3 of the Constitution which stipulate, respectively for the first: "this right includes the freedom to express his opinions or convictions, including by speech, writing, and the image under reserve of the respect of law, public order and good morals."<sup>18</sup> For the second "freedom of the press, freedom of information and broadcast by radio and television, the print media or any other means of communication are guaranteed subject to respect for public order, public mor-

<sup>15</sup> Cf. Les articles 24 al.2, 25, 26 al. 1, 37 al. 1, de la Constitution de la République démocratique du Congo telle que révisée par la loi N° 11/002 du 20 janvier 2011 portant révision de la Constitution de la République démocratique du Congo du 18 Février 2006, *J.O.R.D.C.*, N° spécial, 52<sup>ème</sup> Année, du 5 Février 2011.

<sup>16</sup> Cf. EUPOL RD CONGO et al., *Guide des libertés publiques*, Kinshasa, S.L., 2012, pp. 55-56.

<sup>17</sup> *Ibidem*. p. 70.

<sup>18</sup> Article 23 alinéa 2 de la Constitution de la République démocratique du Congo telle que révisée par la loi N° 11/002 du 20 janvier 2011 portant révision de la Constitution de la République démocratique du Congo du 18 Février 2006, *J.O.R.D.C.*, N° spécial, 52<sup>ème</sup> Année, du 5 Février 2011.

als and the rights of others. Procedure for the exercise of these freedoms are set by law.”<sup>19</sup> The article 31 of the Constitution stipulates: “everyone is entitled to respect for his private life and secrecy of correspondence, communications or any other form of communication.” It cannot be infringed this right only in cases provided by law.<sup>20</sup>

So we can understand that the limits of freedom of expression and the right to information are: public order, morals and the rights of others. These limits are provided for in the legal standards and are strict interpretation.<sup>21</sup> This means, only laws obey the principles which set the terms of their exercise and that these principles must be entered in specific texts. These limits should not be diverted to other purposes and in particular to silence any challenge or to protect the benefits or privileges.

Concepts such as the public order, national security or even morals are not defined by the texts. They should be interpreted strictly. The disturbing public order invoked to restrict freedoms must be serious, characterized and real.<sup>22</sup>

Beyond these limits may be constitutive of a number of offences such as: revelation of professional secrecy; violations of the inviolability of the secrecy of the letters; posting harmful and insults; provocation and incitement to violations against the public authority; threats of attack against persons or property; insults and violence against members of the National Assembly or the Senate, the members of the Government, the custodians of the authority or public force; public outrage to public morals; violations of the rights guaranteed to individuals<sup>23</sup>; etc.

<sup>19</sup> Article 24 alinéa 2 de la Constitution de la République démocratique du Congo telle que révisée par la loi N° 11/002 du 20 janvier 2011 portant révision de la Constitution de la République démocratique du Congo du 18 Février 2006, *J.O.R.D.C.*, N° spécial, 52<sup>ème</sup> Année, du 5 Février 2011.

<sup>20</sup> Article 31 de la Constitution de la République démocratique du Congo telle que révisée par la loi N° 11/002 du 20 janvier 2011 portant révision de la Constitution de la République démocratique du Congo du 18 Février 2006, *J.O.R.D.C.*, N° spécial, 52<sup>ème</sup> Année, du 5 Février 2011.

<sup>21</sup> Cf. EUPOL RD CONGO et al., *Op. Cit.*, pp. 55–56.

<sup>22</sup> *Idem.*

<sup>23</sup> Cf. Les articles 73, 70, 74, 75, 76, 78, 135 Bis et ter, 158, 136, 175, 179 du décret du 30 janvier 1940 tel que modifié et complété à ce jour, *J.O.R.D.C.*, Numéro spécial, 45<sup>ème</sup> année, du 30 Novembre 2004.

The prosecution of these offences is as much subject to the rules of the criminal law against any other offence. It is mainly the individual character and legalistic sentence.

Three concepts deserve to be set initially to well understand the importance of freedom of expression and the right to information in a State said democratic. There are democracy, human rights and public freedoms, as well as the rule of law. The Greek *demokratia*, *demos*, ‘people’, *kratein*, ‘to govern’, democracy can be defined in the simplest way, as a political system in which the people are primary sovereign, exerts his will and contributes to the management of the *res publica* by the authorities.<sup>24</sup> Where the expression: “power of the people, by the people and for the people.” Human rights and civil liberties can be understood for the first as independent, inalienable, imprescriptible, ontological, universal rights, the guarantees and protected.<sup>25</sup> For civil liberties, they are recognized and guaranteed in a human rights law. Finally, the rule of law is an institutional system in which the public authority is subject to the law. In other words, the rulers and the ruled are all subject to the laws.<sup>26</sup>

These concepts form an inseparable trilogy which one cannot be individually accepted without the presence of the other two.

Indeed, democracy implies the existence of human rights and public freedoms, and these exist only when they are both enshrined in a text and are actually respected. This trilogy is the basis of the guarantee of the real existence of each of these elements. In other words: where we advocate the existence of one of these three elements, the other two should definitely exist to ensure the presence of the first really real. Human rights and public freedoms are the counterweight of the governed in the face of the roots of the power of the authorities, to the extent that throughout most of the States where the authorities

<sup>24</sup> Microsoft Corporation. «Démocratie». *Encarta 2009*, 2008, s.v. *Démocratie*.

<sup>25</sup> Lire largement l'article sur le droit de l'homme sur Wikipédia, «Droit de l'homme». *Wikipédia*, [https://fr.wikipedia.org/wiki/Droits\\_de\\_l'homme](https://fr.wikipedia.org/wiki/Droits_de_l'homme).

<sup>26</sup> Lire largement l'article sur le droit de l'homme sur Wikipédia, «Droit de l'homme». *Wikipédia*, [https://fr.wikipedia.org/wiki/Droits\\_de\\_l'homme](https://fr.wikipedia.org/wiki/Droits_de_l'homme).

deviate from their mission, which is mostly the well-being of governed, they are not only more than theoretical and practical, but also threatened by an interpretation often in addition that their real meaning.

As elsewhere, in the DR Congo, the internet is a part of undoubtedly important for the exercise of freedom of expression and the right to information. It is easy, fast, and extended channel. Its importance is not without disadvantages, because he is sometimes accused of be used improperly and therefore users are occasionally deprived of access.<sup>27</sup> There is no wonder, because the 'rule of law' regarded as the soul of democracy is in crisis.<sup>28</sup> The internet tends to become the relay of the "against democracy".<sup>29</sup>

## II. CIRCUMSTANCES, CAUSES AND PURPOSE TO CUT OFF ACCESS TO THE INTERNET IN THE DRC

Two cuts internet access significantly marked the life of the Congolese people. It is first that preceded by the temptation of changing the electoral law, and secondly that surrounding the eve of December 19, 2016, the end of the mandate of President Joseph Kabila.

Access to internet and telephone messaging, sms, were cut on January 20 in the early morning: writing the journal CongoForum.<sup>30</sup> He continues: "overnight, the vote of the electoral law by both houses of Parliament, the spokesman for the Congolese Government, Lambert Mende, [immediately] assured that the internet would be reinstated gradually."<sup>31</sup> The break took place on January 20 and such progressive recovery announced by the Government spokesman announced on 5 February

in a press briefing. Therefore, the break lasted 15 days.

The problem of the change of the election law was the conditioning of the presidential election by a census of the population. Which according to popular opinion, would delay the date of the elections and so would extend the mandate of the president of the Democratic Republic of Congo. Be remembered for heated debates on articles 8 and 13 of the famous Bill.<sup>32</sup> Indeed, the Government had tabled a draft law on the amendment of the electoral law of June 25, 2011, having that voters "must be refreshed" taking into account the evolution the identification of the population and demographic data. And the opposition fiercely objected to this Bill and promised demonstrations.

The last week of the end of the presidential term, a letter from the regulatory authority of the post and telecommunications of Congo instructing internet cut toured of social networks. Far from an Assembly, after a few days, the Congolese authorities, noted radio Okapi, ordered: "a temporary blocking of all exchanges of images, videos and voice via social networks."<sup>33</sup> The same letter states that «insofar as the partial blocking of raised services would not be possible», will be asked to providers "to block all access" to these social networks.<sup>34</sup> The break took place on 18 December 2016 at 23:59. The measure was lifted at midnight on December 28. So it lasted 10 days.

The problem of the presidential mandate was based on article 70 paragraph 2 of the Constitution of January 20, 2011, which content is: "at the end of his term, the president of the Republic remains in office until the effective installation of the newly elected president." After the inter-

<sup>27</sup> Voy. Supra. Introduction, paragraphe 2.

<sup>28</sup> Cf. Japhet Tekila, *Art. Cit.*, pp. 330–340.

<sup>29</sup> Cf. Pierre Rosanvallon. *La contre-démocratie: la politique à l'âge de la défiance*, Paris, Seuil, 2006, pp. 16, 73–75. Cité par Japhet Tekila, *Art. cit.*, pp. 330–340.

<sup>30</sup> Cf. CongoForum. «RDC: Lambert Mende annonce le rétablissement d'internet dans les heures qui viennent». *CongoForum*, [www.congoforum.be/fr/nieuwsdetail.asp?suitem=1&newsid=200690&Actualiteit=selected](http://www.congoforum.be/fr/nieuwsdetail.asp?suitem=1&newsid=200690&Actualiteit=selected).

<sup>31</sup> Cf. CongoForum. «RDC: Lambert Mende annonce le rétablissement d'internet dans les heures qui viennent», In *CongoForum*, [www.congoforum.be/fr/nieuwsdetail.asp?suitem=1&newsid=200690&Actualiteit=selected](http://www.congoforum.be/fr/nieuwsdetail.asp?suitem=1&newsid=200690&Actualiteit=selected).

<sup>32</sup> Cf. Angelo Mobateli. «Modification de la loi électorale: la lecture du projet de la loi électorale par Évariste Boshab sous les sifflets des députés de l'opposition». *Le potentiel*, [www.lepotentielonline/i,dex.php?option=conten&view=article&id=11755:modification-de-la-loi-electorale-la-lecture-du-projet-de-loi-evariste-boshab-sous-les-sifflets-des-deputes-de-l-opposition&catid=90:online-depeches](http://www.lepotentielonline/i,dex.php?option=conten&view=article&id=11755:modification-de-la-loi-electorale-la-lecture-du-projet-de-loi-evariste-boshab-sous-les-sifflets-des-deputes-de-l-opposition&catid=90:online-depeches).

<sup>33</sup> Radio Okapi. «RDC: les autorités décident une restriction des réseaux sociaux». *Radio OKAPI*. [www.radiookapi.net/2016/12/16/actualite/societe/rdc/-les-autorites-decident-une-restriction-des-reseaux-sociaux](http://www.radiookapi.net/2016/12/16/actualite/societe/rdc/-les-autorites-decident-une-restriction-des-reseaux-sociaux).

<sup>34</sup> *Idem*.

pretation of the constitutional Court<sup>35</sup>, which said the continuation of the exercise of the function of the president after December 19, 2016 to ensure respect for the principle of the continuity of the State devoted by the same Constitution and to avoid the vacuum at the head of the State<sup>36</sup>, the opposition did not comply with this decision, arguing, not only that it was a wrong interpretation<sup>37</sup>, but also the fact that the convening of the electoral body is a deliberate, and considering that after December 19, 2016, the regime would be more constitutional, she promised to apply after that date, article 64 of the constitution<sup>38</sup> which stipulates: “every Congolese citizen has the duty to defeat any individual or group of individuals which takes power by force or who exercises it in violation of the provisions of this Constitution.” In other words, the promise of the use of force: the use of violence.

What caused exactly these two cuts? What is the purpose of these cuts according to the authorities?

No one can ignore that the internet is a powerful way to flow of information. Some do not hesitate to call it highway information.<sup>39</sup> As such, it is the most effective way to not only express his thoughts, but also to learn and that with inestimable speed, to a virtually unlimited field, so teach it seems to be not manageable.

Indeed, users exchange on everything. In January 2015 as in December 2016 in DRC peo-

<sup>35</sup> Jeuneafrique. «RD Congo: la Cour constitutionnelle estime que Kabila peut rester en fonction après la fin de son mandat» In *Jeuneafrique*. [www.jeuneafrique.com/324889/politique/rd-congo-cour-constitutionnelle-estime-kabila-restr-fonction-apres-fin-de-mandat](http://www.jeuneafrique.com/324889/politique/rd-congo-cour-constitutionnelle-estime-kabila-restr-fonction-apres-fin-de-mandat).

<sup>36</sup> Article 69 alinéa 3 de la Constitution de la République démocratique du Congo telle que révisée par la loi N° 11/002 du 20 janvier 2011 portant révision de la Constitution de la République démocratique du Congo du 18 Février 2006, *J.O.R.D.C.*, N° spécial, 52<sup>ème</sup> Année, du 5 Février 2011.

<sup>37</sup> Rédacteur Radio Okapi. «L'arrêt de la Cour constitutionnel a touché des matières verrouillées, selon Valentin Mubake». *Radio OKAPI*, [www.radiookapi.net/2016/05/25/actualite/politique/l-arret-de-la-cour-constitutionnelle-touche-des-matieres-verrouilles](http://www.radiookapi.net/2016/05/25/actualite/politique/l-arret-de-la-cour-constitutionnelle-touche-des-matieres-verrouilles).

<sup>38</sup> Kongotimes. «RDC: Article 64 de la constitution sera d'appliqué». *Kongotimes*. [fr.kongotimes.infos/2016/11/01/rdc-article-64-de-la-constitution-sera-applique](http://fr.kongotimes.infos/2016/11/01/rdc-article-64-de-la-constitution-sera-applique).

<sup>39</sup> Cf. Michel Wautelet. *Les cyberconflits: internet, autoroute de l'information et cyberspace, Quelle menaces?* ebook. [la-croix.com/ebook/les-cyberconflit-internet-autoroute-de-l-information-et-cyberspace-quelle-menaces-9782402030120\\_9782402030120\\_html](http://la-croix.com/ebook/les-cyberconflit-internet-autoroute-de-l-information-et-cyberspace-quelle-menaces-9782402030120_9782402030120_html).

ple, opponents and those of the majority have lived an experience out of the ordinary. Political seduction joined the highway information. Opponents have significantly used the internet to lobby the Government in denouncing them, manifest human rights such as criminal repression of the demonstrators and violations, with writings, images, or even amateur videos to support describing unimaginable scenes such as gunshots point-blank police on protesters civilians unarmed. For its part, the Government has also used the same method of communication to replicate, by demonstrating, by the political actors of his movement, it is the opposition which incites to violence. In short, the political struggle was enhanced by 6<sup>th</sup> continent, which is cyberspace.

Information circulating on the internet about the country's policy amplified political tensions. The people was spoiled information which did not prevent the installation of General psychosis, but at the same time contributed to the level of understanding of certain political situations, which have consequently sharpened the level of vigilance. This trend has increased the level of violence in clashes and therefore crime, among other killings, destruction, nasty, name-calling, abduction, etc. It is for this purpose that the Congolese authorities have seen fit to cut off access to internet (in 2015 and 2016) with a view to maintain public order. Therefore, the search for peace disturbed by the flow of certain information and/or opinions. Raymond Tshibanda, Minister and member of the presidential majority, said that “there has been a malicious use of the internet.”<sup>40</sup> I must say that this decision seeks peace by depriving the exercise of public freedom and fundamental rights.

### III. DEPRIVATION OF ACCESS TO THE INTERNET IN THE FACE OF THE RESPECT OF FREEDOM OF EXPRESSION AND THE RIGHT TO INFORMATION

Is the decision on deprivation of access to the internet compatible with the individual character of freedom of expression and the right

<sup>40</sup> France24. «En Rdc, il y a eu une utilisation malicieuse des réseaux sociaux» *YouTube*, <https://m.youtube.com/watch?v=KHjjquDJUy>.

to information? What about those who did not respect this decision?

Freedom of expression is an individual freedom, remember, it does not need to be exercised collectively. It can be exercised alone. As a result, a violation of the law resulting from the non-respect of the conditions of exercise of this freedom also entails an individual sanction. After all, any violation of an individual's liberty constitutes an offense. The sanction of the offense is individual. Unfortunately, the sanction of deprivation of access to the Internet was not 'individual' but rather 'collective'. It affected even those who not only did not abuse this freedom, but also those who did not even exercise it on the internet, that is, those who did not, for example, of politics during this period.

It must be said, the internet can be used without using social networks. This is the case of a person who uses Gmail without having to resort to Facebook or whoever's doing online courses without using Whatsapp.

On the subject of the right to information, it is necessary to hammer first of all on the fact that on the Internet, it is not only the political information of the Democratic Republic of the Congo relating to the elections and the mandate of the President of the Republic, which, according to the government, incite to uprisings. In addition, the internet is not at all just political information (DR Congo). It goes well beyond! Except for restrictions related to the profession or function, the right to information is guaranteed for all without discrimination. To know the evolution of the political situation of a State has nothing to do with the limits of the possession of information, qualified of professional secret or State, even to disturb the public order, to undermine good morals or the rights of others. In addition, the sanction of the deprivation of the issue of information should concern the media player who does not respect these limits. These actors are subject to the obligation to process information as part of their professional ethics. This assumes that there is a whole structure that oversees and controls everything they do, and therefore has the means to avoid deviations. Unfortunately, this decision affected even innocent people.

It sanctioned on the basis of intent, not of the act.

The strength of the law lies in the sanction and strength of the authority that has enacted it to compel it. The decision of the deprivation of access to the internet by the authorities was not respected by all Internet users.

Indeed, as soon as the communication regulator's letter instructing internet service providers to cut off the internet service has been circulated, several Internet users, after having read the said letter, took the care of download anti-internet access protection software such as VPN, super FIRE, etc. As a result, they did not suffer any deprivation. The software was increasingly shared by Bluetooth because of its success. It is curiously noted that even the journalists who received these authorities for questions not only violated this decision by resorting to such software, but also did not address the question of what punishment reserved for users who did not respect this decision –What's more normal since they have also used this software...

Therefore, it is useful to reflect on the very meaning of the binding nature of the violation of this decision since the State was unable to punish those who violated this measure. The deprivation decision seems not to be effective since it was limited to ignorant or amateur Internet users, and more serious no sanction was attached to its violation. Men are not afraid of the law, but rather of the sanction to which it is attached. If a law does not have a sanction, if a measure which tends to the protection of the public order, morality and the right of others is not accompanied by a sanction in case of its violation, what is it for? What is his meaning?

If certain political authorities, like Raymond Tshibanda, spoke through television channels, about reasons that led to this decision, it is somewhat curious to note that the regulatory authority of the post and Congo's telecommunications was not the object of this in his letter instructing the temporary suspension of social networks. In addition, it may be curiously noted the absence of legal references attributing to the ARPTC the competence to take such as decision.

The content of the letter of the regulatory authority of the post and telecommunications

of Congo December 14, 2016 instructing the blocking of access to some social networks and eventually to all social networks suffers from lack of motivation. That authority gave no justification for the measure taken, let alone the end and the conditions for the lifting of that measure. Apart from the absence of the reasoning, this letter does not include any legal reference attributing such competence to the ARPTC to take such a decision.

## CONCLUSION

Democracy agrees in text and practice with the rule of law. The rule of law is the radical of any so-called democratic state. The violation of freedom of expression and the right to information is the most perfect expression of a state that is everything but no democratic.

On the one hand, many computer mechanisms of individual restrictions of access to specific sites in cases of misconduct, the individual nature of the rights and freedoms constitutionally guaranteed, supposed to be poorly exercised on the internet, according to the Congolese authorities, by the commission of several offenses, the punishment of which should be individual, as well as the individual and legal nature of the sanction, and the lack of motiva-

tion and legal reference of the decision which was the subject of the present reflection, we assert with the last energy that there is no valid justification for the blockage or partial or total removal of access to social networks, or the common deprivation of access to the internet, except that a deliberate and deliberate intention of certain political actors to want to flout the rule of law guaranteeing democratic alternation with the teacher its illegitimate, illegal and selfish interests, this can be understood by analyzing both the circumstances that preceded the cuts and the objects of claims. Beyond all, this decision has caused enormous financial damage to internet service providers and users.

To deprive a people of their freedom to express themselves is to incite them to do so by violence. To prevent him from inquiring to know the true truth is to force him to imagine beyond what is simmering. Democracy is not only theoretical but also practical. True democracy begins when you give the person who does not share the same idea as you, the opportunity to express themselves in compliance with legal limits without being pursued unfairly. It is at this level that a democracy acquires maturity. To punish an innocent unfairly is to turn him slowly to a criminal.

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