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*Plenary sitting*

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**A8-0097/2017**

28.3.2017

**\*\*\*I**  
**REPORT**

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

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

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0596),
  - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0381/2016),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 25 January 2017<sup>1</sup>,
  - 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 (A8-0097/2017),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

**Proposal for a directive**

**Citation 1 a (new)**

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<sup>1</sup> Not yet published in the Official Journal.

*Text proposed by the Commission*

*Amendment*

- ***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 directive 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 directive Recital 2 a (new)**

*Text proposed by the Commission*

*Amendment*

- (2a) The Charter of Fundamental Rights of the European Union enshrines the right to information (Article 11) and the right to education (Article 14).***

## **Amendment 4**

### **Proposal for a directive Recital 3**

*Text proposed by the Commission*

*Amendment*

(3) Persons who are blind, visually impaired or otherwise print disabled continue to face many barriers in accessing books and other print material which are protected by copyright and related rights.

(3) Persons who are blind, visually impaired or otherwise print disabled continue to face many barriers in accessing books and other print material which are protected by copyright and related rights.

*Measures* need to be taken to increase the availability of those works in accessible formats and to improve their circulation in the internal market.

*Taking into consideration the social interests of granting such persons the right of access to information and the right to participate in cultural, economic and social life on an equal basis with others, measures* need to be taken to increase the availability of those works in accessible formats and to improve their circulation in the internal market, *within the conditions set forth in this Directive, in order to ensure access to knowledge and information.*

## Amendment 5

### Proposal for a directive

#### Recital 4

*Text proposed by the Commission*

(4) 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<sup>23</sup>. Its aim is to improve the availability of works and other protected subject-matter in accessible formats for persons who are blind, visually impaired or otherwise print disabled. The Marrakesh Treaty requires contracting parties to provide exceptions or limitations to the 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 copies. The conclusion of the Marrakesh Treaty by the Union requires the adaptation of Union law by establishing a mandatory exception for uses, works and beneficiary persons covered by the Treaty. This Directive implements the obligations that the Union has to meet under the Marrakesh Treaty in a harmonised manner, with a view to ensuring that those measures are applied consistently throughout the

*Amendment*

(4) 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<sup>23</sup>, *having already been adopted in 2013 by the World Intellectual Property Organization.* Its aim is to improve the availability *and cross-border exchange* of works and other protected subject-matter in accessible formats for persons who are blind, visually impaired or otherwise print disabled. The Marrakesh Treaty requires contracting parties to provide exceptions or limitations to the 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 copies. The conclusion of the Marrakesh Treaty by the Union requires the adaptation of Union law by establishing a mandatory *and harmonised* exception for uses, works and beneficiary persons covered by the Treaty. This Directive implements the obligations that the Union has to meet under the Marrakesh Treaty in a harmonised manner,

internal market.

with a view to ensuring that those measures are applied consistently throughout the internal market.

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<sup>23</sup> 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).

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<sup>23</sup> 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 6

### Proposal for a directive Recital 5

#### *Text proposed by the Commission*

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

#### *Amendment*

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



books and radio broadcasts.

## Amendment 7

### Proposal for a directive

#### Recital 6

##### *Text proposed by the Commission*

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

##### *Amendment*

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

## Amendment 8

### Proposal for a directive

#### Recital 8

##### *Text proposed by the Commission*

(8) The mandatory exception should also limit the right of reproduction so as to allow for any act that is necessary in order to make changes to or convert or adapt a work or other subject-matter in such a way as to produce an accessible format copy. This includes providing the necessary means to navigate information in an

##### *Amendment*

(8) ***It is also necessary for*** the mandatory exception ***to*** limit the right of reproduction so as to allow for any act that is necessary in order to make changes to or convert or adapt a work or other subject-matter in such a way as to produce an accessible format copy. This includes providing the necessary means to navigate information in an accessible format copy,

accessible format copy.

***and includes also the acts that are necessary to adapt existing publications that are already accessible for certain categories of beneficiary persons to the needs of other beneficiary persons who require alternative formats to properly access the work. Lending of the work to beneficiary persons should be permitted.***

#### *Justification*

*This amendment aims to improve clarity on what are “necessary acts” authorised by the exception set in Art. 3. A file format may be accessible by some categories of disabled persons (e.g. visually impaired people) but not by others (e.g. dyslexics). In this case, though there is no need to transform a file for a beneficiary person who is blind or visually impaired, a transformation is needed to make the work accessible for a dyslexic. The possibility of lending should also be granted.*

### **Amendment 9**

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

##### **Recital 9**

###### *Text proposed by the Commission*

(9) The exception should allow authorised entities to make and disseminate online and offline within the Union accessible format copies of works or other subject-matter covered by this Directive.

###### *Amendment*

(9) The exception should allow authorised entities to make and disseminate online and offline within the Union accessible format copies of works or other subject-matter covered by this Directive, ***in line with relevant existing Union laws. The Directive does not establish any obligation on authorised entities to make and disseminate copies.***

### **Amendment 10**

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

##### **Recital 9 a (new)**

###### *Text proposed by the Commission*

###### *Amendment*

***(9a) When the market is unable to provide access, the rightholders' role in making their works accessible to persons with visual impairments or with other print disabilities is just as important as the***

***exceptions provided for by this Directive when it comes to improving the availability of text-based works.***

*Justification*

*The new recital refers to a recital of the Marrakech Treaty. It recalls the equal importance of both appropriate limitations and exceptions, and the rightholders' role in making works accessible to persons with visual impairments, in order to end "the book famine" of millions of blind and partially sighted persons.*

**Amendment 11**

**Proposal for a directive  
Recital 9 b (new)**

*Text proposed by the Commission*

*Amendment*

***(9b) In order to foster exchange between Member States, a single publicly accessible online database should be established and managed by the European Intellectual Property Office (EUIPO) containing information on authorised entities and bibliographic data about works in accessible format copies that are produced and made available by authorised entities. This database should also include information about born accessible publications, i.e. publications produced by publishers in accessible format, and should be interoperable with the ABC TIGAR (Trusted Intermediary Global Accessible Resources) database, hosted by the WIPO.***

*Justification*

*The new recital calls on the European Commission to facilitate the exchange of information through creating a single database of the accessible format copies, including the accessible books directly produced by publishers in accessible formats. This new initiative should build on and remain interoperable with the existing worldwide database developed by the Accessible Book Consortium, hosted by WIPO.*

## Amendment 12

### Proposal for a directive

#### Recital 11

*Text proposed by the Commission*

(11) In view of the specific nature of the exception, its targeted scope and the need for legal certainty for its beneficiaries, Member States should not be allowed to impose additional requirements for the application of the exception, such as compensation schemes or the prior verification of the commercial availability of accessible format copies.

*Amendment*

(11) In view of the specific nature of the exception, its targeted scope and the need for legal certainty for its beneficiaries, Member States should not be allowed to impose additional requirements for the application of the exception, such as compensation schemes or the prior verification of the commercial availability of accessible format copies. ***Such additional requirements would run the risk of going against the purpose of the exceptions provided for by this Directive, and against the purpose of facilitating the cross-border exchange of special format copies within the internal market.***

## Amendment 13

### Proposal for a directive

#### Recital 12

*Text proposed by the Commission*

(12) Any processing of personal data under this Directive 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 of the Council, which ***governs*** the processing of personal data, as may be carried out by authorised entities within the framework of this Directive and under the supervision of the Member States' competent authorities, in particular the public independent authorities designated by the Member States.

*Amendment*

(12) Any processing of personal data under this Directive 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<sup>1a</sup> and 2002/58/EC<sup>1b</sup> ***of the European Parliament and of the Council and with Regulation (EU) 2016/679 of the European Parliament and of the Council***<sup>1c</sup>, which ***govern*** the processing of personal data, as may be carried out by authorised entities within the framework of this Directive 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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*<sup>1a</sup> 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).*

*<sup>1b</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201 , 31.7.2002, p. 37).*

*<sup>1c</sup> 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 14

### Proposal for a directive Recital 13

#### *Text proposed by the Commission*

(13) The United Nations Convention on the Rights of Persons with Disabilities ('the UNCRPD'), to which the **EU** is a party, guarantees people with disabilities the right of access to information and the right to participate in cultural, economic and social life on an equal basis with others. The UNCRPD requires parties to the Convention to take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual

#### *Amendment*

(13) The United Nations Convention on the Rights of Persons with Disabilities ('the UNCRPD'), to which the **Union** is a party **and which is binding for Member States of the Union**, 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

property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.

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 15

### Proposal for a directive Recital 14

*Text proposed by the Commission*

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

(14) *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 16

### Proposal for a directive Recital 15

*Text proposed by the Commission*

(15) With the adoption of this Directive, the Union aims to ensure that beneficiary persons have access to books and other print material in accessible formats. Accordingly, this Directive is an essential first step in improving access to works for people with disabilities.

*Amendment*

(15) With the adoption of this Directive, the Union aims to ensure that beneficiary persons have access to books and other print material in accessible formats ***across the internal market***. Accordingly, this Directive is an essential first step in improving access to works for people with disabilities.

## Amendment 17

### Proposal for a directive Recital 16

*Text proposed by the Commission*

*Amendment*

(16) The Commission will monitor the effect of this Directive. As part of this, it will assess the situation regarding the availability in accessible formats of works and other subject-matter other than those covered by this Directive, as well as the availability of works and other subject-matter in accessible formats for persons with other disabilities. The Commission will review the situation closely. Changes to the scope of this Directive may be considered, if necessary.

(16) The Commission will monitor the effect of this Directive. As part of this, it will assess the situation regarding the availability in accessible formats of works and other subject-matter other than those covered by this Directive, as well as the availability of works and other subject-matter in accessible formats for persons with other disabilities. The Commission will review the situation closely *in order to fully guarantee the cultural and social aims of this Directive*. Changes to the scope of this Directive may be considered, if necessary, *in accordance with the report presented by the Commission under Article 7 of this Directive, preceded by a feasibility study on the introduction of other similar exceptions for persons with other types of disabilities*.

## Amendment 18

### Proposal for a directive Recital 18

#### *Text proposed by the Commission*

(18) This Directive therefore respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. This Directive should be interpreted and applied in accordance with those rights and principles.

#### *Amendment*

(18) This Directive therefore respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union *and the United Nations Convention on the Rights of Persons with Disabilities*. This Directive should be interpreted and applied in accordance with those rights and principles.

## Amendment 19

### Proposal for a directive Recital 20 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

*(20a) Member States should transpose this Directive within six months of entry into force, in order to swiftly implement*

*the rights recognised by the Charter of Fundamental Rights of the EU and the UNCRPD of persons with disabilities.*

*Justification*

*The amendment aims to take into account the provisions of Article 4 Par. 3 and Art. 10 of the Marrakesh Treaty on the implementation of the Treaty itself.*

**Amendment 20**

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

*Text proposed by the Commission*

This Directive lays down rules on the use of certain works and other subject-matter without the authorisation of the rightholder, for the benefit of persons who are blind, visually impaired or otherwise print disabled.

*Amendment*

This Directive lays down rules on the use of certain works and other subject-matter without the authorisation of the rightholder, for the benefit of persons who are blind, visually impaired or otherwise print disabled. *It aims to effectively ensure their right to participate in cultural, economic and social life on an equal basis with others.*

**Amendment 21**

**Proposal for a directive  
Article 2 – paragraph 1 – point 1**

*Text proposed by the Commission*

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

*Amendment*

(1) ‘work and other subject-matter’ means a work in the form of a book, journal, newspaper, magazine or other writing, including sheet music, and related illustrations, in any media, including in audio forms 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 22**



**Proposal for a directive**  
**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:***

**Amendment 23**

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

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 24**

**Proposal for a directive**  
**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 25**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 4**

*Text proposed by the Commission*

*Amendment*

(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.

(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.

## Amendment 26

### Proposal for a directive

#### Article 3 – paragraph 1 – subparagraph 1 – point a

*Text proposed by the Commission*

(a) a beneficiary person, or a person acting on their behalf, to make an accessible format copy of a work or other subject-matter for the exclusive use of the beneficiary person; and

*Amendment*

(a) a beneficiary person, or a person **lawfully** acting on their behalf, to make an accessible format copy of a work or other subject-matter for the exclusive use of the beneficiary person; and

## Amendment 27

### Proposal for a directive

#### Article 3 – paragraph 3

*Text proposed by the Commission*

3. Article 5(5) **and the first, third and fifth subparagraphs of Article 6(4)** of Directive 2001/29/EC shall apply to the exception provided for in paragraph 1 of this Article.

*Amendment*

3. Article 5(5) of Directive 2001/29/EC shall apply to the exception provided for in paragraph 1 of this Article.

## Amendment 28

### Proposal for a directive

#### Article 3 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**3a. Member States shall ensure that the exceptions provided for in paragraph 1 cannot be overridden by contract.**

*Regarding the relationship between the exception provided for in paragraph 1 of this Article and technical protection measures, the first, third and fifth subparagraphs of Article 6(4) of Directive 2001/29/EC shall apply. Member States shall ensure that complaints and redress mechanisms are put in place in case of disputes concerning the application of the measures referred to in this Article.*

*Justification*

*The proposed Directive does not mention any complaints or redress mechanisms that should be put in place by Member States in cases where beneficiaries are denied the permitted uses. Such mechanisms are provided under Art. 13(2) of the Proposal for a Directive of the European Parliament and of the Council on copyright in the Digital Single Market (COM(2016)593).*

**Amendment 29**

**Proposal for a directive  
Article 5 – paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

The processing of personal data carried out within the framework of this Directive shall be carried out in compliance with Directive 95/46/EC, ***Directive 2002/58/EC of the European Parliament and of the Council<sup>1a</sup>, and with Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>1b</sup>.***

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<sup>1a</sup> ***Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p.37).***

<sup>1b</sup> ***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 30

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 31

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

*Text proposed by the Commission*

*No sooner than* [five years after the date of transposition], the Commission shall carry out an evaluation of this Directive and

*Amendment*

*By* [five years after the date of transposition], the Commission shall carry out an evaluation of this Directive that

present the main findings to the European Parliament, the Council and the European Economic and Social Committee, accompanied, where appropriate, by proposals for the amendment of this Directive

takes *into account technological developments in the context of accessibility* and present the main findings to the European Parliament, the Council and the European Economic and Social Committee, accompanied, where appropriate, by proposals for the amendment of this Directive. *The Commission's report shall take into account the viewpoints of relevant civil society actors, non-governmental organisations and social partners, including organisations of and by persons with disabilities and those representing older persons.*

Amendment 32

**Proposal for a directive**  
**Article 9 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [12 month after entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

*Amendment*

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [6 month after entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

*Justification*

*The term of 6 months appears more adequate taking also into account Art. 10 of the Marrakesh Treaty*

9.2.2017

## **OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS**

for the Committee on Legal Affairs

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

Rapporteur: Helga Stevens

### **SHORT JUSTIFICATION**

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

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

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

### **AMENDMENTS**

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

#### **Amendment 1**

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

##### **Citation 1**

*Text proposed by the Commission*

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

*Amendment*

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

#### **Amendment 2**

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

##### **Citation 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Having regard to Protocol (No 1) to the Treaty on the Functioning of the European Union on the role of national parliaments in the European Union,***

#### **Amendment 3**

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

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

*Text proposed by the Commission*

*Amendment*

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

#### **Amendment 4**

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

##### **Recital 1**

*Text proposed by the Commission*

*Amendment*

(1) Union Directives in the area of

(1) Union Directives in the area of

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

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

## Amendment 5

### Proposal for a directive Recital 3

#### *Text proposed by the Commission*

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

#### *Amendment*

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

## Amendment 6

### Proposal for a directive Recital 5

#### *Text proposed by the Commission*

(5) This Directive is designed for the benefit persons who are blind, have a visual impairment which cannot be improved so as to give those persons visual

#### *Amendment*

(5) This Directive is designed for the benefit **of** persons who are blind, have a visual impairment which cannot be improved so as to give those persons visual



function substantially equivalent to that of a person who has no such impairment, or have a perceptual or reading disability, including dyslexia, preventing them from reading printed works to substantially the same degree as persons without such disability, or are unable to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading due to a physical disability. The objective of the measures introduced by this Directive is to improve the availability of books, journals, newspapers, magazines and other writings, sheet music and other print material, including in audio form, whether digital or analogue, in formats that make those works and other subject-matter accessible to those persons to substantially the same degree as to persons without an impairment or disability. Accessible formats include Braille, large print, adapted e-books, audio books and radio broadcasts

function substantially equivalent to that of a person who has no such impairment, or have a perceptual or reading disability, including dyslexia, **or any other learning disability**, preventing them from reading printed works to substantially the same degree as persons without such disability, or are unable to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading due to a physical disability. The objective of the measures introduced by this Directive is to improve the availability of books, journals, newspapers, magazines and other writings, sheet music and other print material, including in audio form, whether digital or analogue, **online or offline**, in formats that make those works and other subject-matter accessible to those persons to substantially the same degree as to persons without an impairment or disability. Accessible formats include Braille, large print, adapted e-books, audio books and radio broadcasts

## Amendment 7

### Proposal for a directive

#### Recital 6

##### *Text proposed by the Commission*

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

##### *Amendment*

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

to related rights.

to related rights. *The exercise of the exceptions provided for by this Directive should be without prejudice to other more favourable exceptions for persons with disabilities provided for by the Member States, such as those relating to private use.*

## Amendment 8

### Proposal for a directive

#### Recital 11

##### *Text proposed by the Commission*

(11) In view of the specific nature of the exception, its targeted scope and the need for legal certainty for its beneficiaries, Member States should not be allowed to impose additional requirements for the application of the exception, such as compensation schemes or the prior verification of the commercial availability of accessible format copies.

##### *Amendment*

(11) In view of the specific nature of the exception, its targeted scope and the need for legal certainty for its beneficiaries, Member States should not be allowed to impose additional requirements for the application of the exception, such as compensation schemes or the prior verification of the commercial availability of accessible format copies. *Such additional requirements would run the risk of going against the purpose of facilitating the cross-border exchange of accessible format copies within the internal market.*

## Amendment 9

### Proposal for a directive

#### Recital 13

##### *Text proposed by the Commission*

(13) The United Nations Convention on the Rights of Persons with Disabilities ('the UNCRPD'), to which the *EU* is a party, guarantees people with disabilities the right of access to information and the right to participate in cultural, economic and social life on an equal basis with

##### *Amendment*

(13) The United Nations Convention on the Rights of Persons with Disabilities ('the UNCRPD'), to which the *Union* is a party *as of 21 January 2011*, guarantees people with disabilities the right of access to information and *to communication and* the right to participate in cultural,

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.

economic, **political, work** and social life on an equal basis with others. The UNCRPD requires parties to the Convention to take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.

## Amendment 10

### Proposal for a directive Recital 14

#### *Text proposed by the Commission*

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

(14) Under the Charter of Fundamental Rights of the European Union, the Union **prohibits discrimination on the basis of disability and** recognises and respects the right of people with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.

## Amendment 11

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

#### *Text proposed by the Commission*

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

#### *Amendment*

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

publicly available;

## **Amendment 12**

### **Proposal for a directive**

#### **Article 2 – point 2 – point c**

*Text proposed by the Commission*

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

*Amendment*

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

## **Amendment 13**

### **Proposal for a directive**

#### **Article 3 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 14**

### **Proposal for a directive**

#### **Article 7 – paragraph 1**

*Text proposed by the Commission*

By [two years after the date of transposition], the Commission shall present a report to the European Parliament, the Council and the European Economic and Social Committee on the availability, in accessible formats, of works and other subject-matter other than those defined in Article 2(1) for beneficiary

*Amendment*

By [two years after the date of transposition], the Commission shall present a report to the European Parliament, the Council and the European Economic and Social Committee on the availability, in accessible formats, of works and other subject-matter other than those defined in Article 2(1) for beneficiary

persons, and of works and other subject-matter for persons with disabilities other than those referred to in Article 2(2), in the internal market. The report shall contain an assessment on whether an amendment of the scope of this Directive should be considered.

persons, and of works and other subject-matter for persons with disabilities other than those referred to in Article 2(2), in the internal market. The report shall contain an assessment - ***taking into account technological developments and particularly the technologies available to help people with disabilities, and the accessibility of those technologies*** - on whether an amendment of the scope of this Directive should be considered.

## Amendment 15

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

*Text proposed by the Commission*

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

*Amendment*

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

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

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

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

## PROCEDURE – COMMITTEE ASKED FOR OPINION

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

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

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

0	-

2	0
ENF	Dominique Martin, Joëlle Mélin

**Key to symbols:**

+ : in favour

- : against

0 : abstention



17.3.2017

## **OPINION OF THE COMMITTEE ON CULTURE AND EDUCATION**

for the Committee on Legal Affairs

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

Rapporteur: Helga Trüpel

### **SHORT JUSTIFICATION**

The Marrakesh Treaty obliges the parties to establish a set of mandatory limitations and exceptions to copyright and related rights for the benefit of the 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 rapporteur of the Committee on Culture and education (CULT) welcomes the proposed Directive because it means the end of “the book famine” for blind and visually-impaired people in the EU and around the world. Only five percent of the published books are available for visually impaired people at the moment demonstrating that no real market for those works is existing. The Marrakesh treaty is an important step forward for gaining access to cultural and educational information just like any other citizen.

The provided exceptions or limitations to copyright and related rights only apply for a strong limited group of users and only for non-commercial purposes.

Additionally it should be noted that the books shared by blind and visually impaired persons are in special formats, such as, Braille or Daisy and rarely compete with works for sighted persons. In the rapporteur’s opinion there is no evidence that “authorised entities” which produce the accessible formats would hurt the rights-holders nor the publishers through piracy.

The treaty will not undermine mainstream publishing and it will not prevent rights holders from increasing the number of mainstream accessible titles they offer. It does not foster

commercial competition with the publishing industry. It should also be remembered that the Treaty exists because this market had failed blind and partially sighted people.

Therefore, all necessary measures need to be taken so as to ensure the rapid and appropriate implementation of the Treaty and the rapporteur calls for a swift ratification of the Marrakesh treaty by the European Union.

## 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 directive

##### Recital 2 a (new)

*Text proposed by the Commission*

*Amendment*

***(2a) The Charter of Fundamental Rights of the European Union enshrines the right to information (Article 11) and the right to education (Article 14).***

### Amendment 2

#### Proposal for a directive

##### Recital 3

*Text proposed by the Commission*

*Amendment*

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

(3) Persons who are blind, visually impaired or otherwise print disabled continue to face many barriers in accessing books and other print material which are protected by copyright and related rights. ***Taking into consideration that its use by people whose vision is impaired seriously and in the long term would have a clear social interest and would be essentially conducted on a non-profit regime, measures*** need to be taken to ***improve accessibility to*** the works in accessible formats and to improve their circulation in the internal market, ***as well as to increase availability where necessary and where***

*the conditions set forth in this Directive are met and to collect data regarding such access, including the publication of information on the authorised entities established in the territory.*

### **Amendment 3**

#### **Proposal for a directive Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**(3a) Persons who are blind, visually impaired or otherwise print disabled have the right of access to information and the right to participate in cultural, economic and social life on an equal basis with others.**

#### *Justification*

*The addition proposed results from the UNCRPD and Art. 26 Charter of Fundamental Rights of the EU that enshrines the rights and freedoms of people with disabilities.*

### **Amendment 4**

#### **Proposal for a directive Recital 5**

*Text proposed by the Commission*

*Amendment*

(5) This Directive is designed for the benefit persons who are blind, have a visual impairment which cannot be improved so as to give those persons visual function substantially equivalent to that of a person who has no such impairment, or have a perceptual or reading disability, including dyslexia, preventing them from reading printed works to substantially the same degree as persons without such disability, or are unable to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading due to a physical

(5) This Directive is designed for the benefit **of** persons who are blind, have a visual impairment which cannot be improved so as to give those persons visual function substantially equivalent to that of a person who has no such impairment, or have a perceptual or reading disability, including dyslexia, preventing them from reading printed works to substantially the same degree as persons without such disability, or are unable to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading due to a physical

**disability.** The objective of the measures introduced by this Directive is to improve the availability of books, journals, newspapers, magazines and other writings, sheet music and other print material, including in audio form, whether digital or analogue, in formats that make those works and other subject-matter accessible to those persons to substantially the same degree as to persons **without an impairment or disability.** Accessible formats include Braille, large print, **adapted** e-books, audio books and radio broadcasts.

**impairment.** The objective of the measures introduced by this Directive is to improve the availability of books, journals, newspapers, magazines and other writings, sheet music and other print material, including in audio form, whether digital or analogue, in formats that make those works and other subject-matter accessible to those persons to substantially the same degree as to persons **who are not blind, visually impaired or otherwise print disabled, without compromising the quality of the content.** Accessible formats include Braille, large print, e-books, audio books and radio broadcasts, **but are not limited to them.**

### *Justification*

*This recital aims to guarantee the quality of the adapted works to ensure that the cultural experience gained from accessing literary or artistic works is the same for all, and to maintain the precision of the definition for 'persons who are not blind, visually impaired or otherwise print disabled'. It also offers the distinction between 'disability' and 'impairment'; according to the Preamble (e) of the United Nations 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'. 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 5**

### **Proposal for a directive**

#### **Recital 6**

##### *Text proposed by the Commission*

(6) This Directive **should** therefore provide for mandatory exceptions to the rights that are harmonised by Union law and are relevant for the uses and works covered by the Marrakesh Treaty. These include in particular the rights of reproduction, communication to the public, making available, distribution and lending, as provided for in Directive 2001/29/EC, Directive 2006/115/EC, and Directive 2009/24/EC, as well as the corresponding

##### *Amendment*

(6) This Directive therefore **provides** for mandatory exceptions to the rights that are harmonised by Union law and are relevant for the uses and works covered by the Marrakesh Treaty. These include in particular the rights of reproduction, communication to the public, making available, distribution and lending, as provided for in Directive 2001/29/EC, Directive 2006/115/EC, and Directive 2009/24/EC, as well as the corresponding

rights in Directive 96/9/EC. As the scope of exceptions and limitations required by the Marrakesh Treaty also includes works in audio form, like audiobooks, it is necessary that these exceptions also apply to related rights.

rights in Directive 96/9/EC. As the scope of exceptions and limitations required by the Marrakesh Treaty also includes works in audio form, like *adapted* audiobooks, it is necessary that these exceptions also apply to related rights. ***The exercise of the exceptions provided for by the present Directive is without prejudice to other exceptions for persons with disabilities provided for by the Member States, such as private use.***

## **Amendment 6**

### **Proposal for a directive Recital 8**

#### *Text proposed by the Commission*

(8) The mandatory exception should also limit the right of reproduction so as to allow for any act that is necessary in order to make changes to or convert or adapt a work or other subject-matter in such a way as to produce an accessible format copy. This includes providing the necessary means to navigate information in an accessible format copy.

#### *Amendment*

(8) ***It is also necessary for*** the mandatory exception ***to*** limit the right of reproduction so as to allow for any act that is necessary in order to make changes to or convert or adapt a work or other subject-matter in such a way as to produce an accessible format copy. This includes providing the necessary means to navigate information in an accessible format copy, ***and also the acts that are necessary to adapt existing publications that are already accessible for certain categories of beneficiary persons to the needs of other beneficiary persons who require alternative formats to properly access the work. Lending of the work to beneficiary persons should be granted.***

#### *Justification*

*This amendment aims to improve clarity on what are “necessary acts” authorised by the exception set in Art. 3. A file format may be accessible by some categories of disabled persons (e.g. visually impaired people) but not by others (e.g. dyslexics). In this case, though there is no need to transform a file for a beneficiary person who is blind or visually impaired, a transformation is needed to make the work accessible for a dyslexic. The possibility of lending should also be granted.*

## **Amendment 7**

**Proposal for a directive**  
**Recital 9**

*Text proposed by the Commission*

(9) The exception **should** allow authorised entities to make and disseminate online and offline within the Union accessible format copies of works or other subject-matter covered by this Directive.

*Amendment*

(9) The exception **will** allow authorised entities to make and disseminate online and offline within the Union accessible format copies of **current** works, **archived material** or other subject-matter covered by this Directive.

*Justification*

*This recital outlines that archived works can also be made into accessible formats.*

**Amendment 8**

**Proposal for a directive**  
**Recital 9 a (new)**

*Text proposed by the Commission*

*Amendment*

**(9a) To improve the availability of text-based works, the rightholders' role in making their works accessible to persons with visual impairments or with other print disabilities is just as important as the exceptions provided for by this Directive when the market is unable to provide such access.**

*Justification*

*The new recital refers to a recital of the Marrakech Treaty. It recalls the equal importance of both appropriate limitations and exceptions, and the rightholders' role in making works accessible to persons with visual impairments, in order to end "the book famine" of millions of blind and partially sighted persons.*

**Amendment 9**

**Proposal for a directive**  
**Recital 9 b (new)**

*Text proposed by the Commission*

*Amendment*

**(9b) In order to foster exchange between Member States, a single publicly**

*accessible online database should be established and managed by the European Intellectual Property Office (EUIPO) containing information on authorised entities and bibliographic data about works available in accessible format copies produced and made available by authorised entities. This database should also include information about born accessible publications, i.e. publications produced by publishers in accessible format, and should 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 creating a single database of the accessible format copies, including the accessible books directly produced by publishers in accessible formats. This new initiative should build on and remain interoperable with the existing worldwide database developed by the Accessible Book Consortium, hosted by WIPO.*

### **Amendment 10**

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

#### **Recital 10**

##### *Text proposed by the Commission*

(10) It *should* be possible for accessible format copies made in one Member State to be available in all Member States, in order to ensure their greater availability across the internal market. This would reduce the demand for redundant work in producing accessible format copies of the same work or other subject matter across the Union, thus generating savings and efficiency gains. This Directive *should* therefore ensure that accessible format copies made in one Member State may be circulated and accessed in all Member States. An authorised entity should thus be able to disseminate those copies, offline or online, to beneficiary persons and authorised entities in any Member State.

##### *Amendment*

(10) It *will* be possible for accessible format copies made in one Member State to be available in all Member States, in order to ensure their greater availability across the internal market. This would reduce the demand for redundant work in producing accessible format copies of the same work or other subject matter across the Union, thus generating savings and efficiency gains. This Directive *will* therefore ensure that accessible format copies made in one Member State may be circulated *to* and accessed *by beneficiary persons and authorised entities* in all Member States. An authorised entity should thus be able to disseminate those copies, offline or online, to beneficiary

Moreover, authorised entities and beneficiary persons should be allowed to obtain or have access to those copies from any authorised entity in any Member State.

persons and authorised entities in any Member State. Moreover, authorised entities and beneficiary persons should be allowed to obtain or have access to those copies from any authorised entity in any Member State.

## **Amendment 11**

### **Proposal for a directive**

#### **Recital 11**

*Text proposed by the Commission*

(11) In view of the specific nature of the exception, its targeted scope and the need for legal certainty for its beneficiaries, Member States *should* not be *allowed* to impose additional requirements for the application of the exception, such as compensation schemes or the prior verification of the commercial availability of accessible format copies.

*Amendment*

(11) In view of the specific nature of the exception, its targeted scope and the need for legal certainty for its beneficiaries, Member States *will* not be *permitted* to impose additional requirements for the application of the exception, such as compensation schemes or the prior verification of the commercial availability of accessible format copies.

## **Amendment 12**

### **Proposal for a directive**

#### **Recital 11 a (new)**

*Text proposed by the Commission*

*Amendment*

***(11a) In identifying authorised entities, Member States should take into consideration the expertise of such entities in providing non-profit, high quality and effective accessible formats of work and other subject matter, and the principles of trusted intermediary laid down in the Memorandum of Understanding on access to works for dyslexic or visually impaired readers, promoted by the European Commission and signed in 2010 by the representatives of rightholders and of persons who are print disabled.***



## *Justification*

*The proposal intends to build on the European policy of last decade, which is based on the recognition of the valuable knowledge and experience which only specialised organisations serving beneficiary persons can contribute and on the promotion of cooperation between stakeholders in the field.*

### **Amendment 13**

#### **Proposal for a directive Recital 14**

##### *Text proposed by the Commission*

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

(14) ***In Article 26 of*** the Charter of Fundamental Rights of the European Union, 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 14**

#### **Proposal for a directive Recital 16**

##### *Text proposed by the Commission*

(16) The Commission will monitor the effect of this Directive. As part of this, it will assess the situation regarding the availability in accessible formats of works and other subject-matter other than those covered by this Directive, as well as the availability of works and other subject-matter in accessible formats for persons with other *disabilities*. The Commission will review the situation closely. Changes to the scope of this Directive may be considered, if necessary.

##### *Amendment*

(16) The Commission will monitor the effect of this Directive. As part of this, it will assess the situation regarding the availability in accessible formats of works and other subject-matter other than those covered by this Directive, as well as the availability of works and other subject-matter in accessible formats for persons with other *impairments*. The Commission will review the situation closely. Changes to the scope of this Directive may be considered, if necessary.

### **Amendment 15**

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

## Recital 18

*Text proposed by the Commission*

(18) This Directive therefore respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. This Directive *should be* interpreted and applied in accordance with those rights and principles.

*Amendment*

(18) This Directive therefore respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. ***It is necessary that*** this Directive ***be*** interpreted and applied in accordance with those rights and principles.

## Amendment 16

### Proposal for a directive

#### Recital 19

*Text proposed by the Commission*

(19) The Marrakesh Treaty imposes certain obligations regarding the exchange of accessible format copies between the Union and third countries that are parties to the Treaty. The measures taken by the Union to fulfil those obligations are contained in Regulation [...] which ***should be read*** in conjunction with this Directive.

*Amendment*

(19) The Marrakesh Treaty imposes certain obligations regarding the exchange of accessible format copies between the Union and third countries that are parties to the Treaty. The measures taken by the Union to fulfil those obligations are contained in Regulation [...] which ***needs to be consulted*** in conjunction with this Directive.

## Amendment 17

### Proposal for a directive

#### Recital 20 a (new)

*Text proposed by the Commission*

*Amendment*

***(20a) Member States should transpose this Directive within six months, in order to swiftly implement the rights of persons with disabilities, recognised by the Charter of Fundamental Rights of the European Union and the UNCRPD***

*Justification*

*The amendment aims to take into account the provisions of Article 4 Par. 3 and Art. 10 of the*

## **Amendment 18**

### **Proposal for a directive**

#### **Article 2 – paragraph 1 – point 1**

*Text proposed by the Commission*

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

*Amendment*

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

*Justification*

*The definition of ‘work and other subject-matter’ is developed to be more specific and detailed.*

## **Amendment 19**

### **Proposal for a directive**

#### **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, 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) and should therefore be inserted after (d).*

## **Amendment 20**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 2 – point c**

*Text proposed by the Commission*

*Amendment*

(c) a person who has a perceptual or reading **disability**, including dyslexia, and 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 21**

**Proposal for a directive**

**Article 2 – paragraph 1 – point 2 – point d**

*Text proposed by the Commission*

*Amendment*

(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 22**

**Proposal for a directive**

**Article 2 – paragraph 1 – point 3**

*Text proposed by the Commission*

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

(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 23**

### **Proposal for a directive 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 **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 organisation that provides the same services to beneficiary persons** as one of its **primary** activities or **institutional obligations**.

### *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 24**

### **Proposal for a directive Article 3 – paragraph 2**

#### *Text proposed by the Commission*

2. Member States shall ensure that the accessible format copy respects the integrity of the work or other subject-matter, having due consideration for the changes required to make the work accessible in the alternative format.

#### *Amendment*

2. Member States shall ensure that the accessible format copy respects the integrity of the work or other subject-matter, having due consideration for the changes required to make the work accessible in the alternative format **for the different needs of beneficiary persons**.

## Amendment 25

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

*Text proposed by the Commission*

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

*Amendment*

**Within** [five years after the date of transposition], the Commission shall carry out an evaluation of this Directive and present the main findings to the European Parliament, the Council and the European Economic and Social Committee, accompanied, where appropriate, by proposals for the amendment of this Directive.

*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

<b>Title</b>	Permitted uses of works and other subject-matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society
<b>References</b>	COM(2016)0596 – C8-0381/2016 – 2016/0278(COD)
<b>Committee responsible</b> Date announced in plenary	JURI 6.10.2016
<b>Opinion by</b> Date announced in plenary	CULT 6.10.2016
<b>Rapporteur</b> Date appointed	Helga Trüpel 6.12.2016
<b>Date adopted</b>	28.2.2017
<b>Result of final vote</b>	+: 28 –: 0 0: 1
<b>Members present for the final vote</b>	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 Brunon Wenta, Bogdan Andrzej Zdrojewski, Milan Zver, Krystyna Lybacka
<b>Substitutes present for the final vote</b>	Morten Løkkegaard, Emma McClarkin, Algirdas Saudargas, Remo Sernagiotto
<b>Substitutes under Rule 200(2) present for the final vote</b>	Clare Moody

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

28	+
PPE	Andrea Bocskor, Marc Joulaud, Svetoslav Hristov Malinov, Algirdas Saudargas, Sabine Verheyen, Bogdan Andrzej Zdrojewski, Milan Zver, Michaela Šojdrová
S&D	Silvia Costa, Giorgos Grammatikakis, Petra Kammerevert, Clare Moody, Luigi Morgano, Momchil Nekov, Krystyna Lybacka
ECR	Andrew Lewer, Emma McClarkin, John Procter, Remo Sernagiotto
ALDE	Mircea Diaconu, María Teresa Giménez Barbat, Morten Løkkegaard
GUE/NGL	Nikolaos Chountis, Curzio Maltese
Verts/ALE	Jill Evans, Helga Trüpel
EFDD	Isabella Adinolfi
ENF	Dominique Bilde

0	-

1	0
PPE	Stefano Maullu

Key to symbols:

+ : in favour

- : against

0 : abstention



27.1.2017

## OPINION OF THE COMMITTEE ON PETITIONS

for the Committee on Legal Affairs

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

Rapporteur: Rosa Estaràs Ferragut

### 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 Directive. PETI has actively worked on dossiers related to access by blind and visually impaired persons to published works since 2011, when two petitions<sup>1</sup> 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').

As stated in the study<sup>2</sup> 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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<sup>1</sup> 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.

<sup>2</sup> PE 571.387.

of the Treaty. Additionally, PETI has called<sup>1</sup> 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 Directive 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 Directive 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.

## 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 directive Recital 3

##### *Text proposed by the Commission*

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

##### *Amendment*

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

### Amendment 2

#### Proposal for a directive Recital 4

##### *Text proposed by the Commission*

##### *Amendment*

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<sup>1</sup> 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)).

(4) 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<sup>23</sup>. Its aim is to improve the availability of works and other protected subject-matter in accessible formats for persons who are blind, visually impaired or otherwise print disabled. The Marrakesh Treaty requires contracting parties to provide exceptions or limitations to the 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 copies. The conclusion of the Marrakesh Treaty by the Union requires the adaptation of Union law by establishing a mandatory exception for uses, works and beneficiary persons covered by the Treaty. This Directive implements the obligations that the Union has to meet under the Marrakesh Treaty in a harmonised manner, with a view to ensuring that those measures are applied consistently throughout the internal market.

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<sup>23</sup> 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. I).

### **Amendment 3**

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

##### **Recital 5**

*Text proposed by the Commission*

(5) This Directive is designed for the

(4) 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<sup>23</sup>, ***having already been adopted in 2013 by the World Intellectual Property Organization***. Its aim is to improve the availability of works and other protected subject-matter in accessible formats for persons who are blind, visually impaired or otherwise print disabled. The Marrakesh Treaty requires contracting parties to provide exceptions or limitations to the 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 copies. The conclusion of the Marrakesh Treaty by the Union requires the adaptation of Union law by establishing a mandatory exception for uses, works and beneficiary persons covered by the Treaty. This Directive implements the obligations that the Union has to meet under the Marrakesh Treaty in a harmonised manner, with a view to ensuring that those measures are applied consistently throughout the internal market.

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<sup>23</sup> 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. I).

*Amendment*

(5) This Directive is designed for the

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

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

#### **Amendment 4**

##### **Proposal for a directive Recital 6**

###### *Text proposed by the Commission*

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

###### *Amendment*

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

in audio form, like audiobooks, it is necessary that these exceptions also apply to related rights.

in audio form, like audiobooks, it is necessary that these exceptions also apply to related rights. *The exercise of the exceptions provided by the present Directive is without prejudice to other exceptions for persons with disabilities provided by the Member States, such as private use.*

## Amendment 5

### Proposal for a directive

#### Recital 7

##### *Text proposed by the Commission*

(7) Uses laid down in this Directive include the making of accessible format copies by either the beneficiary persons or authorised entities serving their needs — whether public or private organisations, in particular libraries, educational establishments and other non-profit organisations that serve persons with a print disability as their main or one of their main activities or public interest missions —. Those uses should also include making accessible format copies, for the exclusive use of the beneficiary persons, by a natural person who does so on behalf of a beneficiary person or who assists the beneficiary person in doing so.

##### *Amendment*

(7) Uses laid down in this Directive *also* include the making of accessible format copies by either the beneficiary persons or authorised entities serving their needs — whether public or private organisations, in particular libraries, educational establishments and other non-profit organisations that serve persons with a print disability as their main or one of their main activities or public interest missions. Those uses should also include making accessible format copies, for the exclusive use of the beneficiary persons, by a natural person who does so on behalf of a beneficiary person or who assists the beneficiary person in doing so.

## Amendment 6

### Proposal for a directive

#### Recital 8

##### *Text proposed by the Commission*

(8) The mandatory exception should also limit the right of reproduction so as to allow for any act that is necessary in order to make changes to or convert or adapt a work or other subject-matter in such a way as to produce an accessible format copy. This includes providing the necessary

##### *Amendment*

(8) The mandatory exception should also limit the right of reproduction so as to allow for any act that is necessary in order to make changes to or convert or adapt a work or other subject-matter in such a way as to produce an accessible format copy. This *also* includes providing the necessary

means to navigate information in an accessible format copy.

means to navigate information in an accessible format copy.

## Amendment 7

### Proposal for a directive

#### Recital 9

*Text proposed by the Commission*

(9) The exception should allow authorised entities to make and disseminate online and offline within the Union accessible format copies of works or other subject-matter covered by this Directive.

*Amendment*

(9) The exception should **also** allow authorised entities to make and disseminate online and offline within the Union accessible format copies of works or other subject-matter covered by this Directive.

## Amendment 8

### Proposal for a directive

#### Recital 11

*Text proposed by the Commission*

(11) In view of the specific nature of the exception, its targeted scope and the need for legal certainty for its beneficiaries, Member States should not be allowed to impose additional requirements for the application of the exception, such as compensation schemes or the prior verification of the commercial availability of accessible format copies.

*Amendment*

(11) In view of the specific nature of the exception, its targeted scope and the need for legal certainty for its beneficiaries, Member States should not be allowed to impose additional requirements for the application of the exception, such as compensation schemes or the prior verification of the commercial availability of accessible format copies. ***Such additional requirements would bear the risk of going against the purpose of the exceptions provided by the present Directive, and against the purpose of facilitating the cross-border exchange of special format copies within the single market.***

## Amendment 9

### Proposal for a directive

#### Recital 12

*Text proposed by the Commission*

(12) Any processing of personal data under this Directive 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 of the Council, which **governs** the processing of personal data, as may be carried out by authorised entities within the framework of this Directive and under the supervision of the Member States' competent authorities, in particular the public independent authorities designated by the Member States.

*Amendment*

(12) Any processing of personal data under this Directive 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 of the Council **and with Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>1a</sup>**, which **govern** the processing of personal data, as may be carried out by authorised entities within the framework of this Directive 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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**<sup>1a</sup> 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 10**

### **Proposal for a directive Recital 13**

*Text proposed by the Commission*

(13) The United Nations Convention on the Rights of Persons with Disabilities ('the UNCRPD'), to which the EU is a party, guarantees people with disabilities the right of access to information and the right to participate in cultural, economic and social life on an equal basis with

*Amendment*

(13) 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 Member States of the Union**, guarantees people with disabilities the right of access to information and the right to participate in

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.

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 11

### Proposal for a directive Recital 14

*Text proposed by the Commission*

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

(14) ***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 12

### Proposal for a directive Recital 17

*Text proposed by the Commission*

(17) ***Pursuant to Directive 2001/29/EC, Member States may continue to provide for an exception or limitation*** for the benefit of persons with a disability in cases which are not covered by this Directive.

*Amendment*

(17) ***Member States will, in any case, have to make arrangements for exceptions and limitations*** for the benefit of persons with a disability, ***including*** in cases which are not covered by this Directive.

## Amendment 13

### Proposal for a directive Recital 18



*Text proposed by the Commission*

*Amendment*

(18) This Directive therefore respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. This Directive should be interpreted and applied in accordance with those rights and principles.

(18) This Directive therefore respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union **and the United Nations Convention on the Rights of Persons with Disabilities**. This Directive should be interpreted and applied in accordance with those rights and principles.

**Amendment 14**

**Proposal for a directive**

**Article 2 – paragraph 1 – point 2 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

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

*Justification*

*The Marrakesh Treaty leaves open the option of including other types of disabilities. The proposed Directive mentions in Recital 16 and Article 7 the possibility of including other types of disabilities at a later stage.*

**Amendment 15**

**Proposal for a directive**

**Article 2 – paragraph 1 – point 3**

*Text proposed by the Commission*

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

(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 16**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 4**

*Text proposed by the Commission*

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

*Amendment*

(4) ‘authorised entity’ means an organisation 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, ***regardless of whether it is supervised by a government.***

**Amendment 17**

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

*Text proposed by the Commission*

*Amendment*

***1 a. Member States shall ensure that these exceptions to copyright and to related rights cannot be overridden by technological measures or by contract.***

**Amendment 18**

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

*Text proposed by the Commission*

*Amendment*

***3 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 this Article.***

*Justification*

*The proposed Directive does not mention any complaints or redress mechanisms that should be put in place by Member States in cases where beneficiaries are denied the permitted uses. Such mechanisms are provided under Art. 13(2) of the Proposal for a Directive of the European Parliament and of the Council on copyright in the Digital Single Market (COM(2016)593).*

## Amendment 19

### Proposal for a directive Article 5 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

The processing of personal data carried out within the framework of this Directive 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<sup>1a</sup>*

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<sup>1a</sup> *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 20

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

*Text proposed by the Commission*

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

*Amendment*

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

considered.

considered, *so that the exception and the related making of accessible format copies provided by this Directive may benefit other categories of disabilities.*

## **Amendment 21**

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

#### *Text proposed by the Commission*

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

#### *Amendment*

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

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Permitted uses of works and other subject-matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society
<b>References</b>	COM(2016)0596 – C8-0381/2016 – 2016/0278(COD)
<b>Committee responsible</b> Date announced in plenary	JURI 6.10.2016
<b>Opinion by</b> Date announced in plenary	PETI 6.10.2016
<b>Rapporteur</b> Date appointed	Rosa Estaràs Ferragut 27.10.2016
<b>Date adopted</b>	24.1.2017
<b>Result of final vote</b>	+: 18 -: 0 0: 0
<b>Members present for the final vote</b>	Marina Albiol Guzmán, Margrete Auken, Beatriz Becerra Basterrechea, Pál Csáky, Rosa Estaràs Ferragut, Eleonora Evi, Peter Jahr, Notis Marias, Julia Pitera, Virginie Rozière, Josep-Maria Terricabras, Jarosław Wałęsa, Cecilia Wikström, Tatjana Ždanoka
<b>Substitutes present for the final vote</b>	Kostadinka Kuneva, Ángela Vallina, Rainer Wieland
<b>Substitutes under Rule 200(2) present for the final vote</b>	Edouard Martin

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	Permitted uses of works and other subject-matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society			
<b>References</b>	COM(2016)0596 – C8-0381/2016 – 2016/0278(COD)			
<b>Date submitted to Parliament</b>	14.9.2016			
<b>Committee responsible</b> Date announced in plenary	JURI 6.10.2016			
<b>Committees asked for opinions</b> Date announced in plenary	INTA 6.10.2016	EMPL 24.11.2016	CULT 6.10.2016	PETI 6.10.2016
<b>Not delivering opinions</b> Date of decision	INTA 12.10.2016			
<b>Rapporteurs</b> Date appointed	Max Andersson 12.10.2016			
<b>Discussed in committee</b>	7.11.2016	28.11.2016	31.1.2017	
<b>Date adopted</b>	23.3.2017			
<b>Result of final vote</b>	+: -: 0:	22 0 0		
<b>Members present for the final vote</b>	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			
<b>Substitutes present for the final vote</b>	Isabella Adinolfi, Daniel Buda, Angelika Niebler, Virginie Rozière, Rainer Wieland			
<b>Substitutes under Rule 200(2) present for the final vote</b>	Eugen Freund, Maria Noichl			
<b>Date tabled</b>	28.3.2017			

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

22	+
PPE	Daniel Buda, Angelika Niebler, Emil Radev, Pavel Svoboda, Rainer Wieland, Tadeusz Zwiefka
S&D	Eugen Freund, Lidia Joanna Geringer de Oedenberg, Mary Honeyball, Sylvia-Yvonne Kaufmann, Maria Noichl, Virginie Rozière
ECR	Sajjad Karim
ALDE	Jean-Marie Cavada, António Marinho e Pinto
GUE/NGL	Kostas Chrysogonos, Jiří Maštálka
Verts/ALE	Max Andersson, Julia Reda
EFDD	Isabella Adinolfi, Joëlle Bergeron
ENF	Marie-Christine Boutonnet

0	-

0	0

**Key to symbols:**

+ : in favour

- : against

0 : abstention