

Recommendations

for setting up and improving legal frameworks governing ICT/Telecoms in West Africa

The regional workshop on '*Legal and political frameworks for the Information Society in West Africa*', organised by the Panos Institute West Africa (PIWA), with the support of Open Society Initiative for West Africa (OSIWA) took place in Saly (Senegal), on 11-13 March 2009. The objective of the workshop was to promote multi-actor discussion and to raise awareness on key challenges to legal and political frameworks of the Information Society in West Africa.

The first two days were mainly devoted to information and discussion on ICT/Telecoms legal and regulatory frameworks put in place by the Economic Community of West African States (ECOWAS) and the West African Economic and Monetary Union (WAEMU) on ICT/Telecoms. At the end of these discussions, participants adopted the following recommendations.

Concerning the process of transposition of community texts on ICT/Telecoms, participants recommended governments and regional organisations (ECOWAS, WAEMU, etc.) to:

- Promote and make the content of community texts on ICT/Telecoms accessible, in particular by integrating them into training programmes;
- raise awareness among parliamentarians, supreme jurisdictions, the media, organisations from civil society interested in public governance and ICT, on the importance of community texts;
- establish a committee for the transposition of texts into national laws, involving ministers concerned, regulators, the private sector and organisations from civil society operating in the sector;
- ensure coherence of community legal norms between different norm-generating institutions (WAEMU, ECOWAS, OHADA etc.);
- strengthen the ECOWAS Commission and other regional bodies' institutional capacity according to need, by recruiting all appropriate expertise, in particular in the legal domain;
- strengthen national and community capacity and expertise on legisprudence, strategy and policy development;
- pool legal expertise in the sub-region and encourage good practice in member countries in the transposition process;
- accelerate the transposition process, in order to bring about complete harmonization of all community texts as early as possible in terms of ICT/Telecoms;

Concerning the content of norms, the participants recommended:

- extending harmonization of texts to cover important questions not yet examined or in much detail, such as regulating the convergence of telecommunications and the media, harmonizing management models of domain names, intellectual property rights, freedom of expression and of the media, cyber-security etc., by creating new regional norms where necessary.

In addition, with the objective of promoting a culture of democracy and widespread citizen participation in the Information Society, workshop participants also recommended that governments and ECOWAS should:

- maintain a balance between legislation on intellectual property rights and principles related to freedom of expression and access to information;
- ensure transposition into national law and implementation of international and regional norms on freedom of expression and of the press;
- monitor the establishment and functioning of independent and competent media and telecommunications regulatory bodies;
- incorporate freedom of expression, freedom of the press and access to information among ECOWAS priorities in harmonizing Information Society legislation, which should be accessible on-line;
- stimulate a multi-actor process in encouraging governments to review laws opposing freedom of expression of the press, in particular laws on offences by the press;
- promote an economic environment encouraging the development of the media in an era of digital technology and convergence.

Moreover, participants recommended civil society organisations including the media and research institutions to:

- take more interest in questions linked to information and communication technologies and their regulation, in order to participate more actively in decision-making in this area at a national and community level;

Lastly, participants recommended:

- strengthening involvement of all actors, including marginalized groups, taking into account issues linked to gender and illiteracy, when implementing policies and legislation governing ICT in West Africa.

Saly, 12 March 2009

List of institutions:

Agence de Régulation des Postes et Télécommunications (ARTP) du Sénégal ; Article 19 Afrique ; Assemblée des Régulateurs de Télécommunications de l'Afrique de l'Ouest (ARTAO) ; Communications Commission of Kenya ; Center for Media Studies and Peace Building (CEMESP, Liberia) ; Centre National de Presse Norbert Zongo (Burkina Faso) ; Centre d'Etudes sur les Sciences et Techniques de l'Information (CESTI) ; CITS/University of Lagos (Nigeria) ; CODESRIA ; Collège Universitaire de Bambey (Sénégal) ; Communauté Economique des Etats de l'Afrique de l'Ouest (CEDEAO) ; Congoblog.net (RDC) ; Connexion Sans Frontières (Sénégal) ; Datatech (Mali) ; DiploFoundation ; Electronic Frontier Foundation (USA) ; Forum de la Régulation (Sénégal) ; Global Voices Online (USA- Afrique Sub-Saharienne) ; GoreeTIC/APC ; Haut Commissariat sur les TIC du Niger ; Institut Euro-Africain de Droit Economique (INEADEC, Sénégal) ; Information Technology (Industry) Association of Nigeria (ITAN) ; Institut Panos Afrique de l'Ouest (IPAO) ; ISOC - Sénégal ; Kictanet (Kenya) ; Kontemporary Komputers (Nigeria) ; La Nation (Bénin) ; leblogdeyoro (Côte d'Ivoire) ; Ministère en charge des TIC du Bénin ; Ministère en charge des TIC du Mali ; Ministère en charge des TIC du Sénégal ; Ministry of Information and Communication (Sierra Leone) ; National Information Technology Development Agency (NITDA, Nigeria) ; Open Society Initiative for West Africa (OSIWA) ; Penplusbytes (Ghana) ; PressAfrik.com (Sénégal) ; Radio1 FM (Gambie) ; Réseau des Journalistes pour les Droits de l'Homme (Niger) ; the Independant (Uganda) ; Université Cheikh Anta Diop (UCAD) (Sénégal) ; Université Gaston Berger (Sénégal) ; Université de Maryland (USA), Université du Ghana, Legon (Ghana) ; Wal Fadri (Sénégal).