



2016/0279(COD)

30.1.2017

AMENDMENTS

10 - 40

Draft opinion
Angel Dzhambazki
(PE595.580v01-00)

Cross-border exchange between the Union and third countries of accessible format copies of certain 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

Proposal for a regulation
(COM(2016)0595 – C8-0380/2016 – 2016/0279(COD))

Amendment 10
Isabella Adinolfi

Proposal for a regulation
Citation 1 a (new)

Text proposed by the Commission

Amendment

Having regard to Article 26 of the Charter of Fundamental rights of the European Union and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD);

Or. en

Amendment 11
Dominique Bilde, Marie-Christine Boutonnet

Proposal for a regulation
Recital 2

Text proposed by the Commission

Amendment

(2) Directive [...] endeavours to implement the *Union's* obligations ***under the Marrakesh Treaty in a harmonised manner*** in order to improve the availability of accessible format copies for beneficiary persons and their circulation ***within the internal market***. The *Directive* requires Member States to introduce a mandatory exception to certain rights of right holders that are harmonised by Union law. The objectives of this Regulation are to implement the obligations in the Marrakesh Treaty with respect to the export and import of accessible format copies for the benefit of beneficiary persons between the *Union* and third countries that are parties to the Marrakesh Treaty, and to lay down the conditions for such export and import. Such measures ***may only*** be taken at Union level as the exchange of accessible format copies of works and other subject-matter concerns the commercial aspects of intellectual property. A ***Regulation is the only*** appropriate instrument.

(2) Directive [...] endeavours to implement the obligations ***of the Member States and of the Union under the Marrakesh Treaty*** in order to improve the availability of accessible format copies for beneficiary persons and their circulation ***throughout the territories of the Member States***. The *directive* requires Member States ***and the Union*** to introduce a mandatory exception to certain rights of right holders that are harmonised by Union law. The objectives of this Regulation are to implement the obligations in the Marrakesh Treaty with respect to the export and import of accessible format copies for the benefit of beneficiary persons between the ***Member States*** and third countries that are parties to the Marrakesh Treaty, and to lay down the conditions for such export and import. Such measures ***can*** be taken at Union level, as the exchange of accessible format copies of works and other ***protected*** subject-matter concerns the commercial

aspects of intellectual property. A **regulation** is *therefore an* appropriate instrument.

Or. fr

Amendment 12
Dominique Bilde, Marie-Christine Boutonnet

Proposal for a regulation
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) In taking the steps necessary to facilitate cross-border trade in works and protected subject-matter in accessible format with third countries that are parties to the Marrakesh Treaty, the Member States must comply with the rights and obligations laid down in the Berne Convention for the Protection of Literary and Artistic Works and the WIPO Copyright Treaty, as they are required to under Article 11 of the Marrakesh Treaty;

Or. fr

Amendment 13
Dominique Bilde, Marie-Christine Boutonnet

Proposal for a regulation
Recital 3

Text proposed by the Commission

Amendment

(3) The Regulation should ensure that accessible format copies of books, journals, newspapers, magazines and other writings, sheet music and other print material, which have been made in any Member State in accordance with the national provisions adopted pursuant to Directive [...] may be exported to third countries that are parties to the Marrakesh Treaty. Accessible formats include Braille, large print, adapted

(3) The Regulation should ensure that accessible format copies of books, journals, newspapers, magazines and other writings, sheet music and other print material, which have been made in any Member State in accordance with the national provisions adopted pursuant to Directive [...] may be exported to third countries that are parties to the Marrakesh Treaty. Accessible formats include Braille, large print, adapted

e-books, audio books and radio broadcasts. The distribution, communication or making available of accessible format copies to print disabled persons or to authorised entities in the third country should only be carried out on a non-profit basis by authorised entities established in the *Union*.

e-books, audio books and radio broadcasts. The distribution, communication or making available of accessible format copies to print disabled persons or to authorised entities in the third country should only be carried out on a non-profit basis by authorised entities established in the *territories of the Member States*.

Or. fr

Amendment 14
Dominique Bilde, Marie-Christine Boutonnet

Proposal for a regulation
Recital 4

Text proposed by the Commission

(4) This Regulation should also allow for the importation of and access to accessible format copies made in accordance with the implementation of the Marrakesh Treaty from a third country, by beneficiary persons in the *Union* and authorised entities established in *the Union*, for the benefit of print-disabled persons. It should be possible for those accessible format copies to be circulated *in the internal market* under the same conditions as accessible format copies made in the *Union* in accordance with Directive [...].

Amendment

(4) This Regulation should also allow for the importation of and access to accessible format copies made in accordance with the implementation of the Marrakesh Treaty from a third country, by beneficiary persons in the *Member States* and authorised entities established in *territories of the Member States*, for the benefit of print-disabled persons. It should be possible for those accessible format copies to be circulated *among the Member States* under the same conditions as accessible format copies made in the *Member States* in accordance with Directive [...].

Or. fr

Amendment 15
Luigi Morgano, Julie Ward

Proposal for a regulation
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4 a) *In order to foster the export of accessible format copies and born*

accessible publications, i.e. publications produced by rightholders in accessible format, the single online database established in the European Union according to Directive [...] should be publicly accessible from third countries that are parties to the Marrakech Treaty. To facilitate the import of the same publications, it is important that the same database is interoperable with the ABC TIGAR (Trusted Intermediary Global Accessible Resources) Database, hosted by WIPO.

Or. en

Justification

The new recital calls on the European Commission to facilitate the exchange of information through granting accessibility to the database called for in Directive [...] to third countries that are parties to the Marrakech. This new initiative should build on and remain interoperable with the existing worldwide database developed by the Accessible Book Consortium, hosted by WIPO.

Amendment 16

Bogdan Brunon Wenta, Marc Joulaud

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) In order to improve the availability of accessible format copies and to prevent the illegal dissemination of works and other subject-matter, authorised entities which engage in the distribution or making available of accessible format copies ***should comply with certain obligations.***

Amendment

(5) In order to improve the availability of accessible format copies and to prevent the illegal dissemination of works and other subject-matter, ***Member States shall facilitate the agreement of best practice guidelines between representative groups of*** authorised entities which engage in the ***production***, distribution or making available of accessible format copies, ***users and rightholders;***

Or. en

Amendment 17

Isabella Adinolfi

Proposal for a regulation
Recital 5

Text proposed by the Commission

(5) In order to improve the availability of accessible format copies and to prevent the *illegal* dissemination of works and other subject-matter, authorised entities which engage in the distribution or making available of accessible format copies should comply with certain obligations.

Amendment

(5) In order to improve the availability of accessible format copies and to prevent the *unauthorised* dissemination of works and other subject-matter, authorised entities which engage in the distribution or making available of accessible format copies should comply with certain obligations.

Or. en

Justification

The term “illegal” appears to be out of the scope of the Directive, insofar it applies a single definitive judgment on a wide range of cases which should be analysed with more prudence; accordingly, it does not appear to be in line with the social and cultural aims of the Directive.

Amendment 18
Dominique Bilde, Marie-Christine Boutonnet

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) Any processing of personal data under this Regulation should respect fundamental rights, including the right to respect for private and family life and the right to protection of personal data *under* Articles 7 and 8 of the Charter of Fundamental Rights of the European Union and must be in compliance with Directive 95/46/EC of the European Parliament and the Council¹³, which governs the processing of personal data, as may be carried out by authorised entities within the framework of this Regulation and under the supervision of the Member States’ competent authorities, in particular the public independent authorities designated by the Member States.

Amendment

(6) Any processing of personal data under this Regulation should respect fundamental rights, including the right to respect for private and family life and the right to protection of personal data *as enshrined in the UN International Covenant on Civil and Political Rights, in the UN resolution of 14 December 1990 on guidelines for the regulation of computerized personal data files, and in the common constitutional traditions of the Member States, as well as, secondarily, in* Articles 7 and 8 of the Charter of Fundamental Rights of the European Union, and must be in compliance with Directive 95/46/EC of the European Parliament and the Council¹³, which governs the processing of personal

data, as may be carried out by authorised entities within the framework of this Regulation and under the supervision of the Member States' competent authorities, in particular the public independent authorities designated by the Member States.

¹³ 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 (OJ L 281, 23.11.1995, p. 31).

¹³ 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 (OJ L 281, 23.11.1995, p. 31).

Or. fr

Amendment 19 **Dominique Bilde, Marie-Christine Boutonnet**

Proposal for a regulation **Recital 7**

Text proposed by the Commission

(7) 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

(7) The United Nations Convention on the Rights of Persons with Disabilities ('the UNCRPD'), to which ***a number of Member States are signatories and 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.

Or. fr

Amendment 20 **Dominique Bilde, Marie-Christine Boutonnet**

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Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) This Regulation respects the fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union. This Regulation should be interpreted and applied in accordance with those rights and principles.

Amendment

(8) This Regulation respects the fundamental rights and observes the principles recognised in *international law, in the common constitutional traditions of the Member States, and, secondarily, in* the Charter of Fundamental Rights of the European Union. This Regulation should be interpreted and applied in accordance with those rights and principles.

Or. fr

Amendment 21
Isabella Adinolfi

Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

This Regulation lays down rules on the cross-border exchange of accessible format copies of certain works and other subject-matter between the Union and third countries that are parties to the Marrakesh Treaty without the authorisation of the right holder, for the benefit of persons who are blind, visually impaired or otherwise print disabled.

Amendment

This Regulation lays down rules on the cross-border exchange of accessible format copies of certain works and other subject-matter between the Union and third countries that are parties to the Marrakesh Treaty without the authorisation of the right holder, for the benefit of persons who are blind, visually impaired or otherwise print disabled. *It aims to effectively ensure the right of these persons to participate in cultural, economic and social life on an equal basis with others.*

Or. en

Amendment 22
Luigi Morgano, Julie Ward

Proposal for a regulation
Article 2 – paragraph 1 – point 1

Text proposed by the Commission

Amendment

(1) ‘work **or** 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 form such as audiobooks**, which is protected by copyright or related rights and which is published or otherwise lawfully made publicly available;

(1) ‘work **and** other subject-matter’ means a **literary, academic or artistic** work in the form of **text, notation and/or related illustrations**, including sheet music, which is protected by copyright or related rights and which is published or otherwise lawfully made publicly available **in books, e-books, journals, newspapers, magazines or other writing, and in any media form, including in audio form, such as audiobooks and radio broadcasts**;

Or. en

Justification

The amendment is aimed to revise the definition of "work" proposed by the Commission in the light of the Marrakech Treaty that expresses the distinction between literary or artistic work's "content" and its "medium".

Amendment 23

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – introductory part

Text proposed by the Commission

Amendment

(2) ‘beneficiary person’ means:

(2) ‘beneficiary person’ means **someone who, regardless of any other disability, has one of the following characteristics, i.e.:**

Or. fr

Amendment 24

Julie Ward, Luigi Morgano

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point c

Text proposed by the Commission

Amendment

(c) a person who has a perceptual or reading **disability**, including dyslexia, and

(c) a person who has a perceptual or reading **impairment**, including dyslexia,

is, as a result, unable to read printed works to substantially the same degree as a person ***without an impairment or disability***; or

and is, as a result, unable to read printed works to substantially the same degree as a person ***who is not blind, visually impaired or otherwise print disabled***; or

Or. en

Justification

This recital offers the distinction between 'disability' and 'impairment'. According to the UN Convention of the Rights of Persons with Disabilities, disability results from 'the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others', Preamble (e). In other words, it is these barriers that are disabling for people, not their impairments or different functional abilities. As such, 'impairment' is more appropriate here.

Amendment 25

Julie Ward, Luigi Morgano

Proposal for a regulation

Article 2 – paragraph 1 – point 2 – point d

Text proposed by the Commission

(d) a person who is otherwise unable, due to a physical ***disability***, to hold or manipulate a book or to focus or move their eyes to the extent that would be normally acceptable for reading.

Amendment

(d) a person who is otherwise unable, due to a physical ***impairment***, to hold or manipulate a book or to focus or move their eyes to the extent that would be normally acceptable for reading.

Or. en

Amendment 26

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a regulation

Article 2 – paragraph 1 – point 3

Text proposed by the Commission

(3) ‘accessible format copy’ means a copy of a work or other subject-matter in an alternative manner or form that gives a beneficiary person access to the work or other subject-matter, including allowing for the person to have access as feasibly and comfortably as a person without a visual

Amendment

(3) ‘accessible format copy’ means a copy of a work or other subject-matter, ***presented on a non-profit basis*** in an alternative manner or form that gives a beneficiary person access to the work or other subject-matter, including allowing for the person to have access as feasibly and

impairment or any of the disabilities referred to in paragraph 2;

comfortably as a person without a visual impairment or any of the disabilities referred to in paragraph 2;

Or. fr

Amendment 27

Dominique Bilde, Marie-Christine Boutonnet

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Text proposed by the Commission

(4) ‘authorised entity’ means an organisation **providing** education, instructional training, adaptive reading or information access to beneficiary persons on a non-profit basis, as its main activity or as one of its main activities or public-interest missions.

Amendment

(4) ‘authorised entity’ means an organisation **that is authorised and recognised by the national authorities and that provides** education, instructional training, adaptive reading or information access to beneficiary persons on a non-profit basis, as its main activity or as one of its main activities or public-interest missions; **it also denotes a government institution or non-profit organisation that provides the same services to beneficiary persons as one of its main activities or institutional obligations;**

Or. fr

Amendment 28

Julie Ward

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Text proposed by the Commission

(4) ‘authorised entity’ means an organisation **providing** education, instructional training, adaptive reading **or information access to** beneficiary persons on a non-profit basis, as its main activity or as one of its main activities **or** public-interest missions.

Amendment

(4) ‘authorised entity’ means an organisation **or governmental institution certified or recognised by the Member State, and operating on a basis of trust, which provides access to** education, instructional training, adaptive reading, **information, care or services for** beneficiary persons, on a non-profit basis, as its main activity or as one of its main

activities, public-interest missions *or institutional obligations*.

Or. en

Amendment 29
Algirdas Saudargas

Proposal for a regulation
Article 2 – paragraph 1 – point 4

Text proposed by the Commission

(4) ‘authorised entity’ means an organisation providing education, instructional training, adaptive reading or information access to beneficiary persons on a non-profit basis, as its main activity or as one of its main activities or public-interest missions.

Amendment

(4) ‘authorised entity’ means an organisation ***authorised or recognised by state institutions*** providing education, instructional training, adaptive reading or information access to beneficiary persons on a non-profit basis, as its main activity or as one of its main activities or public-interest missions.

Or. It

Amendment 30
María Teresa Giménez Barbat, Yana Toom, Ilhan Kyuchyuk

Proposal for a regulation
Article 2 – paragraph 1 – point 4

Text proposed by the Commission

(4) ‘authorised entity’ means an organisation providing education, instructional training, adaptive reading or information access to beneficiary persons on a non-profit basis, as its main activity or as one of its main activities or public-interest missions.

Amendment

(4) ‘authorised entity’ means an organisation, ***whether public or private***, providing education, instructional training, adaptive reading or information access to beneficiary persons on a non-profit basis, as its main activity or as one of its main activities or public-interest missions.

Or. en

Amendment 31
Dominique Bilde, Marie-Christine Boutonnet

Proposal for a regulation
Article 3 – paragraph 1

Text proposed by the Commission

An authorised entity established in a Member State may distribute, communicate or make available to beneficiary persons or to an authorised entity established in a third country that is a party to the Marrakesh Treaty an accessible format copy made in accordance with the national legislation adopted pursuant to Directive [...].

Amendment

An authorised entity established in a Member State may, ***without engaging in any commercial activity***, distribute, communicate or make available to beneficiary persons or to an authorised entity established in a third country that is a party to the Marrakesh Treaty an accessible format copy made in accordance with the national legislation adopted pursuant to Directive [...], ***where, before the copy is distributed and made available, the authorised entity responsible for that distribution is unaware that the accessible format copy could be used for a purpose other than that for which it was originally and primarily intended, for persons other than the beneficiaries.***

Or. fr

Amendment 32
Dominique Bilde, Marie-Christine Boutonnet

Proposal for a regulation
Article 4 – paragraph 1

Text proposed by the Commission

A beneficiary person or an authorised entity established in a Member State may import or otherwise obtain or access and thereafter use, in accordance with the national legislation adopted pursuant to Directive [...], an accessible format copy that has been distributed communicated or made available to beneficiary persons or to authorised entities, by an authorised entity in a third country that is a party to the Marrakesh Treaty.

Amendment

A beneficiary person or an authorised entity established in a Member State may import or otherwise obtain or access and thereafter use, in accordance with the national legislation adopted pursuant to Directive [...], ***with due regard for the legitimate interests of the author***, an accessible format copy that has been distributed, communicated or made available to beneficiary persons or to authorised entities, by an authorised entity in a third country that is a party to the Marrakesh Treaty.

Or. fr

Amendment 33
Momchil Nekov

Proposal for a regulation
Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

1. An authorised entity established in a Member State carrying out the acts referred to in Articles 3 and 4 shall ensure that:

Amendment

1. An authorised entity established in a Member State carrying out the acts referred to in Articles 3 and 4 shall ***establish and follow its own practices to*** ensure that:

Or. en

Amendment 34
Julie Ward, Luigi Morgano

Proposal for a regulation
Article 5 – paragraph 1 – point a

Text proposed by the Commission

(a) it distributes, communicates and makes available accessible format copies only to beneficiary persons or other authorised entities;

Amendment

(a) it distributes, communicates and makes available accessible format copies only to beneficiary persons or other authorised entities ***on a non-profit basis***;

Or. en

Amendment 35
Julie Ward, Luigi Morgano

Proposal for a regulation
Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) it takes appropriate steps to ***discourage*** the unlawful reproduction, distribution, communication and making available of accessible format copies;

Amendment

(b) it takes appropriate steps to ***prevent*** the unlawful reproduction, distribution, communication and making available of accessible format copies, ***and operates on a basis of trust to fully serve the needs of beneficiary persons***;

Amendment 36
Isabella Adinolfi

Proposal for a regulation
Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) it takes appropriate steps to discourage the ***unlawful*** reproduction, distribution, communication and making available of accessible format copies;

Amendment

(b) it takes appropriate steps to discourage the ***unauthorised*** reproduction, distribution, communication and making available of accessible format copies;

Or. en

Justification

See amendment 2, recital 5.

Amendment 37
Dominique Bilde, Marie-Christine Boutonnet

Proposal for a regulation
Article 5 – paragraph 1 – point c

Text proposed by the Commission

(c) it demonstrates due care in, and maintains records of, its handling of works and other subject-matter and of their accessible format copies; and

Amendment

(c) it demonstrates due care in, and maintains records of, its handling of works and other subject-matter and of their accessible format copies, ***and does so with due respect for private and family life and the right to protection of personal data as enshrined in the UN International Covenant on Civil and Political Rights, and in the UN resolution of 14 December 1990 on guidelines for the regulation of computerized personal data files***; and

Or. fr

Amendment 38
María Teresa Giménez Barbat, Yana Toom, Ilhan Kyuchyuk

Proposal for a regulation
Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Member States shall foster the exchange of information and best practices amongst authorised entities so as to effectively promote access to adapted works or subject-matter.

Or. en

Amendment 39
Dominique Bilde, Marie-Christine Boutonnet

Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

Amendment

The processing of personal data carried out within the framework of this Regulation shall be carried out in compliance with Directive 95/46/EC.

The processing of personal data carried out within the framework of this Regulation shall be carried out in compliance with ***international law, specifically the UN resolution of 14 December 1990 on guidelines for the regulation of computerized personal data files, and with*** Directive 95/46/EC.

Or. fr

Amendment 40
María Teresa Giménez Barbat, Yana Toom, Ilhan Kyuchyuk

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

Amendment

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

Within [five years after the date of application], the Commission shall carry out an evaluation of this Regulation 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
Regulation.

proposals for the amendment of this
Regulation.

Or. en