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BUREAU OF THE STEERING COMMITTEE
FOR CULTURE, HERITAGE AND LANDSCAPE
(CDCPP)

DRAFT RECOMMENDATION OF THE COMMITTEE OF MINISTERS
TO MEMBER STATES ON BIG DATA FOR CULTURE,
LITERACY AND DEMOCRACY

(follow-up to the 3rd Council of Europe Exchange Platform
on the Impact of Digitisation on Culture, Tallinn, September 2016)

For information and action

Secretariat Memorandum
prepared by the
Directorate of Democratic Governance
Culture, Nature and Heritage Department

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Background

In the framework of the Estonian Presidency of the Committee of Ministers of the Council of Europe (May-November 2016), the Estonian Government hosted the 3rd Council of Europe Platform Exchange on Culture and Digitisation in Tallinn on 29-30 September 2016. The event entitled "Culture 4D: Digitisation, Data, Disruptions, Diversity" brought together some 200 policy makers, media practitioners, cultural/arts specialists, artists, researchers/students and representatives of civil society bodies. The Platform Exchange generated a fruitful exchange and identified challenges and opportunities related to Big Data in the cultural field and the means to empower and participate in digital culture, overcome cultural barriers and close digital gaps in society.

Progress

Following the decision by the Bureau of the CDCPP in November 2016, a working party was set up and entrusted with drawing up policy guidelines based on the insights generated at the Tallinn event. The group held two one-day working meetings in Paris (December 2016 and January 2017) and prepared the attached draft Recommendation of the Committee of Ministers to member States on Big Data for Culture, Literacy and Democracy.

Next steps

The CDCPP is invited to discuss the draft Recommendation and ask the Secretariat to finalise the text in view of the debates held. The text would then once more be consulted with the Bureau (written procedure) and subsequently presented to the CDCPP Plenary for discussion and adoption. Consultations with other relevant Council of Europe Steering Committees would follow (inter alia, the CDMSI and the CDPPE) before the text would be submitted to the Committee of Ministers for adoption.

As regards the development of a future Council of Europe Charter on the Internet of Citizens -an idea emanating from the 2016 Platform Exchange in Tallinn- this could be envisaged in the second half of the year, following discussions in the CDCPP Plenary. The project of such a Charter could also be the subject for the 2017 Platform Exchange on Culture and Digitisation, to be held in October 2017 at the Center for Art and Media (ZKM) in Karlsruhe, Germany.

Action required

The Bureau is invited to:

- exchange on the draft Recommendation of the Committee of Ministers to member States on Big Data for Culture, Literacy and Democracy;
- invite the Secretariat to finalise the text in the light of debates held, and arrange for a final written consultation process with Bureau members before submitting the draft Recommendation to the CDCPP Plenary in May 2017 with a view to its finalisation;
- invite the Secretariat to consult with relevant Council of Europe Steering Committees including, inter alia, the CDMSI and the CDPPE as well as with in-house bodies, in view of its subsequent adoption by the Committee of Ministers;
- invite the Secretariat to investigate the feasibility of a Council of Europe Charter on the Internet of Citizens, discuss this issue at the 2017 Platform Exchange on Culture and Digitisation, and keep Bureau members informed of preparations for this event.

Draft Recommendation of the Committee of Ministers to member States on Big Data for Culture, Literacy and Democracy

Context

Cultural data management and decision-making has been affected by the automated collection and processing of data worldwide. Big-data analytics (predictive analysis) for cultural productions and uses has disrupted cultural work as well as the distribution of cultural content, access to culture, and privacy. Citizens' participation in culture has been affected due to non-transparent metadata protocols, algorithmic decision making, the indexing of search results and presentation of cultural content. This engenders limited or biased access to cultural information. It may also affect the diversity of representations of society as far as the selection of content may limit such diversity.

Member states, their public and private memory institutions, as well as national and international media and Internet companies, are investing in the digitisation of cultural heritage and cultural services. This includes the collection of big-data on the uses of existing and the creation of new ("born-digital") content and cultural practices by cultural workers and citizens at large. This collection and "repurposing" of data is being done to preserve and enable more targeted access to culture.

All forms of cultural data management should enable citizens to be empowered through an open culture both online and offline, while respecting and protecting human rights and fundamental freedoms. Action is also required to foster critical digital literacy among citizens and cultural workers. This strengthens democracy and prepares Internet users to deal with the challenges ahead namely to be responsible citizens online who can manage the automated collection and processing of their data.

Preamble

The Committee of Ministers of the Council of Europe, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity between its members for the purpose of safeguarding and promoting the ideals and principles which are their common heritage;

Keeping in mind that the Council of Europe's key cultural policy goals should lay the foundations of member States' cultural policies, namely to foster participation in and access to culture by as many people as possible, as well as diversity of cultural expression and to promote cultural identity and creativity;

Recalling the Final Statement of the 10th Council of Europe Conference of Ministers of Culture (Moscow, 15-16 April 2013) which highlighted the digital revolution as "crucial to the viability of creation and cultural diversity" and accordingly requested the setting up of a platform for exchange on the impact of digitisation of culture;

Underlining that a human rights approach is required for all policies on culture including those which address the digital shift. This is to give full effect to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, hereafter the Convention), as interpreted by the European Court of Human Rights, and as developed in this field by the Committee of Ministers in its Recommendation CM/Rec(2014)6 on a Guide to human rights for Internet users.

Noting the Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data (ETS No. 108), and the Guidelines on the protection of individuals with regard to the processing of personal data in a world of big-data agreed by the Consultative Committee of the Convention for the protection of individuals with regard to automatic processing of personal data (T-PD).

Recalling the Recommendation of the Committee of Ministers CM/Rec(2016)2 on the Internet of Citizens, the Council of Europe Internet Governance Strategy 2016-2019, Recommendation of the Committee of Ministers CM/Rec(2007)16 on measures to promote the public service value of the Internet, Recommendation of the Committee of Ministers CM/Rec(2016)5 on Internet freedom, and Recommendation of the Committee of Ministers CM/Rec (2016)3 on human rights and business.

Recommendations

The 3rd Council of Europe Platform Exchange on Culture and Digitisation, held in Tallinn on 29-30 September 2016, re-affirmed the Internet as a global resource which should be managed in the public interest. In this context, and with a view to building democracy online, it is recommended that member states:

- Ensure that all individuals and communities, including minorities, migrants and refugees, are made aware of cultural big data management and are able to make informed choices and decisions regarding its automated processing which predicts cultural attributes, preferences and behaviours;
- Support critical digital literacy programmes to raise awareness and empower Internet users to understand and manage the automated collection and processing of their cultural data;
- Support the development of a multi-stakeholder policy exchange on the future of culture, having regard to big-data, literacy and democracy.

Appendix I - Policy guidelines

Cultural big data management

1. Digital policy standards for all entities managing cultural big data should be transparent and foster trust among individuals and communities as a means of empowering them to overcome cultural barriers and contribute to societal inclusion. Member states are thereby encouraged to act by:
 - a. ensuring that the automated collection and processing of cultural big data do not diminish respect for human rights and fundamental freedoms of individuals;
 - b. ensuring that everyone can choose to be inscrutable in the digital age and therefore to not have predictions made by algorithmic decision-making about their cultural attributes, preferences and behaviours;
 - c. reviewing the national policy of public cultural institutions and the drawing-up of strategies, policies and practices on cultural big data, in particular with regard to the opportunities and threats to cultural diversity and access to culture;
 - d. assisting cultural entities in the archiving of data in the public interest and by law, in particular to enable them to strike a balance between the “right to be forgotten”¹ and the protection of memory to avoid the risk of established facts being altered and the rewriting of history;
 - e. calling upon both public and private cultural institutions to use open metadata standards and to share metadata;
 - f. ensuring public access to cultural big data, in particular the archives of cultural institutions which hold all kinds of data relating to individuals and communities including those generated through social media platforms and public consultations, in conformity with existing data protection legislation;
 - g. ensuring also that the automated dissemination of news follows public service good governance assessment criteria notably with regard to transparency, openness, responsiveness and responsibility, as set out in Recommendation CM/Rec(2012)1 of the Committee of Ministers to member states on public service media governance;
 - h. fostering and supporting digital initiatives in the cultural sector, in conjunction with educational initiatives including media and information literacy programmes, to fight radicalisation, counter ‘fake news’, identify propaganda and deconstruct conspiracy theories;
 - i. strengthening legal frameworks for digital cultural workers.

¹ No such right exists in the ECHR but reference here could be made to the guide to human rights for Internet users which states “3. you should be aware that content you create on the Internet or content concerning you created by other Internet users may be accessible worldwide and could compromise your dignity, security and privacy or be otherwise detrimental to you or your rights now or at a later stage in your life. Upon your request, this should be removed or deleted within a reasonably short period of time”

Critical digital literacy

2. Everyone should have the skills and competences to make informed choices and decisions concerning their cultural data. Member states are thereby encouraged to act by:
 - a. strengthening digital skills education for cultural self-expression, especially for young people, adults and older persons so that as Internet users they can master the generation of their own big-data;
 - b. developing new teaching and learning methods which consolidate technical computer skills and critical information processing, analysis and creative self-realisation;
 - c. using digital means to unlock the potential of heritage for the creative “re-purposing” of cultural content, new forms of expression, and cultural dialogue;
 - d. ensuring that decisions by public institutions on the indexing and presentation of cultural content, including its filtering should not limit access by individuals and communities to new content;
 - e. drawing up guidelines for Internet users on the indexing and presentation of cultural content;
 - f. encouraging cultural institutions - relying on their infrastructures and cross-border networks - to promote and assist European citizens in developing robust digital skills and critical thinking.

Multi-stakeholder Dialogue and Action

3. A multi-stakeholder approach is the most effective means to strengthen cultural big data management and develop the provision of critical digital literacy. Member states are thereby encouraged to cooperate and collaborate with relevant intergovernmental, international, state and non-state actors, in particular by:
 - a. supporting interaction between cultural institutions and audiences on content and vision for the future;
 - b. facilitating dialogue between public and private cultural service providers on the interoperability of data standards and preferences for open standards, and on sharing experiences and best practices regarding the opportunities for new kinds of cultural works and professional careers as a result of digitisation and cultural big data management;
 - c. drawing-up policy guidance on culture and digitisation, in particular on the implementation of the Recommendation CM/Rec (2016)2 of the Committee of Ministers on the Internet of Citizens via inter alia the Council of Europe’s platform exchanges on culture and digitisation;
 - d. encouraging the setting-up of an observatory on critical digital literacy;
 - e. developing a Council of Europe charter on the Internet of Citizens;

- f. facilitating multi-stakeholder co-operation between international organisations, notably the OSCE, UNESCO and the European Union, on the management of cultural big data with attention to its transparency, respect for human-rights, good practice, and co-ordinated action;
- g. specifically urging the private sector to:
 - i. recognise users both as consumers and creators of culture as well as responsible citizens online;
 - ii. respect the human rights of Internet users especially with regard to the automated collection and processing of cultural big data, the use of metadata and the management of personal data;
 - iii. commit to the transparent management of personal data with particular regard to algorithmic decision making designed to mediate culture to users;
 - iv. co-operate with member states in their reviews of cultural big data management policies and practices, in particular with regard to the opportunities and threats to cultural diversity and access to culture.
- h. cooperating with non-governmental organisations to:
 - i. support workers in digital creative industries, wherein small businesses often fail to represent their interests and large businesses may resist certain types of regulation;
 - ii. promote digital initiatives, in combination with educational ones including media and information literacy programmes, to fight radicalisation, to counter 'fake news' as well as spot propaganda and deconstruct plot theories;
 - iii. promote cultural service and equality for all with regard to participation in, and access to, cultural services, in both fact and law;
 - iv. develop critical digital literacy by means of creativity training including through non-formal education.

Appendix II

Glossary of terms

Automated processing of data: Replacing human agency by machines for the collection, storage and analyses of data by smart machines, which can have sensing and response capabilities.

Big Data: Large amounts of data that is being collected from various sources and subjected to automatic processing through machine operated algorithms in order to view correlations.

Born-digital data: data that was digital from the moment of its creation.

Creative industries: their borders with cultural industries are blurred because they tend to cover the same cultural goods (with additional ones such as arts and crafts, design), although their main *raison d'être* may be commercial. But the focus is on the creative individuals rather than the origins of funding and on the strong emphasis on information and knowledge-based goods and services.

Critical digital literacy: new teaching and learning methods that consolidate technical computer skills in combination with critical information search, processing, analysis and creative self-realisation.

Cultural Big Data: Large amounts of data constituting either cultural content or metadata about the production and uses of content or cultural practices that is being collected from various sources and subjected to automatic processing through machine operated algorithms in order to view correlations.

Cultural industries: this traditionally refers to cultural goods such as publishing, film, television, music, advertising and video and computer games, which are usually protected by copyright law. They encompass the whole industrial chain of creation, production and distribution as it affects cultural consumption and participation.

Cultural institutions: classic examples are museums, art galleries, theatres, cinemas, libraries, cultural research institutes.

Digital culture: refers to the various cultural and creative expressions and practices, including in the field of heritage, which have emerged or have been facilitated and strengthened since the global explosion in information technology and social media. This culture is seen as more freely available, accessible and inclusive, removing dividing lines between creator and consumer and between traditional and more recent art forms, enhancing the democratisation of culture.

Digital cultural worker: a person working in the cultural field whose creative medium is digital.

Digitisation: the conversion of information and documents into digital format.

Internet of Citizens: the Internet of Citizens promotes the human and cultural dimension of the internet as a complement to the Internet of Things. It is a new notion which calls for a people-centered approach to the Internet, in particular to empower everyone who uses and relies upon it for their everyday activities. The term "citizens" is used here in a general sense, meaning people or persons, and not in any legal sense.

Internet of Things (IoT): refers to the equipment of all objects and people with identifying devices (sensors, captors, QR codes, etc.) so as to monitor and manage them via their virtual representation online. Such advanced connectivity between people, things and places could facilitate inventory of stock but also enable content creators and content owners to control their work by tracing use and applying copyright.

Metadata: contextual data on cultural content that is either derived in automated ways from the usage and creation of that content or is produced post-factum, by different kinds of users, producers, archivists or curators on the creation, potential or determined uses and what may be referred to by that content.

Public service good governance assessment criteria: a set of interlocking criteria that public service media organisations can use to assess their system of governance, set out in Recommendation CM/Rec(2012)1 of the Committee of Ministers to member states on public service media governance. The criteria are designed to operate at every level within the organisation: they relate to the highest decision-making level of the media organisation, but they are also directly related to structures, processes and behaviours operating throughout the organisation. They concern respectively the principles of independence, accountability, effective management, transparency and openness as well as responsiveness and responsibility.

“Re-purposing”: finding a new use for a given object.