



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

PA_Legam

SHORT JUSTIFICATION

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

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

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

AMENDMENTS

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

Amendment 1

Proposal for a 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

Amendment

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 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 2014¹². 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

(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, ***having already been adopted by the World Intellectual Property Organization in 2013***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

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.

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.)

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 concerns the commercial aspects of intellectual property. A Regulation is the

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 Union 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

only appropriate instrument.

therefore 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

Amendment

(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

Amendment

(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

Amendment

(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.

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

Amendment 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 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 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

Amendment

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

Amendment 13

Proposal for a regulation

Article 5 – paragraph 2 – introductory part

Text proposed by the Commission

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, on request, to any beneficiary person or right holder:

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)

Text proposed by the Commission

Amendment

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:

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

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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

0	-

2	0
ENF	Joëlle Mélin, Dominique Martin

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
References	COM(2016)0595 – C8-0380/2016 – 2016/0279(COD)
Committee responsible Date announced in plenary	JURI 6.10.2016
Opinion by Date announced in plenary	EMPL 24.11.2016
Rapporteur Date appointed	Helga Stevens 28.11.2016
Discussed in committee	8.12.2016
Date adopted	25.1.2017
Result of final vote	+: 49 –: 0 0: 2
Members present for the final vote	Laura Agea, Brando Benifei, Vilija Blinkevičiūtė, Enrique Calvet Chambon, Ole Christensen, Martina Dlabajová, Lampros Fountoulis, Arne Gericke, Marian Harkin, Czesław Hoc, Agnes Jongerius, Rina Ronja Kari, Jan Keller, Agnieszka Kozłowska-Rajewicz, Jean Lambert, Jérôme Lavrilleux, Patrick Le Hyaric, Jeroen Lenaers, Verónica Lope Fontagné, Javi López, Thomas Mann, Dominique Martin, Joëlle Mélin, Elisabeth Morin-Chartier, João Pimenta Lopes, Georgi Pirinski, Evelyn Regner, Terry Reintke, Sofia Ribeiro, Robert Rochefort, Claude Rolin, Anne Sander, Sven Schulze, Siôn Simon, Jutta Steinruck, Romana Tomc, Yana Toom, Ulrike Trebesius, Marita Ulvskog, Renate Weber, Jana Žitňanská
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