



COUNCIL OF EUROPE/EBLIDA GUIDELINES ON LIBRARY LEGISLATION AND POLICY IN EUROPE

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Introduction

Libraries are community hubs striving towards a sustainable, democratic and equitable society. They are an essential and irreplaceable component of the social, cultural and informational infrastructure of a sustainable society where freedom of expression, public access to information and democratic participation are guaranteed. Furthermore, they are primary agents in fostering a cohesive and inclusive society.

In 2000, the Council of Europe Steering Committee for Culture, Heritage and Landscape (CDCPP), in collaboration with EBLIDA (the European Bureau of Library, Information and Documentation Associations), drafted the Council of Europe / EBLIDA Guidelines on Library Legislation and Policy in Europe. These Guidelines have been highly influential in shaping policies and inspiring library-related legislation throughout the Council of Europe Member States. They are still a base of reference for individual libraries working in often challenging local situations, as well as for regional and municipal administrators willing to restructure local library systems.

While the original Guidelines are still solid, cultural and societal changes on the one hand, and technological developments on the other hand, are challenging libraries in new ways. In the last two decades, libraries have developed as an enriching space for human interaction, knowledge creation and civic engagement. In several Council of Europe states library legislation already reflects these new concepts and roles in line and compliance with a good number of Council of Europe and European Union documents and recommendations.

A revision of the Council of Europe / EBLIDA Guidelines in the library field can reinforce a Europe-wide effort to strive towards a well-informed, inclusive and democratic society. Therefore, the Council of Europe has decided to re-examine the field of libraries in order to draft a new set of principles relevant for national legislation and policy of the member States. The aim of these new Guidelines is not to foster the illusion that library legislations can be standardised; it aims to respond to the need for a joint effort to formulate a set of principles which conform to democratic values, are compatible with the constitutional principles of member States, and can inspire for new and/or revised library legislation and policy.

For the purposes of these guidelines, libraries are defined as publicly accessible institutions of a cultural, educational and social nature that serve local, academic, specialised communities and/or society at large. They are national or local, public or private institutions as long as they are non-profit and adopt and apply library values, principles, standards and professional methodologies.

Libraries should ally to pursue the common goals identified within the framework of the European Agenda 2030 on sustainable development. The advancement of information technologies and artificial intelligence – so called ‘tech-celeration’ – has brought aspects such as access, privacy, data protection, big data, connectivity (and inclusion), cybersecurity, Artificial Intelligence, 5G, blockchain, process automation, autonomous devices and virtual (augmented or extended) reality to the library and information sector.

These Guidelines adhere to the same principles as the international conventions promoted by the Council of Europe and other international organisations in related fields, and in particular:

- the Convention for the protection of Human Rights and Fundamental Freedoms, Article 10;
- the Universal Declaration of Human Rights, Article 19, United Nations General Assembly Res. 217 A;
- the United Nations International Covenants on Economic, Social and Cultural Rights, 16.12.1966, Article 19;

- the United Nations Convention on the Rights of the Child, resolution 44/25 of 20 November 1989;
- the Council Regulation (EEC) No 3911/92 of 9 December 1992 on the export of cultural goods;
- the Council of Europe Framework Convention for the Protection of National Minorities, 01.02. 1995;
- the Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
- the Charter of Fundamental Rights of the European Union (2000/C 364/01), Article 11;
- the Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society;
- the Council of Europe Convention on the Value of Cultural Heritage for Society (Faro Convention), 2005;
- the Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property;
- the 2007 Fribourg Declaration on cultural rights;
- the Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works - Text with EEA relevance;
- the United Nations Resolution adopted by the General Assembly on 25 September 2015, Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1);
- the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data;
- the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Tackling online disinformation: a European approach (COM/2018/236 final);
- the Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market (amending Directives 96/9/EC and 2001/29/EC - Text with EEA relevance);
- the Guidelines on Artificial Intelligence and Data Protection T-PD(2019)01 issued by the Council of Europe;
- the Council of Europe Recommendation CM/Rec(2020)1 of the Committee of Ministers to member states on the human rights impacts of algorithmic systems;
- The 2021 UNESCO Recommendation on Open Science;
- the Regulatory Framework on artificial intelligence proposed by the European Commission in 2021.

And the following professional documents:

- the 1994 IFLA-UNESCO Public Library Manifesto;
- the 2002 Budapest Open Access Initiative;
- the 2011 IFLA-UNESCO Manifesto for Digital Libraries;
- the 2014 IFLA Internet Manifesto;
- the 2016 EBLIDA / IFLA / LIBER Statement “Be Open to Open Science: Stakeholders Should Prepare for the Future, not Cling to the Past”;
- the 2020 IFLA Statement on libraries and artificial intelligence;
- the 2021 EBLIDA “Think The Unthinkable report: A post Covid-19 European Library Agenda meeting Sustainable Development Goals and funded through the European Structural and Investment Funds (2021-2027)”;
- the IFLA-UNESCO School Library Manifesto (2021).

The current Guidelines underline the necessity of:

- i. ensuring coherence between rules relating to library legislation and rules applied in other related fields, together with their related policies;
- ii. enlarging the scope of traditional provisions for libraries, in order to take into account all different issues relevant for library legislation and policy;
- iii. striking a balance between the interests of all individuals and corporate bodies, both public and private.

It should be recalled that library legislation takes account of the different circumstances and interests of member States in order to be effective. It is therefore recommended to responsible authorities of member States:

- i. to adopt legislative or other measures which are in conformity with the principles outlined in the Guidelines, and to bring existing legislation into line with the same principles,
- ii. to disseminate the Guidelines as widely as possible to the relevant bodies and persons.

**COUNCIL OF EUROPE/EBLIDA GUIDELINES
ON LIBRARY LEGISLATION AND POLICY IN EUROPE**

I. Freedom of expression, free access to information and democratic participation

1. Open access to information and the development of a democratic society

Libraries are created for the benefit of their user communities so as to provide people with open access to information and ideas. As an independent meeting place and arena for public discussion and debate, they contribute to the development of a democratic society and to the freedom of expression and thought.

- i. Access to libraries should be provided free of charge to all citizens without regard to race, nationality, religion, culture, politics, age, physical or learning impairment, gender, or sexual orientation.
- ii. Collections acquired in libraries should include a core of basic information materials, tools and services financed from public funds and made available free of charge to the user and to all members of their user community regardless of their ability to pay. Access to this basic information material and to library services is a fundamental right, unless provisions in enacted legislations purposely limit it in accordance to the fundamental conventions, declarations, or charters protecting human rights and fundamental freedoms.
- iii. Library service points should provide the best levels and quality of intellectual and physical access to their materials and resources, combatting misinformation and disinformation and catering for the needs of persons with disabilities.
- iv. Libraries should provide access to materials that are not part of the library collections through national and international interlending and document delivery services.
- v. Libraries are designed to be inclusive institutions; therefore, they should be safe harbours for all kinds of minorities and special programmes should be devised to combat homophobia and transphobia and any practice intending to discriminate on the ground of sex, gender identity and gender expression wherever necessary.

2. Principles for collection development

- i. The collection development of the library should be based on the independent professional judgement of the librarian, without political, religious, sectarian, commercial or other influences. When it is suitable, this should be done in consultation with representative bodies of users, community groups, or other educational, information and cultural institutions.
- ii. Libraries should acquire materials and provide access to resources on the basis of quality and relevance to the need of the user community, taking into account the diversity of the community they serve in content, language and format provided.

- iii. Collection development policies should be continuously reviewed in order to reflect changing needs and opportunities. Collection development should be a transparent process and the policies on which it is based should be made public.
- vi. Minority groups should be provided with material in their own language relating to their own culture. Furthermore, library collections should represent the cultures of minorities and make them known to the wider community where relevant.
- vii. Libraries should form part of a system or systems within a country cooperating in matters of acquisition and the circulation of collections, and forming a close working relationship with other cultural, educational and information institutions.

3. Principles for access to digital content

Libraries should:

- i. constantly update collections in response to the expressed and implicit needs of the communities they serve;
- ii. seek to obtain electronic access to information resources on behalf of users;
- iii. provide public access points with suitable levels of support and guidance enabling independent use of digital content and information;
- iv. not knowingly permit access to Internet material that is illegal within the jurisdiction where it is accessed and highlight, as far as possible, their elements of misinformation and disinformation, being understood that it is left to the users to determine what information they wish to access;
- v. formulate Internet use policies to express the objectives and methods in providing public access to digital content and information, in full transparency regarding the origin of information and the way it is produced, sponsored, disseminated and targeted;
- vi. respect user rights including the right of confidentiality and privacy, in compliance with legislative instruments concerning personal data protection;
- vii. continuously review policies on public access points and their application in practice in consultation with representative bodies of users and associations of the civil society;
- viii. store, protect, enhance and develop historical collections if that is part of their remit as well as actively promoting these collections to the general public.

4. Promotion of democratic participation

- i. Library services should be considered as necessary force in sustaining and developing democracy;

- ii. Libraries should promote diversity of information and opinions, in order to enable citizens to make informed decisions based on critical thinking;
- iii. they should be active in the organisation of public debates to the benefit of the society at large;
- iv. foster credibility of information by providing an indication of its trustworthiness, by improving traceability of information and authentication of influential information providers;
- v. fashion inclusive solutions, requiring awareness-raising, media literacy, broad stakeholder involvement and the cooperation of public authorities.

II. Libraries within the framework of the European agenda on sustainable development

5. Library governance

Central and local authorities should provide the necessary organisational, economic and control mechanisms to enable library functions and services. Libraries should be positioned in national cultural and educational policies pursuing the fulfilment of sustainable development goals as prescribed by the United Nations and their equivalent programmes in a European context. Central and local authorities should:

- i. secure the necessary legal status and professional platforms for all types of libraries within a national policy oriented to the attainment of sustainable development goals;
- ii. provide specific organisational structures for all levels of the library sector – public, academic, national, school or special library - clarifying their distinctive roles, duties and responsibilities;
- iii. encourage libraries to adhere to international standards and guidelines;
- iv. provide a transparent administrative framework clarifying the relations between libraries and other governmental and non-governmental agencies in the provision of material that is of interest to library users, in particular (e)books and other media of cultural and educational interest;
- v. strive to develop the necessary infrastructure to foster co-operation between libraries, recognising their special missions and tasks in the wider framework of sustainable development provisions;
- vi. consider that the cultural provision of library goods and services is often of crucial importance for persons in disadvantaged situations as a result of poverty, isolation or one's belonging to a discriminated group.

6. Library services and performance indicators

- i. Technical standards and standards relating to telecommunications, digital networks and related equipment should, as far as possible, be applied to facilitate national and international information exchange;
- ii. seek to offer guidelines for quality performance measurement relating to the different types of libraries and their missions in compliance with the attainment of sustainable development goals;
- iii. pupils and students, and citizens in general should be taught proper media and technological literacy and handling procedures to make better use of the information facilities available in both the education system and in society at large, and this should be incorporated into guidelines and curricula at all levels of education;

- iv. library services to special groups of users should be prioritised in legislation and/or regulations and provided partly through services regulated/contained in common library provisions, partly through special libraries and partly through centralised services;
- v. regular studies and evaluations should be carried out to explore how libraries fulfil their educational and cultural mission as well as the fulfilment of sustainable development provisions;
- vi. library authorities at the national level should consider developing library services within national and international information policies

7. Library financing

- i. The relation between the expected service level and the provision of adequate resources should be achieved regardless of the type of library and the level of authority governing the library.
- ii. The financing of libraries should be in principle a public responsibility. Library services partly funded from other sources should not interfere with the librarians' professional integrity and the selection of library materials and it should not undermine the fundamental principles of free access and of certain basic services free of charge.
- iii. Library authorities and libraries should develop organisational structures, supervisory and controlling mechanisms that will ensure the best possible value for public money spent on library services by designing instruments for proper performance measurements and quality control for different types of libraries.
- iv. The libraries' budgets should reflect the impact of new technologies;
- v. Libraries are community builders; therefore, mechanisms should be set in place to ensure coordination with development plans and strategies of national and local communities, each with their respective responsibilities and functions.

8. Education and training

- i. Library education should be reflected in the national legislative provision and library policy as an imperative for library services to secure and provide a professional body of librarians and other personnel;
- ii. Adequate resources should be provided to ensure adequate training of staff and users to make proper use of the new tools and services;
- iii. Library authorities should encourage the exchange of library staff through the development of European staff exchange programmes.

III. Global and local threats and library operations

9. Libraries as essential services in time of disaster

As all cultural and educational institutions, libraries are vulnerable organisations and may find it difficult to react to global and local threats. The pandemic crisis as well as other possible future crisis, make it imperative that libraries are resilient institutions. Disaster plans are needed to continue operations in precarious times or under adverse conditions. Central and local authorities, in collaboration with library managers, should therefore:

- i. recognise the essential nature of library services and their relevance for the resilience of the communities they refer to;
- ii. set up appropriate management plans with an analysis of relevant risks, both human and natural, including the setting up of permanent measures designed to prevent, reduce and avoid risks with a particular emphasis on staff training;
- iii. prepare accurate disaster plans in order to continue library operations under adverse conditions;
- iv. assess the importance of library services for communities hit by threats of local and/or global nature so as to enable a rapid and effective reaction and possible remedy to these threats ;
- v. analyse the circulation of documents and set up alternative ways for libraries to interact with the communities they refer to;
- vi. provide correct and accurate information about global / local threats and diffuse this information in the population;
- vii. promote the concept of the library as a “safe place” where access to verified information and adequate communication channels are provided;
- viii. plan alternative ways of performing library services focussed on technologies, distant delivery and new models of distribution;
- ix. periodically review library budgets and find alternative sources of income, in order to compensate for cuts in the library’s budgets in case of disaster;
- x. establish cooperation with networks normally operational in disaster and crisis situations, with institutions in charge of rescue and of civil protection, as well as with heritage and culture institutions and international organisations (e.g., Blue Shield international), so that library resources and activities can swiftly be modulated under adverse conditions.

IV. Digital transformation and the promotion of a sustainable, reliable and inclusive library ecosystem

10. Libraries as active agents in the book and information chains

In the digital transformation, libraries play a pivotal role within the book and information chains, both digital and printed. The adoption of cross-cutting technologies and the implementation of transformative capabilities using artificial intelligence and algorithmic systems can create the potential to enhance this role. In collaboration with library managers, national and local authorities should :

- i. elaborate library plans which may scale up library practices from the analogue to the digital and combine the two formats in order to meet library traditional objectives;
- ii. pursue distance-learning objectives in alliance with educational establishments including harnessing the virtual dimension and providing digital hotspots for young people;
- iii. in compliance with privacy regulations and recommendations regulating the use of algorithmic systems, exert control over data and metadata affecting library operations and re-use them for policy-making and decision-making processes, in particular when they concern movements of people and resources and related library outcomes;
- iv. ensure regulation of artificial intelligence products to protect privacy and equity principles, including user education in libraries;
- v. promote the role of libraries as forums to exchange best practices on ethical use of AI technologies in libraries;
- vi. ensure that algorithmic systems applied in libraries do not create disparities or discriminations and comply with provisions intended to respect fundamental rights;
- vii. promote market growth for library products and services which does not create barriers or inequalities of an economic, legal or technological nature;
- viii. encourage public reuse of resources and create opportunities for content integration and knowledge extraction, in compliance with copyright regulations fostering sustainability and diversity in both the medium and long term.

11. Information and digital literacy

As community hubs designed to encourage the social development of the communities they serve, libraries should host and provide media and information literacy courses. They should therefore:

- i. In a fully integrated library system, consider the entire document lifecycle and ensure optimal circulation of the content within a national and international infrastructure where all libraries participate in their distinctive functions through the implementation of standards fostering interoperability;

- ii. encourage and promote the implementation of effective and tailored media, information and digital literacy programmes with a view to enabling individuals and groups of the population to be aware of their rights and to know how to put them into practice;
- iii. empower individuals to master the information they have access to against any attempt to manipulate or exploit people's mindsets and actions through misinformation and disinformation;
- iv. digital literacy activities for targeted categories of people should be reinforced in close link with general policies aimed to fill national and local digital divides;
- v. implement practices aiming at increasing informational self-determination in individuals, so that they are made aware of any restrictions of their individual effort to freely access to information and exercise individual rights;
- vi. undertake research aiming to assess the level of democratic participation and the use of individual rights.

V. Copyright and the protection of library heritage

12. Copyright and libraries

Libraries support copyright laws that reasonably preserve authors' intellectual property without compromising the library user's access to information. In any law dealing with copyright and neighbouring rights libraries should be recognised as organisations having a public function – paid for by public funds – and the availability and use of information should be facilitated in every way.

- i. Libraries should be allowed to perform their public function regardless of the kind of material they handle, be it printed, audio-visual or digital information. Consequently, the copyright exceptions and limitations that apply to printed materials should also apply to digital materials;
- ii. political bodies should ensure the legal and financial conditions guaranteeing access to library collections and unhindered access of citizens to cultural, scientific, educational and social information through libraries, no matter in what form collections are stored, transported or distributed;
- iii. national lending right rules should apply to all kind of information, both printed and in digital form.

13. Governmental obligations in respect to libraries

Libraries should enjoy a special status in governmental measures designed to encourage the development of cultural content and access of individuals to it. In close consultation with professional organisations and relevant bodies, national and local authorities should:

- i. provide libraries with a special obligation to provide access to the information produced by government and local authorities;
- ii. as institutions with a non-commercial purpose libraries should be fully allowed to:
 - benefit from the exception to the exclusive right of reproduction or communication to the public of a work or a database for reproductions and extractions of lawfully accessible works for the purposes of text and data mining, in compliance with article 4 of the Directive (EU) 2019/790 in the Digital Single Market;
 - benefit from the exception to the exclusive right of reproduction or communication to the public of a work or a database for the sole purpose of illustration for teaching, in compliance with article 5 of the Directive (EU) 2019/790 in the Digital Single Market;
 - make copies of any works that are permanently in their collections, in any format or medium, for the sole purpose of the preservation of such works, in compliance with article 6 of the Directive (EU) 2019/790 in the Digital Single Market;

- make copies of any out-of-commerce works, in compliance with article 8 of the Directive (EU) 2019/790 in the Digital Single Market;
 - make orphan works included in their collections available to the public and to make copies of such work for the purpose of digitisation, in compliance with article 6 of the Directive 2012/28;
- iii. promote Controlled Digital Lending (CDL) as a way to encourage citizens' access to information, thus allowing library loans to digital patrons in a "lend like print" fashion, while not deterring other libraries in using different e-lending models, in the interest of both right holders and libraries;
 - iv. allow basic lending of e-books under the "one copy-one user" model, while not deterring other libraries in using different e-lending models, in the interest of both right holders and libraries;
 - v. make available information and cultural content through collective agreements, licensing and other forms of negotiations with publishers and authors at reasonable prices, when used for the purpose of individual development;
 - vi. not permit publishing policies intending to restrict access to information in libraries, whether in the form of embargoes or explicit vetoes to library acquisitions;
 - vii. commit themselves to the advancement of Open Science and to a healthier and more efficient research ecosystem, with greater impact for research funding and knowledge transfer.

14. Legal deposit

The legal deposit is the main instrument for the building up collections of national heritage. Its objectives should be stated as follows:

- i. the creation of a national collection in printed and digital form, in order to preserve, develop and transmit the national culture to future generations;
- ii. access to stored publications through the exception guaranteed by article 6 of the Directive (EU) 2019/790 in the Digital Single Market;
- iii. instigate regulations intended to oblige publishers/producers to deposit printed and digital copies in national depository institutions. Voluntary deposit should not be discouraged if it achieves the same objective as compulsory regulation and coverage of all categories of publications should be set up together with appropriate policies also implying selective policies;
- iv. depository institutions should be able to provide efficient bibliographic services of, and adequate access to, deposited publications, preferably through electronic networks in order to increase efficiency. National libraries and/or other national bibliographic agencies should actively co-operate with other governmental organisations and non-

governmental organisations in order to better serve the entire library community, as well as society at large;

- v. deposit of printed and digital copies should be kept at a reasonable level according to national needs. Due to the high cost of preservation programmes, overlapping in policies linked to the legal deposit of sound, audio-visual, film, and electronic material should be carefully avoided;
- vi. web archiving should be strongly encouraged through harvesting techniques;
- vii. the implementation of legal deposit for digital publications should be reinforced through campaigns aiming to make producers aware of the importance of storing web content for the protection of library heritage;
- viii. the non-compliance with legal deposit regulations ought to be sanctioned with financial or other measures.
- ix. models for co-operation between depository institutions should be further analysed and encouraged;
- x. future research and investigation is needed in order to explore the legal, technical and financial aspects of legal deposit of electronic publications.

15. Transfrontier transfer of the written heritage

It is recommended that:

- i. Documents of the written heritage, whether from libraries or not, be integrated in the definition and/or list of cultural goods protected under the rules on the control of exportation; in the particular case of heritage documents in libraries, their permanent exportation should not be permitted and only temporary exportation should be allowed;
- ii. the UNIDROIT Convention of 1995 on Stolen or Illegally Exported Cultural Objects be made the reference document on questions of theft or illegal exportation, as an extension to Council of Europe Parliamentary Assembly Recommendation 1372 (1998);
- iii. national regulations should be provided to control the transfrontier movement of cultural goods, compatible with the Directives of the European Council (Council Rule of 9 December 1992 and subsequent texts);
- iv. programmes intended to provide information of, and access to, written heritage transferred during the Second World War, should be encouraged.