

## II-2.4: The Congolese Act of November 25, 2010, creates the “Agence de Régulation des Postes et des Communications Electroniques” (Congolese Postal and Telecommunications Regulatory Agency)

Friday 28 May 2010, by Marie Cullin, academic assistant

Full Text of the Act implementing the ARPCE (Loi n° 11-2009 du 25 novembre 2009 portant création de l'agence de régulation des postes et des communications électroniques)

### MAIN INFORMATION

In Congo (Brazzaville), following the dissolution of the *Direction Générale de l'Administration Centrale des Postes et Télécommunications* (DGACPT — General Direction of the Central Administration of Posts and Telecommunications), two bodies have been implemented: the “*Direction Générale des Postes et Télécommunications*” (General Direction of Posts and Telecommunications), and the “*Agence de Régulation des Postes et des Communications Electroniques*” (ARPCE - Congolese Postal and Telecommunications Regulatory Agency).

### CONTEXT AND SUMMARY

The Congolese Act of November 25, 2009 creates a new telecommunications and postal regulatory authority in Congo (Brazzaville), called *L'Agence de régulation des postes et des communications électroniques* (ARPCE — The Congolese Postal and Telecommunications Regulatory Agency). The ARPCE is a Public Administrative Authority that benefits from legal personality, and budgetary authority, because it is financed by a tax on companies operating in the regulated sectors. Nonetheless, it is subject to oversight by the Ministry in charge of Postal Services and Telecommunications. In support of its general mission of postal and telecommunications regulation, the ARPCE benefits from the powers classically devolved to regulatory agencies: a power to emit instructions and administrative rules and regulations, the power to impose sanctions, the power to control postal and telecommunications networks, according to the law as it stands. It also has the capacity to settle disputes, which is named “*pouvoir de rendre des arbitrages*” (power to perform arbitration), in litigation between regulated companies; however (note that this is a novelty) the ARPCE also has the power to settle disputes between regulated companies and their customers. Article 83 of the ARPCE's statutes, approved by Congolese Decree n° 2009-477, provide that “*acts, decisions, injunctions, and sanctions taken by the regulatory agency are published in the agency's journal, and on its Internet site. They are subject to appeal before a court of law.*” [1]

The ARPCE is very classically organized. The executive power is granted to a General Director nominated by Cabinet Decree, after proposition by the Minister in charge of the Postal Service and Telecommunications, for a non-renewable 6-year term. The “*Conseil de Régulation*” (Regulatory Council) is the deliberative body, composed by five members, nominated for non-renewable 6-year terms in the following manner: The President of the Council is nominated by the President of the Republic, and the four other members are nominated by Cabinet Decree: two of them are proposed by the Minister in charge of the Postal Service and Telecommunications, one by the Minister in charge of the Economy, and the other by the Chamber of Commerce. The functions of General Director and Member of the Regulatory Council are, of course, subject to conditions of probity, morality, and professional ability, and are incompatible with deprivation of certain civil, family, or professional rights, and with conflicts of interest, meaning when one of the members has an interest in a regulated corporation. The members are not paid. However, the members of the Regulatory Council are reimbursed for their fees and their time, when they are in session. The deliberations of the Regulatory Council are immediately executable, except when they take decisions subject to prior approval by the Cabinet.

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[1] « *Les actes, décisions, injonctions ou sanctions de l'agence de régulation sont publiées dans le journal de l'agence et sur son site Internet. Ils sont susceptibles de recours juridictionnels.* ».

## LINKS TO OTHER POSTAL AND TELECOMMUNICATIONS REGULATORS' WEBSITES:

*Autorité de Régulation des Postes et des Télécommunications (France)* [www.arcep.fr](http://www.arcep.fr)  
*Direction Générale de l'Administration Centrale des Postes et des Télécommunications (Congo — Brazzaville)*  
[www.dgacpt.com](http://www.dgacpt.com)  
*Ofcom (United Kingdom)* [www.ofcom.org.uk](http://www.ofcom.org.uk)  
*Postal Regulatory Commission (USA)* [www.prc.gov](http://www.prc.gov)  
*Autorité de régulation de la Poste et des télécommunications (Algeria)* [http://www.arpt.dz/8Secteur\\_postal.htm](http://www.arpt.dz/8Secteur_postal.htm)  
<http://www.cnc.gov.ar/>  
*Bundesministerium für Verkehr, Innovation und Technologie (Austria)*  
<http://www.bmvit.gv.at/telekommunikation/index.html>  
*Ministry of Communications and Information of the Republic of Belarus*  
<http://www.mpt.gov.by/new/en/modules/ptsvz/>  
*Belgian Institute for Postal Services and Telecommunications:*  
[http://www.bipt.be/en/134/DocListPub/National\\_framework/National\\_regulatory\\_framework.aspx?themeID=30](http://www.bipt.be/en/134/DocListPub/National_framework/National_regulatory_framework.aspx?themeID=30)  
*Ministério das Comunicações (Brazil)* <http://www.mc.gov.br/servicos-postais>  
*Communications Regulation Commission (Bulgaria)* <http://www.crc.bg/index.php?{=en>  
*State Post Bureau (China):* <http://www.chinapost.gov.cn/folder12/2008/10/2008-10-3117985.html>  
*Autoridad reguladora de los servicios públicos (Costa Rica)* <http://www.aresep.go.cr/cgi-bin/index.fwx>  
*Ministry of Communications and Works, Postal Service Department (Cyprus):*  
[http://www.mcw.gov.cy/mcw/dps/dps.nsf/index\\_en/index\\_en?opendocument](http://www.mcw.gov.cy/mcw/dps/dps.nsf/index_en/index_en?opendocument)  
*Ministry of Transport (Denmark)* <http://www.trm.dk/EN/The+ministry.aspx>  
*Agencia Nacional Postal (Ecuador)* <http://www.agenciapostal.gov.ec/site/>  
*Estonian Technical Surveillance Authority* <http://www.tja.ee/?lang=en>  
*European Commission, Internal Market, Postal Services* [http://ec.europa.eu/internal\\_market/post/index\\_en.htm](http://ec.europa.eu/internal_market/post/index_en.htm)  
*Finnish Communications Regulatory Authority* <http://www.ficora.fi/en/>  
*Bundesnetzagentur (Germany)* ([www.bundesnetzagentur.de](http://www.bundesnetzagentur.de))  
*Hellenic Telecommunications & Post Commission (Greece)*  
[http://www.eett.gr/opencms/opencms/EETT\\_EN/PostalServices/](http://www.eett.gr/opencms/opencms/EETT_EN/PostalServices/)  
*National Communications Authority (Hungary)* [http://www.hif.hu/index.php?id=menu&mid=740\(=en](http://www.hif.hu/index.php?id=menu&mid=740(=en)  
*Commission for Communications Regulation (Ireland)* <http://www.comreg.ie/postal/postal.587.html>  
*Ministero dello sviluppo economico, Dipartimento per le comunicazioni (Italy)*  
[http://www.comunicazioni.it/english\\_version/english\\_ministry/](http://www.comunicazioni.it/english_version/english_ministry/)  
*Ministry of Internal Affairs and Communications (Japan)* <http://www.soumu.go.jp/english/>  
*Communications Commission of Kenya* <http://www.cck.go.ke>  
*Communications Regulatory Authority (Lithuania)* <http://www.rtt.lt>  
*Institut Luxembourgeois de Régulation (Luxemburg)* [http://www.ilr.public.lu/services\\_postaux/index.html](http://www.ilr.public.lu/services_postaux/index.html)  
*Malaysian Communications and Multimedia Commission (Malaysia)*  
<http://www.skmm.gov.my/index.php?c=public&v=main>  
*Malta Communications Authority (Malta)* [www.mca.org.mt](http://www.mca.org.mt)  
*Information & Communications Technologies Authority (Mauritius):* <http://www.icta.mu/home/>  
*Instituto Nacional de Comunicações de Moçambique (Mozambique):* <http://www.incm.gov.mz/>  
*OPTA (The Netherlands)* <http://www.opta.nl>  
*Ministry of Economic Development (New Zealand)*  
[http://www.med.govt.nz/templates/ContentTopicSummary\\_\\_\\_\\_5292.aspx](http://www.med.govt.nz/templates/ContentTopicSummary____5292.aspx)  
*Nigerian Communications Commission (Nigeria)* <http://www.ncc.gov.ng>  
*Norwegian Post and Telecommunications Authority (Norway)* <http://www.npt.no>  
*Office of Electronic Communications (Poland) :* <http://www.en.uke.gov.pl>  
*Autoridade Nacional de Comunicações (Portugal) :* <http://www.anacom.pt>  
*ANCOM (Romania) :* <http://www.anrcti.ro>  
*Agence de régulation des télécommunications et des postes (Senegal) :* <http://www.artp-senegal.org>  
*Infocomm Development Authority (Singapore) :* <http://www.ida.gov.sg>  
*Postal Regulatory Office (Slovakia):* <http://www.posturad.sk>  
*Post and Electronic Communications Agency (Slovenia) :* <http://www.apek.si/en>  
*Independent Communications Authority (South Africa) :* <http://www.icsa.org.za>  
*Fomento (Spain) :* [http://www.fomento.es/MFOM/LANG\\_EN/DIRECCIONES\\_GENERALES/SERVICIOS\\_POSTALES/](http://www.fomento.es/MFOM/LANG_EN/DIRECCIONES_GENERALES/SERVICIOS_POSTALES/)  
*PostReg (Switzerland):* <http://www.postreg.admin.ch/en/index.htm>  
*PTS (Sweden):* <http://www.pts.se/en-gb/Postal-services>

Tanzania Communications Regulatory Authority (Tanzania) : [http://www.trca.go.tz/about/dept\\_postal.php](http://www.trca.go.tz/about/dept_postal.php)

Uganda Communications Commission (Uganda) : <http://www.ucc.co.ug/licensing/postal.php>

Postal Services Commission (United Kingdom) : <http://www.psc.gov.uk/>

Unit Regulating Communication Service (Uruguay): <http://www.ursec.gub.uy>

Ministry of Information and Communications (Vietnam) : <http://mic.gov.vn/en/menu/introduction/2/index.mic>

## **Links with other documents in the same sector**

### **BRIEF COMMENTARY**

The ARPCE has been operational since February 5, 2010, and its inaugural ceremony in Brazzaville on March 3, 2010 was the occasion for Yves Castanou, the ARPCE's General Director, to define the Agency's to make Congo one of Africa's telecommunications leaders within the next five years. To further this goal, the ARPCE intends to implement a new, nine digit, telephone numbering plan; revise the Congolese postal service's mission statement and requirements; and rework the spectrum of radio frequencies. Furthermore, the ARPCE will work towards protecting networks and data, the compatibility of terminal and radio equipment in order to prevent fraud.

However, telecommunications regulation in Africa faces the preliminary challenge of developing and sustaining Information and Communications Technologies corporations, and the creation of a true market is both regulation's goal and the *sine qua non* of its efficacy. Furthermore, the agency's goals have to be clearly defined and the relevant markets identified in order to usefully implement regulation that is appropriate to the region's issues.