

## Introduction

1. Gabon is a central African country, located on the Atlantic Ocean, it borders Cameroon, Equatorial Guinea, and the Republic of Congo. It has a population of 2 million people (2017) and forests covering 85% of its territory. Internet penetration stood at 61% in Gabon as of January 2022 according to data portal.<sup>1</sup> The GSMA Intelligence's numbers indicate that mobile connections in Gabon were equivalent to 135.4 percent of the total population in January 2022, noting that contextually, many people around the world make use of more than one mobile connection.
2. In January 2019, Gabon's government shut down the internet and broadcasting services following an attempted coup against President Ali Bongo.<sup>2</sup> During the failed coup, the military took over broadcasting services, calling on the public to rise against the president who was at the time reported to be out of the country. The government was able to take back control of the state broadcaster and announced they had gained back control of the situation.

## Updates Since the Previous Review Cycle

3. Gabon has gone through the Universal Periodic Review (UPR) three times (2008, 2012, and 2017). It received valuable recommendations to help strengthen its human rights situation. In the third cycle (2017), the most recent review at the UPR, Gabon received a total of 166 recommendations and supported 143.<sup>3</sup> In the 2nd cycle (2012) Gabon received 115 recommendations and accepted 105 of them. In the first cycle Gabon (2008) received a total of 30 recommendations
4. In the third cycle (2017) Gabon received 19 recommendations on freedom of expression, where 15 of them were supported. In the second cycle (2012), Gabon received 10 recommendations on freedom of expression, where all 10 were supported. In the first cycle (2008), five recommendations were made on freedom of expression, where three were supported.

## Freedom of expression and Opinion

5. Article 1 (2) of the Constitution of Gabon guarantees the liberty of consciousness, thought, opinion, expression, communication, and the free practice of religion, limited only by a respect for the public order.<sup>4</sup> Although Gabon has an independent media, there remain issues around legislative restrictions and the execution of repressive sanctions that hamper freedom of expression in practice. Most of these restrictions, and in some cases, repression, are described as being politically motivated as they particularly apply to government critics.

<sup>1</sup><https://www.worldbank.org/en/news/feature/2018/06/25/gabon-leading-ict-connected-country-in-central-and-western-africa-thanks-to-judicious-investments>

<sup>2</sup>[https://www.nytimes.com/2019/01/07/world/africa/gabon-coup-ali-bongo-ondimba.html?emc=edit\\_nn\\_p\\_20190107&nl=morning-briefing&nid=78746017section%3DwhatElse&section=whatElse&te=1](https://www.nytimes.com/2019/01/07/world/africa/gabon-coup-ali-bongo-ondimba.html?emc=edit_nn_p_20190107&nl=morning-briefing&nid=78746017section%3DwhatElse&section=whatElse&te=1)

<sup>3</sup> See [https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session28/GA/GABON\\_Infographic\\_28th.pdf](https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session28/GA/GABON_Infographic_28th.pdf)

<sup>4</sup>Constitution of Gabon, as amended in 2011. See, [https://www.constituteproject.org/constitution/Gabon\\_2011.pdf?lang=en](https://www.constituteproject.org/constitution/Gabon_2011.pdf?lang=en)

6. In January 2017, the Communication Code<sup>5</sup> became operational in the country and remains famous for its vague and broad provisions. One of the criticisms of the Code centres around provisions prohibiting Gabonese nationals from working for media outlets outside Gabon.<sup>6</sup> There are also provisions that ban the use of aliases as well as provisions that impose an obligation for the media to ‘contribute to the country’s image and national cohesion.’ Civil society stakeholders provided recommendations to the government on the Code before its operationalization. However, the recommendations were not adopted..
7. In January 2019, following a coup attempt<sup>7</sup> by the military of Gabon, there was an internet disruption<sup>8</sup> in the country’s capital, Libreville, and in Port-Gentil. The internet shutdown lasted for about [28 hours](#) and it remains unclear who instituted the disruption. To date, the government nor service providers have pronounced themselves on the details of the shutdown and what motivated it.
8. In February 2018, the government created by decree *la* Haute Autorité de la Communication (High Authority for Communication, HAC)<sup>9</sup> which has been dubbed ‘AXE’ by critics because of its perceived role as executor for tough and repressive sanctions on media outlets. The regulatory body, though said to be created to guarantee press freedom, has repeatedly gagged free expression in Gabon by its repeated and disproportionate sanctioning of media houses and journalists who criticise the government.<sup>10</sup> The European Union has described HAC’s sanctions such as the recurrent suspensions of print and audiovisual media as “disproportionate and harmful” and stakeholders have repeatedly called for the reform of the institution.  
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9. Gabon agreed<sup>12</sup> to undertake best practices in media regulations but has, at the time of this report, not taken any actions for the reform or overhaul of the regulatory body. The HAC is perceived<sup>13</sup> to lack independence and its establishing law is being misinterpreted to “allow its president to sanction a media outlet without first calling a meeting of all nine HAC members.”
10. Independent journalists are prevented from attending official events and thereby unable to easily access verifiable information. According to the World Press Freedom Index by Reporters Without Borders (RSF), Gabon was ranked 108th out of 180 countries globally in 2017 and 2018.<sup>14</sup> In 2019, the position plummeted to 115 and in subsequent years, the country has been ranked 121st (2020), 117th (2021) and 105th (2022).

<sup>5</sup> See, [https://rsf.org/sites/default/files/code\\_communication\\_gabon\\_aout\\_2016.pdf](https://rsf.org/sites/default/files/code_communication_gabon_aout_2016.pdf)

<sup>6</sup> See, <https://www.amnesty.org/en/location/africa/west-and-central-africa/gabon/report-gabon/>

<sup>7</sup> See, [https://www.youtube.com/watch?v=1ampEBQ-Yg&ab\\_channel=ZIANATV](https://www.youtube.com/watch?v=1ampEBQ-Yg&ab_channel=ZIANATV)

<sup>8</sup> Netblocks, see <https://netblocks.org/reports/evidence-of-gabon-full-internet-shutdown-coup-attempt-dQ8oo18n>

<sup>9</sup> <https://directinfosgabon.com/wp-content/uploads/2018/02/Communiqu%C3%A9-final-du-23-F%C3%A9vrier-2018-.pdf>

<sup>10</sup> <https://rsf.org/en/rsfs-calls-overhaul-gabonese-medias-executioner>

<sup>12</sup> Régulation des médias : Le dialogue Gabon-UE met la Hac à l’index, see <https://www.gabonreview.com/regulation-des-medias-le-dialogue-gabon-ue-met-la-hac-a-l-index>

<sup>13</sup> <https://rsf.org/en/country/gabon>

<sup>14</sup> <https://rsf.org/en/country/gabon>

11. On 15th June 2017, Gabon authorities arrested<sup>15</sup> Marcel Libama, the strategic adviser for trade unions *Dynamique Unitaire* and *Conasysed* on grounds of defamation. The alleged defamatory statement was his comment condemning the arbitrary nature of the trial being conducted against his colleague, Cyprien Mougouli. The journalist who conducted the interview, Juldes Biviga, was also arrested and charged with defamation. The duo were sentenced to 184 days imprisonment (139 of which were suspended) and fined 300,000 Central African Francs (CFA).
12. In July 2019, Freddy Koula, a sports consultant and journalist was banned<sup>16</sup> from journalism for 6 months by the Gabonese government for reporting the testimonies<sup>17</sup> of the women's football team of Gabon. The testimonies decried the team's living conditions as well as alleged incidents of rape and sexual assault. Although Freddy lives in France, he was banned by the HAC from collaborating with other local journalists and the decision of his ban was made without recourse to an investigation by the Minister of Sports.
13. In December 2019, Gabonese Journalist, Bertin Ngoua Edou was arrested<sup>18</sup> for a publication alleging the misuse of public funds by the former Gabonese Chief of Staff Brice Laccruche Alihanga. He was charged for defamation and spreading false news under the Communication Code.
14. In April 2020, the HAC suspended the news site Gabon Media Time for three months after its representatives ignored a summons to attend an HAC meeting on a libel complaint; the HAC had suspended the site for a month in July 2019 after it criticised Gabon's hospitals' financial management.<sup>19</sup>

### Freedom of Information and Censorship of content

15. Under Article 15, of the [Communication Code](#), members of the government and public sector are banned from owning media outlets. The majority of media outlets in the country are pro-government, and although there are some private media operators, they are largely controlled by the opposition<sup>20</sup> and their operations are closely monitored by the government.

<sup>15</sup> <https://monitor.civicus.org/updates/2017/07/25/gabon-journalist-trade-unionist-charged-defamation/>

<sup>16</sup> <https://rsf.org/fr/gabon-la-hac-recursive-et-suspend-lun-des-premiers-sites-dinformation-du-pays>

<sup>17</sup> <https://www.rfi.fr/fr/afrique/20190525-gabon-joueuses-football-equipe-feminine-pantheres-harcelement-viol-presumes>

<sup>18</sup> [https://www.welt.de/print/die\\_welt/article204874382/Free-them-all-Bertin-Ngoua-Edou.html?wtrid=amp.article.free.comments.button.more](https://www.welt.de/print/die_welt/article204874382/Free-them-all-Bertin-Ngoua-Edou.html?wtrid=amp.article.free.comments.button.more)

<sup>19</sup> <https://freedomhouse.org/country/gabon/freedom-world/2021>

<sup>20</sup> US State Department Report, 2019, see; <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/gabon/>

16. These content outlets are mandated by the Code to contribute to how the country is perceived (i.e. the country's image) and national cohesion. The challenge with such a broad mandate is that the state has wide discretionary powers to interpret, decide and control whether or not information reported contributes to the good image of the country. This poses dangers of arbitrary bans and sanctions to information. A provision like this reduces the effect of the media as watchdogs and neutral channels through which information is dispersed within and outside the country.
17. Print journalists and media houses resort to self-censorship to avoid arrests, detentions and other punitive measures typically taken against government dissidents. The Committee to Protect Journalists has documented widespread censorship, and self-censorship especially regarding sensitive topics, such as the former president's health or the wealth of his family.<sup>21</sup> Nonetheless, there are frequent arrests and sanctions disproportionately met against dissidents or government critics.<sup>22</sup>
18. In April 2020, the HAC suspended the news site Gabon Media Time for three months after its representatives ignored a summons to attend an HAC meeting on a libel complaint; the HAC had suspended the site for a month in July 2019 after it criticised Gabon's hospitals' financial management."<sup>23</sup>
19. The free and plural flow of information within the country remains controlled by the Communication Code and the HAC as enunciated earlier. The Code covers all forms of broadcast including print media, digital media and even cinematographical productions and contains problematic provisions such as the compulsion for journalists to register their pseudonyms (which defeats the purpose of anonymity).
20. From the actions of the HAC and other government authorities (examples cited below and above), some provisions of the Code are not being adhered to by the government itself. For instance, the Code provides that censorship is forbidden except in cases envisaged by the law. Although this provision has been criticised<sup>24</sup> as being broad. An example would be the instance of the Freddy Koula case where the HAC took censorship action even before due process could be followed.
21. Penalties are broadly prescribed in the Code (Articles 192, 194, 195) and are left to 'cabinet decree' to determine what weight each offence would carry. In practice, this contributes to the arbitrariness of the government's approach to censorship and media sanctions.

<sup>21</sup> <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-africa-2009-gabon.pdf>

<sup>22</sup> *ibid.*

<sup>23</sup> <https://freedomhouse.org/country/gabon/freedom-world/2021>

<sup>24</sup> <https://www.refworld.org/docid/584e7ac04.html>

22. Article 87 requires journalists to "safeguard public order and promote national unity," thereby limiting their freedom to criticise and undermining their duty to play a watchdog role. This is compounded by a restriction on access to the journalistic profession. The code vaguely requires journalists to have a qualification "approved by the state" (without providing further detail) or to have worked for five years in a media outlet "recognized by the state" (again without further detail).
23. Between November 2018 and April 2019, the newspaper *L'Aube* was sanctioned<sup>25</sup> by the HAC at least twice for interviews and publications that were within the acceptable parameters of free expression. For instance, in April 2019, the newspaper was suspended for interviewing the founder of another suspended newspaper, *Échos du Nord* because the interview contained 'pejorative and sarcastic expressions'. In November 2018, it was suspended for three months for reporting on the state of the President's health.
24. In August 2019, the HAC suspended the activities<sup>26</sup> of *Gabon Media Times*, one of the country's most popular news sites, for the publication of an article that sought to address the Gabonese health care system.<sup>27</sup> The HAC described the article as "malicious, suspicious and tendentious insinuations" which contravene "the ethics and professional conduct" of journalism. The suspension lasted for a month.<sup>28</sup>
25. In 2020, the Gabonese government seized an issue<sup>29</sup> of the weekly newspaper, *Moutoki*, over an article that allegedly criticised the President's son for the complaints accusing him of money-laundering and the misuse of public funds. The HAC, which carried out the seizure, is reported not to have provided the paper a fair hearing and an opportunity to the editor of the newspaper to defend themselves. The action was described as "a systematic sanction of the media" as well as "politically motivated".

### Equality and Barriers to Access

26. According to the World Bank, 61% of Gabon's population has access to the internet which puts the country as one of the leading countries<sup>30</sup> in the Central and Western Africa region. This progress has been attributed to the Gabonese government's roll-out of high speed fibre optics through the Central African Backbone Project which was launched in 2012 and financed by the

<sup>25</sup> <https://monitor.civicus.org/updates/2018/11/16/media-regulator-suspends-several-media-outlets/>

<sup>26</sup> <https://www.gabonmediatime.com/suspension-provisoire-de-gabon-media-time-pour-un-mois/>

<sup>27</sup> <https://www.gabonmediatime.com/gabon-une-fillette-de-2-ans-renvoyee-a-la-maison-faute-de-lit-a-linstitut-de-cancerologie/>

<sup>28</sup> <https://rsf.org/fr/gabon-la-hac-recursive-et-suspend-lun-des-premiers-sites-dinformation-du-pays>

<sup>29</sup> <https://rsf.org/en/weekly-seized-gabons-newsstands>

<sup>30</sup> World Bank Report, 2018, Report <https://www.worldbank.org/en/news/feature/2018/06/25/gabon-leading-ict-connected-country-in-central-and-western-africa-thanks-to-judicious-investments>

World Bank.<sup>31</sup>

27. In 2018, the cost of the internet in Gabon decreased to 4.82USD/GB, and is seen as a progressive step towards affordable internet. Since 2010, the cost of Internet access has fallen<sup>32</sup> significantly, decreasing from \$18 per month to \$2.8 per month. There has also been a sevenfold increase in the number of people using the Internet in Gabon.

### Right to Data Protection and Privacy on the Internet

28. In 2011, Gabon enacted a Data Protection Law<sup>33</sup> to uphold data protection and privacy as part of the collection, processing, use, disposal, transmission and storage of personal data. The Data Protection law stipulates the rights of access, rectification, objection to data processing and erasure to data subjects. There is no breach notification protocol stipulated in the law and Gabonese case law on data protection is hard to find and not made public.<sup>34</sup>
29. In January 2019, the National Commission for the Protection of Personal Data (CNPDCP) which is in charge of regulating data protection in Gabon imposed fines<sup>35</sup> ranging from CFA 1 million, to CFA 100 million for violations of the Data Protection Law, CFA 100 million to CFA 300 million for repeated violations, as well as issuing warnings and a three-month ban on activities.
30. In October 2018, Gabon enacted the Electronics Communications Law<sup>36</sup> which, in part, addresses data protection.
31. In October 2018, Gabon joined the Consultative Committee of the Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data ('Convention 108') as an observer. It is one of the only 4 African observer countries for this Committee.<sup>37</sup>
32. According to a 2021 human rights report<sup>38</sup> on Gabon by the United States' Department of State, there were no credible reports the government monitored private online communications without appropriate legal authority.

We recommend that Gabon:

1. Amend the Communication Code in line with best practices for international human rights and in collaboration with stakeholders such as the press & media, local and international civil society and

<sup>31</sup> <https://www.worldbank.org/en/news/feature/2018/06/25/gabon-leading-ict-connected-country-in-central-and-western-africa-thanks-to-judicious-investments>

<sup>32</sup> <https://www.borgenmagazine.com/expanding-internet-access/>

<sup>33</sup> <https://www.afapdp.org/wp-content/uploads/2012/01/Gabon-Loi-relative-%c3%a0-la-protection-des-donn%c3%a9es-personnelles-du-4-mai-20112.pdf>

<sup>34</sup> <https://www.dataguidance.com/notes/gabon-data-protection-overview#:~:text=The%20Data%20Protection%20Law%20was,the%20processing%20of%20personal%20data>

<sup>35</sup> <https://www.cnpdcp.ga/la-commission-nationale-pour-la-protection-des-donnees-a-caractere-personnel-souvre-aux-populations/>

<sup>36</sup> [https://64695626-4c16-4c32-a051-0af78a00c561.filesusr.com/ugd/33bbf3\\_ab466589950b4256891187fced1ef509.pdf](https://64695626-4c16-4c32-a051-0af78a00c561.filesusr.com/ugd/33bbf3_ab466589950b4256891187fced1ef509.pdf)

<sup>37</sup> <https://www.coe.int/en/web/data-protection/-/brazil-and-the-data-protection-commission-of-gabon-to-join-the-committee-of-convention-108-as-observers->

<sup>38</sup> <https://www.state.gov/wp-content/uploads/2022/03/061622-GABON-2021-HUMAN-RIGHTS-REPORT.pdf>

academia irrespective of their political affiliations.

2. Implement a comprehensive and rigorous reform of the High Authority for Communication (HAC). Such reform should include a review of the established law of the authority to cure all loopholes that allow for repression and the use of state resources for personal/civil issues. Additionally, HAC officers must also be trained in international human rights.
3. Grant and prioritise access to independent journalists to work freely and safely at governmental events.