

African researchers are the architects who will guide how Africa secures its place in the world in the digital age

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Ibrahima Kane & Mame-Penda Ba

Professor Gueldich, thank you for agreeing to be interviewed for this Global Africa journal feature on the digital economy. We'd like to start by recalling your scientific background. Could you go back over your career as Professor of Law and Legal Advisor to the African Union? What is the work of the African Union Commission on International Law, and what are its missions and areas of intervention?

Hajer Gueldich

From the point of view of my professional involvement with the pan-African organization, I have been an elected member of the African Union Commission on International Law (AUCIL) since 2015 (elected in 2015 and re-elected in 2018). I was thus the Commission's General Rapporteur from 2015 to 2019 and was elected, from 2022 to 2023, President of AUCIL, making me the first woman elected to this prestigious position since the Commission's creation in 2009.

The African Union Commission on International Law (AUCIL) was created on February 4, 2009. It is made up of international law experts elected by the 55 member states of the organization. Headquartered in Addis Ababa, in Ethiopia, it began operations in May 2010.

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AUCIL comprises 11 members elected by the AU Executive Council, in accordance with the principles of equitable geographical representation, representation of the principal legal systems and representation of women. Members serve in a personal capacity. They are elected for a five-year term, renewable once.

This statutory body has a dual mission: on the one hand, it advises the Union's bodies, and on the other, it carries out legal research. As such, AUCIL can suggest the revision of certain texts already adopted, or even of OAU/AU treaties. Our Commission must support the day-to-day work of the Union's Commission and its Legal Department, which must call on AUCIL whenever necessary. In this way, it is destined to become a strong link in the Community decision-making process. It is a pivotal body in the work of legal prospecting, the only cross-cutting body capable of playing a strategic role in the integration of the continent.

Ibrahima Kane & Mame-Penda Ba

When it comes to the continent's integration, the African Continental Free Trade Area (AfCFTA) is said to play a key role in Africa's economic development and the achievement of 2063 Agenda. How will this strategic vision of the African Union meet the challenges of trade, digitalization and the free movement of people?

Hajer Gueldich

The [African Continental Free Trade Area \(AfCFTA\)](#) represents a cornerstone of the African Union's Agenda 2063, which envisions "*The Africa We Want*." This transformative framework aims to drive economic integration, enhance intra-African trade, and unlock the continent's collective potential. The AfCFTA is more than a trade agreement; it is a strategic blueprint to address Africa's most pressing challenges in trade, digitalization, and mobility.

From a legal perspective, the AfCFTA Protocols on Trade in Goods, Trade in Services, and Investment create a robust legal framework that facilitates the seamless movement of goods, services, and investments across borders. This directly addresses long-standing issues such as high tariffs, non-tariff barriers, and fragmented markets that have historically stymied Africa's economic progress.

On digitalization, the AU has recognized that a 21st-century trade landscape cannot thrive without leveraging digital infrastructure. Through the [Digital Transformation Strategy for Africa \(2020-2030\)](#), complementary to the AfCFTA, the Union seeks to harmonize digital trade regulations, enhance cross-border e-commerce, and ensure that digital tools empower African entrepreneurs, particularly small and medium-sized enterprises (SMEs). This alignment is critical to fostering a trade ecosystem that is inclusive, competitive, and resilient to global shocks.

In terms of the free movement of people, the AfCFTA aligns with the AU Protocol on Free Movement of Persons, Right of Residence, and Right of Establishment, adopted in 2018. This Protocol seeks to eliminate barriers to mobility and create a single African market where citizens can move freely, contributing not only to trade but also to cultural and professional exchange. Together, these legal instruments signal a paradigm shift in African economic governance, ensuring that trade, technology, and human mobility are interwoven into the continent's development narrative.

Ibrahima Kane & Mame-Penda Ba

Regarding the free movement of people, what do you see as the main obstacles to the exercise of this freedom, when we know that one of the aspirations of Agenda 2063 was to introduce the African passport issued by member states, taking advantage of global migration by issuing electronic passports, with the abolition of visa requirements for all African citizens in all African countries by 2018?

Hajer Gueldich

While the vision of free movement of people under Agenda 2063 is both ambitious and necessary, its realization has faced significant hurdles. The introduction of the African passport, alongside the elimination of visa requirements, has been slower than anticipated, primarily due to political, security, and economic concerns.

One of the primary legal and institutional challenges is the non-ratification of the AU Protocol on Free Movement of Persons by many Member States. This reflects apprehensions about national security, including fears of increased irregular migration, transnational crime, and strain on domestic labor markets. Addressing these concerns requires robust legal frameworks that ensure migration governance aligns with national interests while upholding the spirit of continental integration.

Another obstacle lies in the lack of infrastructure and capacity to implement such an ambitious vision. For example, many Member States lack the technical infrastructure for issuing biometric passports, essential for facilitating seamless cross-border movement while addressing security concerns.

Moreover, fragmented migration policies across the continent have hindered harmonization. While some regions, such as ECOWAS, have made significant strides in facilitating mobility, others remain cautious. The AfCFTA provides a unique opportunity to bridge these gaps by encouraging Member States to align their policies with the [Pan-African Migration Policy Framework](#).

Despite these challenges, the AU remains committed to this vision. The African passport symbolizes more than mobility; it represents unity, solidarity, and a collective African identity. To this end, the AU is working closely with Member States to promote capacity building, enhance regional cooperation, and address security concerns through shared intelligence and data systems.

Ultimately, the realization of free movement under the AfCFTA framework is not merely a logistical challenge but a question of political will and trust. As the LC of the AU, I firmly believe that the continued promotion of dialogue, legal harmonization, and infrastructure development will unlock this potential, ensuring that the free movement of people becomes not only a legal principle but also a lived reality for all Africans.

Ibrahima Kane & Mame-Penda Ba

What are the main issues involved in integrating the digital economy into the ZLECAF framework? How does ZLECAF plan to support the digital economy and regional integration, taking into account the economic realities of the various member states?

Hajer Gueldich

The integration of the digital economy into the framework of the African Continental Free Trade Area (AfCFTA) is both a challenge and an opportunity. The digital economy has the potential to transform trade in Africa by enabling e-commerce, improving supply chain efficiency, and connecting businesses and consumers across borders. However, several challenges must be addressed to achieve this integration.

The first major challenge is the digital divide among Member States. While some African countries have advanced ICT infrastructure, others lag significantly behind. This disparity creates uneven access to digital trade opportunities, risking exclusion for less digitally developed nations.

Second, cybersecurity and data protection pose critical legal and operational concerns. Harmonizing regulations across Member States to ensure secure and trusted digital transactions is essential but requires significant coordination and capacity building. The absence of uniform standards for data governance and digital trade regulation is a significant barrier to creating a cohesive digital trade ecosystem.

Third, the cost of digital infrastructure development remains prohibitive for many Member States. Bridging the infrastructure gap requires innovative financing mechanisms and partnerships with the private sector.

In response to these challenges, I believe that the AfCFTA is working to develop a Protocol on Digital Trade. This protocol aims to harmonize digital trade regulations, create an enabling environment for e-commerce, and address legal and technical barriers to cross-border digital trade. Additionally, the AU's Digital Transformation Strategy for Africa (2020-2030) complements these efforts by focusing on digital literacy, entrepreneurship, and innovation, ensuring that Africa's digital economy grows inclusively and sustainably.

The AfCFTA also recognizes the importance of aligning digital trade with regional integration goals. Through capacity-building initiatives and technical assistance, the AfCFTA Secretariat works closely with Member States to ensure that the digital economy becomes a driving force for broader economic integration. By fostering digital trade, the AfCFTA can create a more interconnected and resilient African economy that accommodates the diverse realities of its Member States.

Ibrahima Kane & Mame-Penda Ba

Many African countries have drawn up national strategies to align themselves with the objectives of the FTAA. What mechanisms can the African Union put in place to support the effective implementation of these strategies?

Hajer Gueldich

The alignment of national strategies with the objectives of the AfCFTA reflects a strong commitment by Member States to regional integration. However, the effective implementation of these strategies requires robust support mechanisms from the African Union.

One critical mechanism is policy harmonization. The AU can facilitate the alignment of national strategies by developing regional guidelines and model laws that Member States can adapt to their local contexts. This approach ensures coherence while allowing flexibility to address country-specific challenges.

Second, the AU can strengthen its monitoring and evaluation frameworks to track progress and identify gaps in the implementation of AfCFTA-aligned strategies. By providing technical support and capacity-building initiatives, the AU can help Member States address challenges in areas such as customs administration, trade facilitation, and compliance with AfCFTA protocols.

Third, financing and resource mobilization are essential. The AU can establish dedicated funds or partnerships with international financial institutions to support infrastructure development and capacity-building projects related to the AfCFTA. This ensures that all Member States, regardless of their economic realities, can fully participate in and benefit from the agreement.

Finally, fostering collaboration and knowledge sharing is crucial. The AU can create platforms for Member States to share best practices, lessons learned, and innovative solutions for implementing AfCFTA-related strategies. By promoting dialogue and cooperation, the AU ensures that the integration process remains inclusive and equitable.

Through these mechanisms, the African Union can strengthen the implementation of national strategies and ensure that the AfCFTA serves as a catalyst for sustainable economic development across the continent.

Ibrahima Kane & Mame-Penda Ba

What do you see as the main gaps in the regulation of the digital economy in Africa, and how is the African Union working to fill them?

Hajer Gueldich

The digital economy in Africa has immense potential, yet its development faces several regulatory gaps. These include the absence of harmonized policies and legal frameworks, insufficient enforcement mechanisms, and a lack of infrastructure to support cross-border digital trade.

One of the most critical gaps is the inconsistent regulation of e-commerce and digital trade across Member States. While some countries have enacted comprehensive laws on digital commerce, others lack even basic legal provisions, creating a fragmented environment that hinders the seamless flow of digital goods and services.

Another significant gap lies in cybersecurity and data protection. The lack of unified standards leaves personal and financial data vulnerable, undermining trust in digital transactions. Similarly, the absence of legal mechanisms for cross-border dispute resolution in digital trade poses challenges for businesses operating across African borders.

The AU is addressing these gaps through initiatives like the [AU Convention on Cyber Security and Personal Data Protection \(Malabo Convention\)](#). Although ratification has been slow, the Convention provides a comprehensive framework for Member States to strengthen their digital ecosystems while ensuring the protection of personal data and fostering secure online transactions. Additionally, the proposed Protocol on Digital Trade under the AfCFTA aims to harmonize laws governing digital commerce and address regulatory disparities.

Through capacity-building programs and regional cooperation, the AU is also encouraging Member States to adopt model laws and best practices to strengthen their legal frameworks and create a more cohesive digital regulatory environment.

Ibrahima Kane & Mame-Penda Ba

What kind of governance would be needed to ensure harmonized digital development between member states, given the diversity of legal systems in Africa? In terms of the digital economy, what steps are being taken to harmonize national legal frameworks on a continental scale?

Hajer Gueldich

Harmonized digital development in Africa requires a governance framework that is inclusive, adaptive, and context-sensitive to accommodate the continent's diverse legal systems. This governance model must strike a balance between continental goals and national sovereignty.

The African Union has emphasized the importance of multi-level governance, where regional economic communities (RECs) play a pivotal role in bridging the gap between national and continental frameworks. For example, ECOWAS and SADC have made significant progress in developing regional policies on digital trade and data protection, serving as models for other regions.

To harmonize national legal frameworks, the AU is championing the development of continental guidelines and protocols, such as the Digital Transformation Strategy for Africa and the AfCFTA's Digital Trade Protocol. These instruments encourage Member States to align their domestic laws with international best practices while considering local realities.

Moreover, the AU promotes knowledge sharing and technical assistance, enabling Member States to learn from each other's successes and challenges in digital governance. The establishment of a centralized African Digital Governance Observatory could further enhance coordination, monitor progress, and provide actionable insights for harmonizing policies across the continent.

Ibrahima Kane & Mame-Penda Ba

How can ZLECAF reconcile the promotion of digital trade with the protection of personal data and digital inclusion?

Hajer Gueldich

The AfCFTA faces the dual challenge of fostering digital trade while ensuring the protection of personal data and promoting digital inclusion. Striking this balance is crucial to creating a sustainable and equitable digital economy in Africa.

To reconcile these objectives, the Protocol on Digital Trade under the AfCFTA emphasizes the need for privacy standards and data protection regulations that align with the AU's Malabo Convention. These measures aim to foster trust in digital platforms while enabling the free flow of information essential for digital trade.

Inclusion is another key pillar. The AfCFTA acknowledges that digital trade must be accessible to all, including marginalized communities and small and medium-sized enterprises (SMEs). To this end, it promotes initiatives like improving access to affordable broadband, supporting digital literacy programs, and incentivizing innovations tailored to Africa's informal sector.

The AfCFTA also encourages collaboration with the private sector and international partners to finance infrastructure projects and provide technical assistance for Member States. These partnerships are critical for bridging the digital divide and ensuring that the benefits of digital trade reach every corner of the continent.

Through these efforts, the AfCFTA not only fosters a thriving digital economy but also upholds the principles of equity, security, and sustainability, ensuring that Africa's digital future is inclusive and resilient.

Ibrahima Kane & Mame-Penda Ba

How does the African Union support member states in adopting and implementing data protection laws, particularly in the face of global technology giants?

Hajer Gueldich

The AU recognizes that data is a critical resource in the 21st century, with significant implications for economic development, governance, and individual rights. However, the increasing influence of global tech giants poses unique challenges to the protection of personal data in Africa, where regulatory frameworks are still evolving.

To address these challenges, the AU has adopted the Convention on Cyber Security and Personal Data Protection (Malabo Convention), which provides a robust legal framework for Member States to enact and enforce laws on data protection, cybersecurity, and electronic transactions. This Convention emphasizes the importance of safeguarding individual privacy while fostering innovation and digital growth.

The AU also offers capacity-building programs to help Member States develop and implement data protection laws. These programs include technical assistance, training workshops, and the sharing of best practices. For example, the AU works closely with regional economic communities (RECs) to harmonize data protection standards and ensure alignment with international norms.

In January 2024, the African Union's Peace and Security Council adopted the Common African Position on the Application of International Law to the Use of Information and Communication Technologies in Cyberspace. This landmark document underscores Africa's commitment to a secure and stable cyberspace, emphasizing the applicability of existing international law to state conduct in cyberspace. It also highlights the importance of capacity-building and cooperation among Member States to address cyber threats effectively.

Furthermore, the AU advocates for African sovereignty in the digital economy. By encouraging Member States to adopt laws that regulate how global tech companies operate within their jurisdictions, the AU aims to create a balanced playing field that protects African consumers and promotes local innovation.

Ibrahima Kane & Mame-Penda Ba

What are the main obstacles to digital inclusion in Africa, particularly for women and rural areas, and what efforts are being made to overcome them? What policies should be prioritized to ensure equitable digital access across the continent?

Hajer Gueldich

Digital inclusion remains a significant challenge in Africa, particularly for women and rural communities, who are disproportionately affected by the digital divide. Key obstacles include:

1. **Limited digital infrastructure:** Many rural areas lack access to reliable internet and electricity, making it difficult to participate in the digital economy.
2. **High costs of connectivity:** The affordability of devices and broadband services remains a barrier for low-income populations.
3. **Digital illiteracy:** A lack of digital skills, particularly among women and marginalized groups, limits their ability to engage with digital technologies.
4. **Cultural and systemic barriers:** Gender disparities in education and employment opportunities further exacerbate digital exclusion for women.

To address these challenges, the African Union has prioritized several initiatives:

- **Infrastructure development:** Through programs like the [PIDA](#) (Programme for Infrastructure Development in Africa), the AU collaborates with Member States and international partners to expand broadband access in underserved regions.
- **Digital literacy and skills training:** The AU promotes initiatives targeting women and youth, such as the Digital Skills for Africa program, to empower these groups with the knowledge needed to thrive in the digital age.
- **Affordable access:** The AU works with stakeholders to reduce the cost of internet access through regulatory reforms, public-private partnerships, and subsidies for marginalized communities.
- **Gender-focused policies:** The AU's Agenda 2063 emphasizes closing the gender gap by encouraging Member States to adopt policies that promote women's participation in the digital economy.

To ensure equitable digital access, policies must prioritize universal broadband coverage, public investment in digital education, and targeted support for women and rural communities. The AU also advocates for the integration of digital inclusion goals into national development strategies to ensure sustained progress.

Ibrahima Kane & Mame-Penda Ba

What is the relationship with sub-regional mechanisms for resolving state disputes, and with the African Court of Justice and Human Rights?

Hajer Gueldich

The AU plays a central role in promoting peaceful resolution of disputes on the continent, working closely with both sub-regional mechanisms and the African Court of Justice and Human Rights to achieve this objective.

At the sub-regional level, regional economic communities like ECOWAS, SADC, and the EAC have established dispute resolution mechanisms tailored to their respective regions. These mechanisms address issues ranging from trade disputes to political conflicts. The AU supports these efforts by facilitating coordination, sharing legal expertise, and providing financial or logistical assistance when necessary.

The African Court of Justice and Human Rights serves as a continental legal body, with jurisdiction over human rights cases and interstate disputes. The Court complements sub-regional mechanisms by providing a platform for cases that transcend regional boundaries or require a higher level of adjudication. The AU works to strengthen the Court's capacity by encouraging Member States to ratify its Protocol (that did not come into force yet) and providing the necessary institutional support.

The AU also emphasizes the principle of subsidiarity, which ensures that sub-regional mechanisms handle disputes at the local level whenever possible, reserving the African Court for more complex or escalated cases. This layered approach promotes efficiency, and fosters trust in Africa's legal and institutional frameworks.

By fostering collaboration between sub-regional mechanisms and the African Court, the AU ensures a coherent and effective system for resolving disputes across the continent. These efforts not only strengthen the rule of law but also contribute to Africa's broader goals of integration, peace, and development.

Ibrahima Kane & Mame-Penda Ba

What is the African Union's position on the taxation of digital activities, particularly those of multinationals operating on the continent?

Hajer Gueldich

The AU recognizes that digital taxation is a crucial aspect of ensuring equitable economic development in the digital age. With the rapid growth of digital activities and the dominance of multinational tech companies operating in Africa, it is imperative to establish tax regimes that enable fair revenue distribution while promoting innovation.

The AU advocates for a harmonized approach to digital taxation across Member States to prevent tax avoidance and ensure a level playing field. The AU has endorsed the [Base Erosion and Profit Shifting \(BEPS\) initiative](#) led by the OECD, particularly its Pillar One and Pillar Two frameworks, which aim to allocate taxing rights fairly and establish a global minimum corporate tax rate.

At the continental level, the AU encourages Member States to develop digital services tax (DST) frameworks that reflect Africa's unique economic realities. By fostering collaboration between Member States through regional economic communities (RECs), the AU ensures that these taxation policies are consistent, avoid double taxation, and prevent revenue leakage.

The AU also emphasizes the importance of capacity building. Through the African Tax Administration Forum (ATAF), the AU supports Member States in building the technical expertise needed to implement effective digital taxation policies, negotiate fair terms with multinational corporations, and harness tax revenues to fund critical development projects.

By promoting a fair and transparent taxation framework, the AU seeks to balance the need for innovation with the imperative of ensuring that the digital economy contributes equitably to Africa's sustainable development.

Ibrahima Kane & Mame-Penda Ba

How can Africa strengthen its digital sovereignty while integrating global innovations?

Hajer Gueldich

Digital sovereignty is central to Africa's vision for a more self-reliant and resilient digital future. Strengthening this sovereignty while embracing global innovations requires a strategic balance between independence and collaboration.

The AU's approach begins with building robust digital infrastructure. Initiatives like the Programme for Infrastructure Development in Africa (PIDA) and the Digital Transformation Strategy for Africa (2020–2030) focus on expanding broadband access, developing data centers, and ensuring secure and reliable connectivity across the continent. These efforts reduce reliance on external infrastructure providers and lay the foundation for a sovereign digital ecosystem.

Regulatory harmonization is another key priority. The AU promotes the adoption of legal frameworks such as the Malabo Convention on Cyber Security and Data Protection, which ensures that Member States safeguard personal data and cybersecurity in a manner aligned with African priorities. At the same time, the AU works to harmonize these frameworks with global standards, ensuring compatibility while maintaining local control.

Africa's digital sovereignty also hinges on fostering homegrown innovations. The AU actively supports startups and SMEs through initiatives like the Smart Africa Alliance, which promotes digital entrepreneurship and encourages collaboration between African innovators and global partners.

Finally, the AU advocates for multilateral engagement. While emphasizing the importance of reducing dependence on foreign technologies, the AU encourages partnerships with global tech leaders to transfer knowledge, build capacity, and adapt cutting-edge technologies to African contexts. Through such balanced integration, Africa can achieve digital sovereignty without isolating itself from the global innovation landscape.

Ibrahima Kane & Mame-Penda Ba

What do you see as the African Union's strategic digital priorities over the next five years?

Hajer Gueldich

Over the next five years, the African Union will focus on five key strategic priorities in the digital field to ensure that the continent remains competitive, resilient, and inclusive in the global digital economy:

Infrastructure Expansion: Building and upgrading digital infrastructure will remain a top priority. Initiatives like the Programme for Infrastructure Development in Africa (PIDA) and the rollout of affordable broadband access to underserved regions will be critical. This will include the establishment of more regional data centers to reduce dependency on external infrastructure and enhance digital sovereignty.

Policy Harmonization and Legal Frameworks: The AU will accelerate efforts to harmonize national policies and regulations under the umbrella of the Digital Transformation Strategy for Africa. This will focus on digital trade, cybersecurity, data governance, and intellectual property rights, ensuring a unified and secure continental digital ecosystem.

Digital Inclusion: Bridging the digital divide will remain central, with a particular focus on empowering women, youth, and rural communities. Programs to promote digital literacy, reduce connectivity costs, and enhance access to devices will ensure that no African is left behind in the digital revolution.

Fostering Innovation and Entrepreneurship: The AU will continue to support startups and SMEs through initiatives like the Smart Africa Alliance and encourage partnerships between African innovators and global technology leaders. By creating enabling environments for digital entrepreneurship, Africa can position itself as a hub for technological innovation.

Data Sovereignty and Security: As data becomes a vital resource, the AU will prioritize strengthening data protection laws and cybersecurity frameworks, guided by the Malabo Convention. This includes capacity building to help Member States implement secure systems for protecting personal and financial data while maintaining control over African-generated data.

By addressing these priorities, the African Union aims to build a resilient, inclusive, and innovative digital future for Africa that aligns with the aspirations of Agenda 2063.

Ibrahima Kane & Mame-Penda Ba

What message would you give to African researchers working on issues of international law and the digital economy?

Hajer Gueldich

To African researchers working on issues of international law and the digital economy, I would emphasize the importance of their work in shaping the future of Africa in the global digital landscape. You are the architects of the frameworks that will guide how Africa engages with the world and secures its place in the digital age.

My message to you is threefold:

1. **Engage with Africa's Context and Realities:** Ground your research in the unique challenges and opportunities facing the continent. Whether addressing cross-border digital trade, data protection, or dispute resolution, your work should reflect Africa's priorities and foster solutions that are both practical and transformative.
2. **Collaborate Across Disciplines and Borders:** The digital economy intersects with law, technology, economics, and governance. Collaborate with colleagues across disciplines and engage in pan-African networks to ensure that your research is enriched by diverse perspectives and contributes to Africa's collective advancement.
3. **Be Bold and Visionary:** Africa's digital future depends on innovative thinking. Don't just analyze the current landscape—propose bold ideas for reforming international law, establishing equitable trade policies, or fostering digital sovereignty. Your work has the potential to influence not only Africa but also global discussions on digital governance.

Finally, know that the AU values your contributions and stands ready to support initiatives that advance the harmonization of laws, the promotion of African-led innovations, and the protection of Africa's digital interests. Together, we can create a digital economy that reflects Africa's aspirations and protects its sovereignty.