



INVITATION TO COMMENT ON THE COUNCIL OF EUROPE COMMITTEE OF MINISTERS'
DRAFT RECOMMENDATION ON THE HUMAN RIGHTS IMPACTS OF ALGORITHMIC SYSTEMS

Response from the International Federation of Library Associations and Institutions

The International Federation of Library Associations and Institutions welcomes the efforts of the Council of Europe to ensure the ethical development and use of algorithmic systems based on human rights.

IFLA would like to thank the Committee of Experts on Human Rights Dimensions of Automated Data Processing and Different Forms of Artificial Intelligence for the extensive effort they have put into preparing this draft Recommendation; and to thank the Steering Committee on Media and Information Society for providing an opportunity to comment on this draft.

We would like to take this opportunity to offer several comments based on the library and information sector's experience with the management and use of information, as well as the ethical principles it upholds.

On the relationship between algorithmic systems and intellectual freedom

The preamble of the draft Recommendation – particularly paragraphs 4 and 5 – briefly touch upon the relationship between algorithmic systems and intellectual freedom. The text rightfully points out two crucial elements of this relationship – a potentially positive effect on access to information through improved categorization and searchability, and a potentially negative effect of tracking at scale on freedom of expression.

However, as the Committee is aware, this relationship is not limited to those two aspects alone, and the effects of algorithmic systems on intellectual freedom can be much broader. As set out in the draft recommendation, these can include chilling effects on intellectual activity at large and impacts on the informational autonomy of individuals and freedom of thought.

Algorithmic systems could tend to filter the information based on a user's current interests or views, thus reinforcing their current stances instead of presenting a balanced view on a given subject. This could impact people's ability to exercise their autonomy in decision-making based on the information they receive. Moreover, as content personalisation tailors the information all users are exposed to, people are no longer seeing the same information as everybody else, which potentially risks distorting their perceptions of reality.

Examples of such effects include “filter bubbles” or “algorithmic rabbit holes” of content personalisation.

The draft text does not discuss at length the possible effects of algorithmic systems on specific categories of human rights - as such, there is no need to include an outline of the potential impacts on intellectual freedom in the text fully.

It would, however, be useful to consider the possible effects of algorithmic systems on intellectual freedom alongside other human rights issues such as discrimination or privacy. One idea, for instance, could be to establish an observatory on algorithmic systems, intellectual freedom and other rights (both individually and in combination) which would be dedicated to understanding and safeguarding human rights in this area. This would grant them more visibility, raise awareness and highlight their interdependencies in the context of algorithmic systems. In addition, it would encourage a more nuanced reflection in human right impact assessments.

On specific cases of public entities procuring algorithmic systems from the private sector

Paragraphs 12 and 13 of the preamble note that responsible adoption of algorithmic systems for public service delivery is more complicated when private parties are involved in one role or another. Based on the specific case of the library and information sector, another sub-category of cases deserving special attention could be added: the role of private sector solutions in areas of public service delivery where a particular level of privacy is expected.

Clearly much depends on national contexts, preferences and the actors involved, but library services often fall within this category, and experience shows that reconciling libraries' ethical commitment to safeguarding the privacy of their patrons with the push for service delivery optimisation through any technological innovation – including of course algorithmic systems – requires very careful consideration, as set out in IFLA's Statement on Privacy in the Library Environment. When expectations of privacy are breached, trust in a given public institution can be put at risk. This comes in addition to the points raised above about the impact of algorithmic systems on the sort of information we see.

Two further suggestions can be made regarding impact assessments of using algorithmic systems in high-risk areas:

The first one is to account for the level of automation. There is a crucial difference between using algorithmic systems for final decision-making and having all automated decisions or suggestions meaningfully assessed and evaluated by human specialists. Some at-risk areas could rely on the latter model of integrating algorithmic systems.

The second one is to account for the level of uncertainty when it comes to assessing risks and possible impacts. A high degree of uncertainty could be a sufficient reason to decide against deploying an algorithmic system as much as potential harms or risks.

Finally, it could also be suggested that interactions of two or more systems be treated and assessed as a separate system to ensure a proper review.

On sustainability of analogue alternatives

IFLA acknowledges the importance of the recommendation that analogue alternatives for basic public service delivery mechanisms should be supported (Annex A recommendation 6.1). The experiences of libraries offering both digital (often algorithmic, e.g. information discovery engines) and analogue services highlights that the two can co-exist, when care is taken to ascertain when one or the other may be more appropriate, or of course to offer users the choice.

An important consideration is the financial viability of maintaining two forms of services, especially considering the budgetary constraints which public institutions can face. Another one has to do with the quality of public service, which can differ between digital and analogue alternatives. For example, library patrons who make use of physical collections alone would normally have access to different (and increasingly more limited) information than patrons using digital resources of the library.

As such, it is important to ensure that both types of services are adequately funded, and that people have meaningful access to both, regardless of their income levels or other characteristics. The preservation of analogue services is also particularly important in light of the fact that many people will still struggle with digital tools.

On empowerment

As annex A guideline 1.3 points out, digital, media and information literacy and a general understanding of algorithmic systems among users are important for the exercise of their human rights and fundamental freedoms. Member States are invited to call on public library services alongside other actors highlighted in these guidelines to deliver such literacy training.

In particular, the recommendations underline the importance of tailored and individual instructions and inclusion of vulnerable populations. The library sector has substantial experience offering digital and media literacy initiatives, and it is one of the few institutions where individual instructions can be offered free of charge.

The relative absence of entry barriers to using library services make them well-suited for reaching out to marginalised populations. There are many examples of such initiatives being successfully extended to older learners or people from underprivileged backgrounds.

Considering these experiences, we could suggest including library and information services among the organisations and institutions best suited to carry out these tasks, as listed in annex A guideline 1.3.

More broadly, it could also be useful to include a recommendation that relevant actors should be supported in carrying out literacy-promoting activities by the Member States. Such support can include ensuring that such solutions are adequately funded.

Furthermore, the qualification in paragraph 2.1 of Appendix A – namely that the efforts by individuals or groups to make themselves illegible can be restricted by law – needs to be further clarified. Any restrictions should be transparent, proportionate and subject to due legal process.

On precautionary measures

It is absolutely clear that deployment of algorithmic systems should be subject to thorough and continuous human rights impact assessments. From a practical standpoint, however, human rights impact assessments today can be costly and lengthy. This can prevent the recommendations of the Council from being adopted as intended.

To be able to carry out such assessments at the suggested scale, Member States could be advised to make necessary preparations and dedicate efforts to building up their human rights assessment capacity, drawing on the expertise of the library and information community.

On public debate

In addition, it should be noted that efforts to promote digital, media and information literacy discussed in Annex A guideline 1.3 will be crucial for an informed and inclusive public debate which is proposed in Annex A guideline 5.6.

While the current phrasing of the Recommendation does not refer to a public consultation specifically, but rather a public multistakeholder debate, citizen input in one form or another can be useful in the consultations proposed in guidelines 1.1 and 5.6.

Paragraph 7 mentions that particular values are inevitably prioritised and built into algorithmic systems. Public debates would encourage societal understanding and democratic control over such value prioritisation – especially over the use of algorithmic systems in the public sector.

Ensuring that the public understands the potential consequences on individual and societal levels and is able to have a say in deployment choices is key to democratic transparency. Libraries can offer an excellent venue for such discussions.

On data collection and storage

One of the ways to mitigate the trade-off between service optimisation and the loss of privacy when using algorithmic systems is ensuring that data collection is limited to strictly defined purposes. In the current version of the draft, Annex B Recommendation 2.2 (for private sector actors) mentions that default data collection settings should be limited to data that is necessary for the specific purpose of data processing.

This recommendation could be expanded to make sure that the purpose for collection is taken into account in the human rights impact assessments. This could include both the proportionality of collected data to the purpose for collection, and an evaluation of whether a given type of data is a good proxy for what the algorithmic analysis sets out to measure.

It could also be highlighted that such obligations regarding data collection could apply to both private and public actors.

For example, drawing on Article 5.C of the Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data, storage of personal data by both private and public entities should not be excessive in relation to the purposes.

Finally, Annex A, paragraph 4.1 highlights the importance of ensuring that intellectual property rights are not used as a barrier to transparency of algorithmic systems. It would be important to add to this point the need to ensure that through gathering data for such systems, new proprietary rights are not created over the source material – including the right to gather data again – regardless of whether the source material is in the public domain or otherwise. For full transparency, and where privacy permits, source data for algorithmic systems should be publicly available.

Further Specific Suggestions

In Annex A General Principles 1.3 Empowerment: “...taking account of diversity with respect to, for instance, age, gender, race, ethnicity, **culture**, or socio-economic background”

Paragraph 19 of the Preamble: “promote the goals of this Recommendation at the national level and all relevant international and regional forums; engage in, and ensure the representativeness and balance of, a regular, inclusive, meaningful and transparent dialogue, paying particular attention to the needs and voices of vulnerable groups, with all relevant stakeholders, which may include the private sector, media, civil society, education establishments, academia, **public sector information organizations such as academic, public and special libraries** as well as infrastructure providers and basic public services, including welfare and policing, with a view to sharing and discussing information, coordinating initiatives, and monitoring and assessing the responsible use of algorithmic systems that impact the exercise and enjoyment of human rights and related legal and policy issues”