



9.2.2017

## **OPINION**

of the Committee on Employment and Social Affairs

for the Committee on Legal Affairs

on the proposal for a directive of the European Parliament and of the Council on certain permitted uses of works and other subject-matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society  
(COM(2016)0596 – C8-0381/2016 – 2016/0278(COD))

Rapporteur: Helga Stevens

PA\_Legam

## SHORT JUSTIFICATION

The negotiation of the Marrakesh Treaty to Facilitate Access to Published Works for Persons who Are Blind, Visually Impaired, or Otherwise Print Disabled ('the Marrakesh Treaty') was conducted on the basis of the Marrakesh Treaty being a mixed agreement - some of the matter covered were considered to fall within the competence of the EU, and others to fall within the competence of the Member States. Fifteen Member States have already signed the Marrakesh Treaty.

This is considered to be a historic treaty as it is the first treaty on copyright exceptions, and it also has a human rights element. The Draftsperson has been committed to improving access to copyright works for visually impaired people. Visually impaired people around the world will have greater access to books with many organisations being able to send copies of works to other countries.

The Draftsperson further consulted with disability organisations and stakeholders and understands that the Commission proposal is seen favourable. Changes to the text have been limited to the competences of the Committee on Employment and Social Affairs and to ensure wording complies with the UN Convention on the Rights of Persons with Disabilities, as well as the Marrakesh Treaty.

## AMENDMENTS

The Committee on Employment and Social Affairs calls on the Committee on Legal Affairs, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a directive

##### Citation 1

*Text proposed by the Commission*

Having regard to the Treaty on the Functioning of the European Union, and in particular *Article* 114 thereof,

*Amendment*

Having regard to the Treaty on the Functioning of the European Union, and in particular *Articles 19 and* 114 thereof,

### Amendment 2

#### Proposal for a directive

##### Citation 1 a (new)

*Text proposed by the Commission*

*Amendment*

*Having regard to Protocol (No 1) to the Treaty on the Functioning of the*

### **Amendment 3**

#### **Proposal for a directive**

##### **Citation 1 b (new)**

*Text proposed by the Commission*

*Amendment*

*Having regard to Protocol (No 2) to the  
Treaty on the Functioning of the  
European Union on the application of the  
principles of subsidiarity and  
proportionality,*

### **Amendment 4**

#### **Proposal for a directive**

##### **Recital 1**

*Text proposed by the Commission*

*Amendment*

(1) Union Directives in the area of copyright and related rights provide legal certainty and a high level of protection for rightholders. This harmonised legal framework contributes to the proper functioning of the internal market and stimulates innovation, creation, investment and the production of new content, including in the digital environment. It also aims to promote access to knowledge and culture by protecting works and other subject-matter and by permitting exceptions or limitations that are in the public interest. A fair balance of rights and interests between rightholders and users should be safeguarded.

(1) Union Directives in the area of copyright and related rights provide legal certainty and a high level of protection for rightholders. This harmonised legal framework contributes to the proper *and improved* functioning of the internal market and stimulates innovation, creation, investment, *employment*, and the production of new content, including in the digital *and online* environment. It also aims to promote access to knowledge and culture by protecting works and other subject-matter and by permitting exceptions or limitations that are in the public interest. A fair balance of rights and interests between rightholders and users should be safeguarded

### **Amendment 5**

#### **Proposal for a directive**

##### **Recital 3**

*Text proposed by the Commission*

(3) Persons who are blind, visually impaired or otherwise print disabled continue to face many barriers in accessing books and other print material which are protected by copyright and related rights. Measures need to be taken to increase the availability of those works in accessible formats and to improve their circulation in the internal market.

*Amendment*

(3) Persons who are blind, visually impaired or otherwise print disabled, ***including those with physical disabilities unable to hold or manipulate a book,*** continue to face many barriers in accessing books and other print material which are protected by copyright and related rights. Measures need to be taken to increase the availability of those works in accessible formats and to improve their circulation in the internal market.

**Amendment 6**

**Proposal for a directive  
Recital 5**

*Text proposed by the Commission*

(5) This Directive is designed for the benefit persons who are blind, have a visual impairment which cannot be improved so as to give those persons visual function substantially equivalent to that of a person who has no such impairment, or have a perceptual or reading disability, including dyslexia, preventing them from reading printed works to substantially the same degree as persons without such disability, or are unable to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading due to a physical disability. The objective of the measures introduced by this Directive is to improve the availability of books, journals, newspapers, magazines and other writings, sheet music and other print material, including in audio form, whether digital or analogue, in formats that make those works and other subject-matter accessible to those persons to substantially the same degree as to persons without an impairment or disability. Accessible formats include Braille, large print, adapted e-books, audio

*Amendment*

(5) This Directive is designed for the benefit ***of*** persons who are blind, have a visual impairment which cannot be improved so as to give those persons visual function substantially equivalent to that of a person who has no such impairment, or have a perceptual or reading disability, including dyslexia, ***or any other learning disability,*** preventing them from reading printed works to substantially the same degree as persons without such disability, or are unable to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading due to a physical disability. The objective of the measures introduced by this Directive is to improve the availability of books, journals, newspapers, magazines and other writings, sheet music and other print material, including in audio form, whether digital or analogue, ***online or offline,*** in formats that make those works and other subject-matter accessible to those persons to substantially the same degree as to persons without an impairment or disability. Accessible formats include

books and radio broadcasts

Braille, large print, adapted e-books, audio books and radio broadcasts

## Amendment 7

### Proposal for a directive

#### Recital 6

*Text proposed by the Commission*

(6) This Directive should therefore provide for mandatory exceptions to the rights that are harmonised by Union law and are relevant for the uses and works covered by the Marrakesh Treaty. These include in particular the rights of reproduction, communication to the public, making available, distribution and lending, as provided for in Directive 2001/29/EC, Directive 2006/115/EC, and Directive 2009/24/EC, as well as the corresponding rights in Directive 96/9/EC. As the scope of exceptions and limitations required by the Marrakesh Treaty also includes works in audio form, like audiobooks, it is necessary that these exceptions also apply to related rights.

*Amendment*

(6) This Directive should therefore provide for mandatory exceptions to the rights that are harmonised by Union law and are relevant for the uses and works covered by the Marrakesh Treaty. These include in particular the rights of reproduction, communication to the public, making available, distribution and lending, as provided for in Directive 2001/29/EC, Directive 2006/115/EC, and Directive 2009/24/EC, as well as the corresponding rights in Directive 96/9/EC. As the scope of exceptions and limitations required by the Marrakesh Treaty also includes works in audio form, like audiobooks, it is necessary that these exceptions also apply to related rights. ***The exercise of the exceptions provided for by this Directive should be without prejudice to other more favourable exceptions for persons with disabilities provided for by the Member States, such as those relating to private use.***

## Amendment 8

### Proposal for a directive

#### Recital 11

*Text proposed by the Commission*

(11) In view of the specific nature of the exception, its targeted scope and the need for legal certainty for its beneficiaries, Member States should not be allowed to impose additional requirements for the application of the exception, such as

*Amendment*

(11) In view of the specific nature of the exception, its targeted scope and the need for legal certainty for its beneficiaries, Member States should not be allowed to impose additional requirements for the application of the exception, such as

compensation schemes or the prior verification of the commercial availability of accessible format copies.

compensation schemes or the prior verification of the commercial availability of accessible format copies. ***Such additional requirements would run the risk of going against the purpose of facilitating the cross-border exchange of accessible format copies within the internal market.***

## Amendment 9

### Proposal for a directive Recital 13

#### *Text proposed by the Commission*

(13) The United Nations Convention on the Rights of Persons with Disabilities ('the UNCRPD'), to which the **EU** is a party, guarantees people with disabilities the right of access to information and the right to participate in cultural, economic and social life on an equal basis with others. The UNCRPD requires parties to the Convention to take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.

#### *Amendment*

(13) The United Nations Convention on the Rights of Persons with Disabilities ('the UNCRPD'), to which the **Union** is a party ***as of 21 January 2011***, guarantees people with disabilities the right of access to information and ***to communication and*** the right to participate in cultural, economic, ***political, work*** and social life on an equal basis with others. The UNCRPD requires parties to the Convention to take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.

## Amendment 10

### Proposal for a directive Recital 14

#### *Text proposed by the Commission*

(14) Under the Charter of Fundamental Rights of the European Union, the Union

#### *Amendment*

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recognises and respects the right of people with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.

*prohibits discrimination on the basis of disability and* recognises and respects the right of people with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.

## Amendment 11

### Proposal for a directive Article 2 – point 1

#### *Text proposed by the Commission*

(1) ‘work and other subject-matter’ means a work in the form of a book, journal, newspaper, magazine or other writing, including sheet music, and related illustrations, in any media, including in audio forms such as audiobooks, which is protected by copyright or related rights and which is published or otherwise lawfully made publicly available;

#### *Amendment*

(1) ‘work and other subject-matter’ means a work in the form of a book, *e-book*, journal, newspaper, magazine or other writing, including sheet music, and related illustrations, in any media, *online or offline*, including in audio forms such as audiobooks, which is protected by copyright or related rights and which is published or otherwise lawfully made publicly available;

## Amendment 12

### Proposal for a directive Article 2 – point 2 – point c

#### *Text proposed by the Commission*

(c) a person who has a perceptual or reading disability, including dyslexia, and is, as a result, unable to read printed works to substantially the same degree as a person without an impairment or disability; or

#### *Amendment*

(c) a person who has a perceptual or reading disability, including dyslexia, *or any other learning disability*, and is, as a result, unable to read printed works to substantially the same degree as a person without an impairment or disability; or

## Amendment 13



**Proposal for a directive**  
**Article 3 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Member States shall ensure that the exceptions to copyright and to related rights provided for in paragraph 1 cannot be superseded by technological measures or by contract.***

**Amendment 14**

**Proposal for a directive**  
**Article 7 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

By [two years after the date of transposition], the Commission shall present a report to the European Parliament, the Council and the European Economic and Social Committee on the availability, in accessible formats, of works and other subject-matter other than those defined in Article 2(1) for beneficiary persons, and of works and other subject-matter for persons with disabilities other than those referred to in Article 2(2), in the internal market. The report shall contain an assessment on whether an amendment of the scope of this Directive should be considered.

By [two years after the date of transposition], the Commission shall present a report to the European Parliament, the Council and the European Economic and Social Committee on the availability, in accessible formats, of works and other subject-matter other than those defined in Article 2(1) for beneficiary persons, and of works and other subject-matter for persons with disabilities other than those referred to in Article 2(2), in the internal market. The report shall contain an assessment - ***taking into account technological developments and particularly the technologies available to help people with disabilities, and the accessibility of those technologies*** - on whether an amendment of the scope of this Directive should be considered.

**Amendment 15**

**Proposal for a directive**  
**Article 8 – paragraph 1**

*Text proposed by the Commission*

**No sooner than** [five years after the date of transposition], the Commission shall carry out an evaluation of this Directive and present the main findings to the European Parliament, the Council and the European Economic and Social Committee, accompanied, where appropriate, by proposals for the amendment of this Directive

*Amendment*

**By** [five years after the date of transposition], the Commission – **taking also into account technological developments in the context of accessibility** – shall carry out an evaluation of this Directive and present the main findings to the European Parliament, the Council and the European Economic and Social Committee, accompanied, where appropriate, by proposals for the amendment of this Directive. **The Commission's report shall take into account the viewpoints of relevant civil society actors, non-governmental organisations and social partners, including organisations of and by persons with disabilities and those representing older persons.**

**ANNEX: LIST OF ENTITIES OR PERSONS  
FROM WHOM THE RAPPORTEUR FOR THE OPINION HAS RECEIVED INPUT**

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur for the opinion. The rapporteur has received input from the following entities or persons in the preparation of the draft opinion:

<b>Entity and/or person</b>
European Blind Union (EBU)
European Disability Forum (EDF)

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Permitted uses of works and other subject-matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society
<b>References</b>	COM(2016)0596 – C8-0381/2016 – 2016/0278(COD)
<b>Committee responsible</b> Date announced in plenary	JURI 6.10.2016
<b>Opinion by</b> Date announced in plenary	EMPL 24.11.2016
<b>Rapporteur</b> Date appointed	Helga Stevens 28.11.2016
<b>Discussed in committee</b>	8.12.2016
<b>Date adopted</b>	25.1.2017
<b>Result of final vote</b>	+: 49 –: 0 0: 2
<b>Members present for the final vote</b>	Laura Agea, Brando Benifei, Vilija Blinkevičiūtė, Enrique Calvet Chambon, Ole Christensen, Martina Dlabajová, Lampros Fountoulis, Arne Gericke, Marian Harkin, Czesław Hoc, Agnes Jongerius, Rina Ronja Kari, Jan Keller, Agnieszka Kozłowska-Rajewicz, Jean Lambert, Jérôme Lavrilleux, Patrick Le Hyaric, Jeroen Lenaers, Verónica Lope Fontagné, Javi López, Thomas Mann, David Martin, Joëlle Mélin, Elisabeth Morin-Chartier, João Pimenta Lopes, Georgi Pirinski, Terry Reintke, Sofia Ribeiro, Robert Rochefort, Claude Rolin, Anne Sander, Sven Schulze, Siôn Simon, Jutta Steinruck, Romana Tomc, Yana Toom, Ulrike Trebesius, Marita Ulvskog, Renate Weber, Jana Žitňanská
<b>Substitutes present for the final vote</b>	Georges Bach, Heinz K. Becker, Lynn Boylan, Dieter-Lebrecht Koch, Paloma López Bermejo, Edouard Martin, Evelyn Regner, Csaba Sógor, Helga Stevens, Flavio Zanonato
<b>Substitutes under Rule 200(2) present for the final vote</b>	Marco Valli

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

49	+
ALDE	Enrique Calvet Chambon, Martina Dlabajová, Marian Harkin, Robert Rochefort, Yana Toom, Renate Weber
ECR	Arne Gericke, Czesław Hoc, Helga Stevens, Ulrike Trebesius, Jana Žitňanská
EFDD	Laura Agea, Marco Valli
GUE/NGL	Lynn Boylan, Rina Ronja Kari, Patrick Le Hyaric, Paloma López Bermejo, João Pimenta Lopes
NI	Lampros Fountoulis
EPP	Georges Bach, Heinz K. Becker, Dieter-Lebrecht Koch, Agnieszka Kozłowska-Rajewicz, Jérôme Lavrilleux, Jeroen Lenaers, Verónica Lope Fontagné, Thomas Mann, Elisabeth Morin-Chartier, Sofia Ribeiro, Claude Rolin, Anne Sander, Sven Schulze, Csaba Sógor, Romana Tomc
S&D	Brando Benifei, Vilija Blinkevičiūtė, Ole Christensen, Agnes Jongerius, Jan Keller, Javi López, Edouard Martin, Georgj Pirinski, Evelyn Regner, Siôn Simon, Jutta Steinruck, Marita Ulvskog, Flavio Zanonato
Green/ALE	Jean Lambert, Terry Reintke

0	-

2	0
ENF	Dominique Martin, Joëlle Mélin

**Key to symbols:**

+ : in favour

- : against

0 : abstention