REPORT

on the proposal for a regulation of the European Parliament and of the Council on the 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 (COM(2016)0595 – C8-0380/2016 – 2016/0279(COD))

Committee on Legal Affairs

Rapporteur: Max Andersson
Symbols for procedures

* Consultation procedure
*** Consent procedure
***I Ordinary legislative procedure (first reading)
***II Ordinary legislative procedure (second reading)
***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in bold italics in the left-hand column. Replacements are indicated in bold italics in both columns. New text is indicated in bold italics in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in bold italics. Deletions are indicated using either the ▌ symbol or strikeout. Replacements are indicated by highlighting the new text in bold italics and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.
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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on the 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 (COM(2016)0595 – C8-0380/2016 – 2016/0279(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2016)0595),

– having regard to Article 294(2) and Article 207 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0380/2016),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to Rule 59 of its Rules of Procedure,

– having regard to the report of the Committee on Legal Affairs and the opinions of the Committee on Employment and Social Affairs, the Committee on Culture and Education and the Committee on Petitions (A8-0102/2017),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation
Citation 1 a (new)

Text proposed by the Commission

- having regard to Protocol No. 2 of the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) on the application of the principles of
subsidiarity and proportionality,

Amendment 2

Proposal for a regulation
Citation 1 b (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);

Amendment 3

Proposal for a regulation
Recital 1

Text proposed by the Commission

Amendment

(1) Persons who are blind, visually impaired or otherwise print disabled continue to face many barriers to accessing books and other print material. The need to increase the number of works and other protected subject-matter in accessible formats available to those persons and improve their circulation and dissemination has been recognised at an international level. The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (‘the Marrakesh Treaty’) was signed on behalf of the Union on 30 April 2014. It requires contracting parties to provide exceptions or limitations to the exclusive rights of holders of copyright and related rights for the making and dissemination of copies in accessible formats of certain works and other subject-matter and for the cross-border exchange of those accessible format copies. The beneficiaries of the Marrakesh Treaty are persons who are blind, visually impaired or have a perceptual or reading disability,
including dyslexia, preventing them from reading printed works to the same degree as persons without such disability, or are unable to hold or manipulate a book or to focus and move the eyes to the extent that would be normally acceptable for reading due to a physical disability.

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12 Council Decision 2014/221/EU of 14 April 2014 on the signing, on behalf of the European Union, of the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled. (OJ L115, 17.4.2014, p. 1.)

Amendment 4
Proposal for a regulation
Recital 2

Text proposed by the Commission

(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

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 in all of the Member States of the Union 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
concerns the commercial aspects of intellectual property. A Regulation is the only appropriate instrument.

Amendment 5
Proposal for a regulation
Recital 3

Text proposed by the Commission

(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.

Amendment

(3) The Regulation should ensure that accessible format copies of books, e-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 disseminated and 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 persons who are blind, visually impaired or otherwise print disabled 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.

Amendment 6
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

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 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 7
Proposal for a regulation
Recital 4 a (new)

Text proposed by the Commission

(4a) This Regulation should ensure that, in accordance with Article 9 of the Marrakesh Treaty, the contracting parties provide financial and human resources to facilitate international cooperation between authorised entities, the adequate availability of accessible format copies and the cross-border exchange of such copies.

Amendment

Amendment 8
Proposal for a regulation
Recital 4 b (new)

Text proposed by the Commission

(4b) In order to foster the export of accessible format copies and born accessible publications, namely publications produced by rightholders in accessible format, a single online database should be established in the Union. The database 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 that database be interoperable with the ABC TIGAR (Trusted Intermediary Global Accessible Resources) database, hosted by
WIPO.

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 9

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 should facilitate the agreement of best practice guidelines between representative groups of authorised entities that engage in the production, distribution or making available of accessible format copies, and users and rightholders. Government guidelines or best practices with regard to the provision of accessible format copies to beneficiary persons under the terms of the Marrakesh treaty should be developed in consultation with representative groups of authorised entities, such as library associations and library consortia, together with other authorised entity producers of accessible format copies, as well as with users, civil society actors and right-holders.

Amendment 10

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) Any processing of personal data

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 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 Council\textsuperscript{13}, 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.

\textsuperscript{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).

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 Directives 95/46/EC\textsuperscript{13} and 2002/58/EC\textsuperscript{13a} of the European Parliament and the Council and with Regulation (EU) 2016/679 of the European Parliament and of the Council\textsuperscript{13b}, which govern 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.

\textsuperscript{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).


Proposal for a regulation
Recital 6 a (new)

Text proposed by the Commission

(6a) Member States should not impose additional conditions on being able to have recourse to the exception(s) contained in this Regulation, including compensation schemes or prior verification of the commercial availability of accessible format copies.

Amendment

Proposal for a regulation
Recital 6 b (new)

Text proposed by the Commission


Amendment

Proposal for a directive
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 has been a party since 21 January 2011 and which is binding for Member States, 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

Amendment

The United Nations Convention on the Rights of Persons with Disabilities (‘the UNCRPD’), to which the EU has been a party since 21 January 2011 and which is binding for Member States, guarantees people with disabilities the right of access to information and to communication and the right to participate in work and in cultural, economic, political and social life on an equal basis with others. The UNCRPD requires parties to the Convention to take all appropriate
unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.

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 14
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 the Charter of Fundamental Rights of the European Union, which prohibits all forms of discrimination, and in particular Articles 21 and 26 thereof, which prohibit discrimination on the grounds of disability and recognise and respect 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. This Regulation should be interpreted and applied in accordance with those rights and principles.

Amendment 15
Proposal for a regulation
Recital 8 a (new)

Text proposed by the Commission

(8a) The European Commission should present, within one year, a strategic action plan to promote the objectives of the Marrakesh Treaty with special emphasis on ensuring widespread cross-border exchange with third countries, providing educational and cultural works for visually impaired persons.
Amendment 16
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 such persons to participate in cultural, economic and social life on an equal basis with others.**

Amendment 17
Proposal for a regulation
Article 2 – paragraph 1 – point 1

_text proposed by the Commission_

(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;

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 **and in digital formats, such as e-books**, which is protected by copyright or related rights and which is published or otherwise lawfully made publicly available;

Amendment 18
Proposal for a regulation
Article 2 – paragraph 1 – point 2 – introductory part

_text proposed by the Commission_

(2) ‘beneficiary person’ means:

Amendment
(2) ‘beneficiary person’ means, **regardless of any other disabilities:**
Justification

This addition aligns the definition of 'beneficiary person' with the Marrakesh Treaty. It should refer to all parts a, b, c and d of Article 2 (2) and should therefore be inserted after (d).

Amendment 19

Proposal for a directive
Article 2 – paragraph 1 – 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 20

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

Amendment
(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 any of the impairments or disabilities referred to in paragraph 2;

Justification

It is important to underline the non-commercial aspect of the copies, which further clarifies the definition of the authorised entities and their action on a non-profit basis.

Amendment 21

Proposal for a regulation
Article 2 – paragraph 1 – point 4
(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 the Member States in which it is established to provide 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.

Justification

The amendment is aimed to complete the definition of "authorized entity" proposed by the Commission, taking into account the definition of the Marrakesh Treaty which specifies by whom these entities are to be legitimately authorized or recognised.

Amendment 22

Proposal for a regulation
Article 4 a (new)

Text proposed by the Commission

Amendment

Article 4 a

Member States shall ensure that complaints and redress mechanisms are put in place and are available to users in case of disputes concerning the application of the measures referred to in Articles 3 and 4.

Justification

The proposed Regulation does not mention any complaints or redress mechanisms that should be put in place by Member States in cases where beneficiaries are prevented from using the permitted exception. Setting up such a mechanism would be very appropriate in view of insuring effective application of the provisions of the Regulation. This is consistent with Art.10(1) of the Marrakesh Treaty, which requires Contracting Parties to adopt any necessary ‘measures’ to ensure effective application of the Treaty.

Amendment 23

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

PE594.172v02-00

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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:

Justification
This wording comes from the Marrakesh Treaty, Article 2(c).

Amendment 24
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, while respecting the privacy of beneficiary persons in accordance with Article 6; and

Amendment 25
Proposal for a regulation
Article 5 – paragraph 1 – point d

Text proposed by the Commission
(d) it publishes and updates, on its website if appropriate, information on the manner in which it complies with the obligations laid down in points (a) to (c).

Amendment
(d) it publishes and updates, on its website if appropriate, or through other online or offline channels, information on the manner in which it complies with the obligations laid down in points (a) to (c).

Amendment 26
Proposal for a regulation
Article 5 – paragraph 2 – introductory part
2. An authorised entity established in a Member State carrying out the acts referred to in Articles 3 and 4 shall provide the following information, on request, to any beneficiary person or right holder:

Amendment 27

Proposal for a regulation
Article 5 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall assist their authorised entities to make information available regarding their practices under Articles 3 and 4, both by sharing information among authorised entities and by making available information on their policies and practices - including those related to the cross-border exchange of accessible format copies - to interested parties and members of the public, as appropriate.

Justification

This wording comes from the Marrakesh Treaty, Article 9.2.

Amendment 28

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

Text proposed by the Commission

Amendment

2a. The obligations incumbent on authorised entities set out in this Article shall be applied respecting the principle of proportionality.
Proposal for a regulation
Article 5 – paragraph 2b (new)

_text proposed by the Commission_

2b. 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.

Amendment 30
Proposal for a regulation
Article 6 – paragraph 1

_text proposed by the Commission_

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

Amendment


^3^ 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, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

Amendment 31

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

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 proposals for the amendment of this Regulation.

Amendment

By [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.
8.2.2017

OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS

for the Committee on Legal Affairs

on the proposal for a regulation of the European Parliament and of the Council on the 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 (COM(2016)0595 – C8-0380/2016 – 2016/0279(COD))

Rapporteur: Helga Stevens

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 regulation

Citation 1

Text proposed by the Commission
having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 thereof,

Amendment
having regard to the Treaty on the Functioning of the European Union, and in particular Articles 19 and 207 thereof,

Justification

In Paragraph 113 of its Opinion 3/15, delivered on 8 September 2016, the Court of Justice held that Articles 19 and 207 were applicable.

Amendment 2

Proposal for a regulation

Citation 1 b (new)

Text proposed by the Commission

having regard to Protocol No 2 of the Treaty on the Functioning of the European Union on the application of the principles of subsidiarity and proportionality,

Amendment

Amendment 3

Proposal for a regulation

Recital 1

Text proposed by the Commission
(1) Persons who are blind, visually impaired or otherwise print disabled continue to face many barriers to accessing books and other print material. The need to increase the number of works and other protected subject-matter in accessible formats available to those persons and improve their circulation and dissemination has been recognised at an international
level. The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (‘the Marrakesh Treaty’) was signed on behalf of the Union on 30 April 2014. It requires contracting parties to provide exceptions or limitations to the exclusive rights of holders of copyright and related rights for the making and dissemination of copies in accessible formats of certain works and other subject-matter and for the cross-border exchange of those accessible format copies. The beneficiaries of the Marrakesh Treaty are persons who are blind, visually impaired or have a perceptual or reading disability, including dyslexia, preventing them from reading printed works to the same degree as persons without such disability, or are unable to hold or manipulate a book or to focus and move the eyes to the extent that would be normally acceptable for reading due to a physical disability.

_____________________

12 Council Decision 2014/221/EU of 14 April 2014 on the signing, on behalf of the European Union, of the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled (OJ L115, 17.4.2014, p. 1.)

Amendment 4

Proposal for a regulation

Recital 2

Text proposed by the Commission

(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

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.

Amendment  5
Proposal for a regulation
Recital 3

Text proposed by the Commission

(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.

Amendment

(3) The Regulation should ensure that accessible format copies of books, e-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.
Amendment 6
Proposal for a regulation
Recital 4 a (new)

*Text proposed by the Commission*  

(4 a)  This Regulation should ensure that, in accordance with Article 9 of the Marrakesh Treaty, the contracting parties provide financial and human resources to facilitate international cooperation between authorized entities, the adequate availability of accessible format copies and the cross-border exchange of these copies.

Amendment 7
Proposal for a regulation
Recital 5 a (new)

*Text proposed by the Commission*  

(5 a)  Government guidelines or best practices with regard to the provision of accessible format copies to beneficiary persons under the terms of the Marrakesh treaty should be developed in consultation with representative groups of authorised entities, such as library associations and library consortia, together with other authorised entity producers of accessible format copies, as well as with users, civil society actors and right-holders.

Amendment 8
Proposal for a directive
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 9

Proposal for a regulation

Article 2 – paragraph 1 – point 1

Text proposed by the Commission

(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;

Amendment

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

Amendment 10

Proposal for a directive

Article 2 – paragraph 1 – 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

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 11
Proposal for a regulation
Article 5 – paragraph 1 – point d

Text proposed by the Commission
(d) it publishes and updates, on its website if appropriate, information on the manner in which it complies with the obligations laid down in points (a) to (c).

Amendment
(d) it publishes and updates, on its website if appropriate, or through other online or offline channels, information on the manner in which it complies with the obligations laid down in points (a) to (c).

Amendment 12
Proposal for a regulation
Article 5 – paragraph 1 – point d a (new)

Text proposed by the Commission
(d a) it provides, upon request, technical assistance on the access to the provided material

Amendment

Amendment 13
Proposal for a regulation
Article 5 – paragraph 2 – introductory part

Text proposed by the Commission
2. An authorised entity established in a Member State carrying out the acts referred to in Articles 3 and 4 shall provide the following information, on request, to any beneficiary person or right holder:

Amendment
2. An authorised entity established in a Member State carrying out the acts referred to in Articles 3 and 4 shall provide the following information in an accessible way, on request, to any beneficiary person or right holder:

Amendment 14
Proposal for a regulation
Article 5 – paragraph 2 a (new)
2 a. Member States shall assist their authorised entities to make information available regarding their practices under Articles 3 and 4, both by the sharing of information among authorised entities, and by making information available in an accessible way on their policies and practices, including those related to the cross-border exchange of accessible format copies, to interested parties and members of public.

Amendment 15

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission

1. 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 proposals for the amendment of this Regulation.

Amendment

1. By [five years after the date of application], the Commission – taking into account also technological developments in the context of accessibility – 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. 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:

<table>
<thead>
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<th>Entity and/or person</th>
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<tr>
<td>European Blind Union (EBU)</td>
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### FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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Key to symbols:
+ : in favour
- : against
0 : abstention
### PROCEDURE – COMMITTEE ASKED FOR OPINION

| Title | 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 |
| Committee responsible | JURI |
| Date announced in plenary | 6.10.2016 |
| Opinion by | EMPL |
| Date announced in plenary | 24.11.2016 |
| Rapporteur | Helga Stevens |
| Date appointed | 28.11.2016 |
| Date adopted | 25.1.2017 |
| Result of final vote | +: 49  
—as: 0  
: 2 |
| Substitutes present for the final vote | Georges Bach, Heinz K. Becker, Lynn Boylan, Dieter-Lebrecht Koch, Paloma López Bermejo, Edouard Martin, Csaba Sógor, Helga Stevens, Flavio Zanonato |
| Substitutes under Rule 200(2) present for the final vote | Marco Valli |
OPINION OF THE COMMITTEE ON CULTURE AND EDUCATION

for the Committee on Legal Affairs

on the proposal for a regulation of the European Parliament and of the Council on the 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 (COM(2016)0595 – C8-0380/2016 – 2016/0279(COD))

Rapporteur: Angel Dzhambazki

SHORT JUSTIFICATION

The Marrakesh Treaty was adopted in 2013 by the World Intellectual Property Organisation (WIPO) and it has been signed by over 60 countries including the European Union. Its main goal is to create a set of mandatory exceptions and limitations for the benefit of the blind, visually impaired, and otherwise print disabled. The exceptions and limitations to copyright to be introduced in all the signatory parties will permit the reproduction, distribution and making available of published works in formats designed to be available for the blind, visually impaired, and otherwise print disabled and to permit the cross border exchange of these works. This exchange is the purpose of the present Regulation proposed by the Commission.

The proposal amends the European Union legislative framework in accordance with the Marrakesh Treaty. The result will consist in implementation of the Union’s obligations under the Treaty in respect of the exchange of accessible format copies between the Union and third countries that are parties to the Marrakesh Treaty, for the benefit of beneficiary persons.

The rapporteur on opinion endorses the proposal made by the Commission and trusts that it is the right step in following the obligations that the Union signed upon. Further he proposes some amendments that seek to align the Commission’s proposal better with the Marrakesh Treaty itself, namely in the part where the definitions are explained – who are the beneficiary persons, what are the accessible format copies and especially who are the authorised entities who distribute, communicate and make available the accessible format copies to the beneficiary persons.

Further, the rapporteur believes that it is crucial to emphasise that exporting these copies would not lead to commercial activities and the additions proposed in this context seek to bring legal certainty for the authorised entities based in a Member State when dealing with
cross-border activities with third countries.

The proposal of the Commission is to make a review of the Regulation not earlier than five years after its coming into force. The rapporteur insists that this is done earlier (within five years) seen that there is no impact assessment done by the Commission on the social and economic impact that this regulation may lead to.

Finally the rapporteur wishes to underline that all the proposals are worded according to the Marrakesh Treaty.

**AMENDMENTS**

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

**Amendment 1**

Proposal for a regulation
Recital 1 a (new)

_text proposed by the Commission_  

**Amendment 2**

Proposal for a regulation
Recital 2 a (new)

_text proposed by the Commission_  
(2a) In adopting measures necessary to enable the cross-border exchange of accessible format copies of certain works and other subject matter with third countries that are parties to the Marrakesh Treaty, the Member States should comply with the obligations, and be entitled to exercise the rights, they have under the Berne Convention, the Agreement on Trade-Related Aspects of
Intellectual Property Rights and the WIPO Copyright Treaty, in line with Article 11 of the Marrakesh Treaty, which enables the contracting parties to confine the limitations or exceptions to rights to certain cases that do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author.

Justification

The recital aims to reiterate the importance of the international treaty obligations and its wording comes from the Marrakesh Treaty.

Amendment 3

Proposal for a regulation
Recital 4 a (new)

Text proposed by the Commission

(4 a) In order to foster the export of accessible format copies and born accessible publications, namely publications produced by rightholders in accessible format, a single online database should be established in the European Union. This database 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 that database be interoperable with the ABC TIGAR (Trusted Intermediary Global Accessible Resources) database, hosted by WIPO.

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 4
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, it is essential that Member States 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;

Amendment 5

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

Text proposed by the Commission

(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;

Amendment

(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 writings, and in any media form, including in audio form, such as audiobooks and radio broadcasts;

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 6

Proposal for a regulation
Article 2 – paragraph 1 – point 2 – introductory part
Text proposed by the Commission

(2) ‘beneficiary person’ means:

(2) ‘beneficiary person’ means, regardless of any other disabilities, any of the following:

Justification

This addition aligns the definition of 'beneficiary person' with the Marrakesh Treaty. It should refer to all parts a, b, c and d of Article 2 (2).

Proposal for a regulation
Article 2 – paragraph 1 – 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

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

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 8

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.

(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.
Amendment 9
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 impairment or any of the disabilities referred to in paragraph 2;

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

Justification

It is important to underline the non-commercial aspect of the copies, which further clarifies the definition of the authorised entities and their action on a non-profit basis.

Amendment 10
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 public-interest missions.

Amendment

(4) ‘authorised entity’ means an entity that is authorised or recognised by the Member State in which it is established to provide education, instructional training, adaptive reading or information access to beneficiary persons on a non-profit basis. It also includes a government institution or non-profit organization that provides, as one of its primary activities or institutional obligations, the same services to beneficiary persons.

Justification

The amendment is aimed to complete the definition of "authorized entity" proposed by the Commission, taking into to account the definition of the Marrakesh Treaty which specifies by whom these entities are to be legitimately authorized or recognised.
Amendment 11
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 on a non-profit basis 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 [...] and provided that prior to the distribution or making available the originating authorised entity did not know or have reasonable grounds to know that the accessible format copy would be used for other than beneficiary persons.

_Justification_

It is crucial to emphasise that exporting these copies should not lead to commercial activities. The last part of the text provides an addition based on wording of the Marrakesh Treaty considered to be important in this paragraph in order to bring legal certainty for the authorised entities based in a Member State when dealing with cross-border activities with third countries.

Amendment 12
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

_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 […], 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 provided that the import or access does not conflict with a normal exploitation of the work or other subject-matter and does not unreasonably prejudice the legitimate interests of the author.

**Justification**

The text is based on wording of the Marrakesh Treaty.

**Amendment 13**

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;

**Amendment 14**

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 15**

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

*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

and other subject-matter and of their accessible format copies, while respecting the privacy of beneficiary persons in accordance with Article 6; and

_Justification_

An addition based on wording of the Marrakesh Treaty underlining the Article that provides for data protection according to EU law.

**Amendment 16**

**Proposal for a regulation**

**Article 5 – paragraph 2 a (new)**

_Text proposed by the Commission_  

2a. The accessible format copy shall be used exclusively by beneficiary persons and shall respect the integrity of the original work or other subject-matter, taking due consideration of the changes needed to make the work or other subject-matter accessible in the alternative format and of the accessibility needs of the beneficiary persons.

_Justification_

The text is based on wording of the Marrakesh Treaty.

**Amendment 17**

**Proposal for a regulation**

**Article 5 – paragraph 2 b (new)**

_Text proposed by the Commission_  

2b. 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.
Amendment 18

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

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 proposals for the amendment of this Regulation.

Amendment

By ... [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.

Justification

Seen that there is no impact assessment done by the Commission on the social and economical impact that this regulation may lead to, the rapporteur advises that an evaluation should be done within maximum of 5 years after the regulation comes into force.
## PROCEDURE – COMMITTEE ASKED FOR OPINION

| Title | 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 |
| Committee responsible | JURI |
| Date announced in plenary | 6.10.2016 |
| Opinion by | CULT |
| Date announced in plenary | 6.10.2016 |
| Rapporteur | Angel Dzhambazki |
| Date appointed | 14.11.2016 |
| Date adopted | 28.2.2017 |
| Result of final vote | +: 29  
-: 0  
0: 0 |
| Members present for the final vote | Isabella Adinolfi, Dominique Bilde, Andrea Bocskor, Nikolaos Chountis, Silvia Costa, Mircea Diaconu, Jill Evans, María Teresa Giménez Barbat, Giorgos Grammatikakis, Petra Kammerevert, Andrew Lewer, Svetoslav Hristov Malinov, Curzio Maltese, Stefano Maullu, Luigi Morgano, Momchil Nekov, John Procter, Michaela Šojdrová, Helga Trüpel, Sabine Verheyen, Bogdan Andrzej Zdrojewski, Milan Zver, Krystyna Łybacka |
| Substitutes present for the final vote | Marc Joulaud, Morten Løkkegaard, Emma McClarkin, Algirdas Saudargas, Remo Sernagiotto |
| Substitutes under Rule 200(2) present for the final vote | Clare Moody |
## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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**Key to symbols:**
+ : in favour
- : against
0 : abstention
OPINION OF THE COMMITTEE ON PETITIONS

for the Committee on Legal Affairs

on the proposal for a regulation of the European Parliament and of the Council on the 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 (COM(2016)0595 – C8-0380/2016 – 2016/0279(COD))

Rapporteur: Margrete Auken

SHORT JUSTIFICATION

The Marrakesh Treaty requires the parties to provide exceptions or limitations to copyright and related rights for the benefit of blind, visually impaired and otherwise print disabled persons and allows for the cross-border exchange of special format copies of books, including audio books, and other print material among the countries that are parties to the Treaty.

The Committee on Petitions (PETI) warmly welcomes the proposed Regulation. PETI has actively worked on dossiers related to access by blind and visually impaired persons to published works since 2011, when two petitions calling for a binding treaty were received. PETI has witnessed with satisfaction the adoption of the Marrakesh Treaty in 2013 and its entry into force in September 2016. Nevertheless, further steps need to be taken so as to ensure that the European Union fulfils its international obligations under the Marrakesh Treaty and the United Nations Convention on the Rights of Persons with Disabilities (‘the UNCRPD’) without further delay, keeping in mind the worldwide repercussions that its implementation, particularly at EU level, has for the stakeholders concerned.

As stated in the study commissioned by Policy Department C for the Committee on Petitions with regards to the Marrakesh Treaty and presented during the 9 November 2016 PETI Workshop on Disabilities, the Marrakesh Treaty is a triumph for the social model of disability and represents a suitable international solution to the global book famine. Therefore, all necessary measures need to be taken so as to ensure the rapid and appropriate implementation

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1 Petition 0924/2011 by Dan Pescod (British), on behalf of European Blind Union (EBU)/Royal National Institute of Blind People (RNIB), on access by blind people to books and other printed products and Petition 964/2011 by Michael Kalmar (Austrian), on behalf of European Dyslexia Association, on access to books for blind persons, those with dyslexia or other disabilities.

2 PE 571.387.
of the Treaty. Additionally, PETI has called\(^1\) for a swift ratification of the Marrakesh treaty by the European Union, without making ratification conditional upon revision of the EU legal framework.

The draft opinion seeks to harmonize the terminology used in the Regulation so as to fully reflect the Marrakesh Treaty and the UNCRPD. It leaves open the option of expanding the list of beneficiaries and updates the proposed Regulation along the lines of the comprehensive data protection legal framework at the EU level. Most importantly, the draft opinion proposes that a complaints or redress mechanism should be put in place by Member States in cases where beneficiaries are prevented from using the permitted exceptions.

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\(^1\) European Parliament resolution of 3 February 2016 on the ratification of the Marrakesh Treaty, based on petitions received, notably Petition 924/2011 (2016/2542(RSP)).
AMENDMENTS

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

Amendment 1

Proposal for a regulation
Recital 1

Text proposed by the Commission

(1) Persons who are blind, visually impaired or otherwise print disabled continue to face many barriers to accessing books and other print material. The need to increase the number of works and other protected subject-matter in accessible formats available to those persons and improve their circulation and dissemination has been recognised at an international level. The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (‘the Marrakesh Treaty’) was signed on behalf of the Union on 30 April 2014\textsuperscript{12}. It requires contracting parties to provide exceptions or limitations to the exclusive rights of holders of copyright and related rights for the making and dissemination of copies in accessible formats of certain works and other subject-matter and for the cross-border exchange of those accessible format copies. The beneficiaries of the Marrakesh Treaty are persons who are blind, visually impaired or have a perceptual or reading disability, including dyslexia, preventing them from reading printed works to the same degree as persons without such disability, or are unable to hold or manipulate a book or to focus and move the eyes to the extent that would be normally acceptable for reading due to a physical disability.

Amendment

(1) Persons who are blind, visually impaired or otherwise print disabled continue to face many barriers to accessing books and other print material. The need to make a much larger number of works and other protected subject-matter in accessible formats fully available to those persons and significantly improve their circulation and dissemination has been recognised at an international level. The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (‘the Marrakesh Treaty’) was signed on behalf of the Union on 30 April 2014\textsuperscript{12}, having already been adopted by the World Intellectual Property Organization in 2013. It requires contracting parties to provide exceptions or limitations to the exclusive rights of holders of copyright and related rights for the making and dissemination of copies in accessible formats of certain works and other subject-matter and for the cross-border exchange of those accessible format copies. The beneficiaries of the Marrakesh Treaty are persons who are blind, visually impaired or have a perceptual or reading disability, including dyslexia, preventing them from reading printed works to 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.
Amendment 2

Proposal for a regulation

Recital 2

*Text proposed by the Commission*

(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.

Amendment 3

Proposal for a regulation

Recital 3

(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 in all EU Member States 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.
(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.

Amendment 4

Proposal for a regulation
Recital 4

(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 5
Proposal for a regulation
Renital 5 a (new)

Text proposed by the Commission

(5a) Government guidelines or best practices with regard to the provision of accessible formats to beneficiary persons under the terms of the treaty should be elaborated in consultation with representative groups of authorised entities, such as library associations and library consortia, together with other authorised entity producers of accessible formats, as well as users and rights-holders.

Amendment 6
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 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 and with Regulation (EU) 2016/679 of the European Parliament and of the Council13a, which govern 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.

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personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).


Amendment 7
Proposal for a regulation
Recital 6 a (new)

Text proposed by the Commission

(6a) The Charter of Fundamental Rights of the European Union prohibits all forms of discrimination, including on grounds of disability, and states that the Union 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

Amendment 8
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

Amendment

(7) The United Nations Convention on the Rights of Persons with Disabilities (‘the UNCRPD’), to which the EU is a party [and which is binding for the EU Member States], 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
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 9

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 the Charter of Fundamental Rights of the European Union and in the United Nations Convention on the Rights of Persons with Disabilities (‘the UNCRPD’). This Regulation should be interpreted and applied in accordance with those rights and principles.

Amendment 10

Proposal for a regulation
Article 2 – paragraph 1 – point 2 – point d a (new)

Text proposed by the Commission

(\(d a\)) regardless of any other disabilities.

Amendment

Justification

The Marrakesh Treaty leaves open the option of expanding the list of beneficiaries, regardless of any other disabilities. Likewise, the proposed Directive mentions in Recital 16 and Article 7 the possibility of including other types of disabilities in the internal market, at a later stage.

Amendment 11

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

Amendment

(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 any of the impairments or disabilities referred to in paragraph 2;

Amendment 12

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 organization authorised or recognised by the government to provide 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.

Justification

The definition of "authorized entity" in Art. 2 of the Marrakesh Treaty refers to entities that are authorized or recognised by the governments. Introducing such a provision would facilitate the identification and supervision of authorised entities.

Amendment 13

Proposal for a regulation
Article 4 a (new)

Text proposed by the Commission

Article 4 a

Member States shall ensure that complaints and redress mechanisms are put in place and are available to users in case of disputes over the application of the
measures referred to in Articles 3 and 4.

Justification

The proposed Regulation does not mention any complaints or redress mechanisms that should be put in place by Member States in cases where beneficiaries are prevented from using the permitted exception. Setting up such a mechanism would be very appropriate in view of insuring effective application of the provisions of the Regulation. This is consistent with Art.10(1) of the Marrakesh Treaty, which requires Contracting Parties to adopt any necessary ‘measures’ to ensure effective application of the Treaty.

Amendment 14

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:

Amendment 15

Proposal for a regulation
Article 5 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Member States undertake to assist their authorised entities to make information available regarding their practices carried out under Articles 3 and 4, both through the sharing of information among authorised entities, and through making available information on their policies and practices, including related to cross-border exchange of accessible format copies, to interested parties and members of the public as appropriate.

Amendment 16

Proposal for a regulation
Article 6 – paragraph 1
Text proposed by the Commission

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

Amendment

The processing of personal data carried out within the framework of this Regulation shall be carried out in compliance with Directives 95/46/EC and 2002/58/EC, and with Regulation (EU) 2016/679 of the European Parliament and of the Council\(^a\).


Amendment 17

Proposal for a regulation

Article 7 – paragraph 1

Text proposed by the Commission

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 proposals for the amendment of this Regulation.

Amendment

No later than [three 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.
**PROCEDURE – COMMITTEE ASKED FOR OPINION**

| Title | 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 |
| Committee responsible | JURI 6.10.2016 |
| Committee responsible | Date announced in plenary PETI 6.10.2016 |
| Opinion by | PETI 6.10.2016 |
| Rapporteur | Date announced in plenary Margrethe Auken 18.11.2016 |
| Rapporteur | Date appointed 24.1.2017 |
| Result of final vote | +: 18 0: 0 |
| Members present for the final vote | Marina Albiol Guzmán, Beatriz Becerra Basterrechea, Pál Csáky, Rosa Estarás Ferragut, Eleonora Evi, Peter Jahr, Notis Marias, Julia Pitera, Virginie Rozière, Josep-Maria Terricabras, Jaroslaw Wałęsa, Cecilia Wikström, Tatjana Ždanoka |
| Substitutes present for the final vote | Kostadinka Kuneva, Ángela Vallina, Rainer Wieland |
| Substitutes under Rule 200(2) present for the final vote | Edouard Martin |
## PROCEDURE – COMMITTEE RESPONSIBLE

| Title | 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 |
| Committee responsible | JURI 6.10.2016 |
| Not delivering opinions | INTA 12.10.2016 |
| Rapporteurs | Max Andersson 12.10.2016 |
| Date adopted | 23.3.2017 |
| Result of final vote | +: 22, --: 0, 0: 0 |
| Members present for the final vote | Max Andersson, Joëlle Bergeron, Marie-Christine Boutonnet, Jean-Marie Cavada, Kostas Chrysogonos, Lidia Joanna Geringer de Oedenberg, Mary Honeyball, Sajjad Karim, Sylvia-Yvonne Kaufmann, António Marinho e Pinto, Jiří Maštálka, Emil Radev, Julia Reda, Pavel Svoboda, Tadeusz Zwiefka |
| Substitutes present for the final vote | Isabella Adinolfi, Daniel Buda, Angelika Niebler, Virginie Rozière, Rainer Wieland |
| Substitutes under Rule 200(2) present for the final vote | Eugen Freund, Maria Noichl |
| Date tabled | 29.3.2017 |
## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

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Key to symbols:
+ : in favour
- : against
0 : abstention