

National Implementations of the Marrakesh Treaty

By Countries That Have
Ratified or Acceded to the
Treaty

ASSOCIATION
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LIBRARIES

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Introduction

The World Intellectual Property Organization (“WIPO”) adopted the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Disabled on June 27, 2013. The Treaty entered into force on September 30, 2016, after WIPO received 20 instruments of ratification or accession by WIPO member states. As the WIPO summary of the Treaty explains, the Treaty “requires Contracting Parties to introduce a standard set of limitations and exceptions to copyright rules to permit reproduction, distribution, and making available of published works in formats designed to be accessible to [visually impaired persons], and to permit exchange of these works across borders by organizations that serve those beneficiaries.”

This document compiles the provisions that implement the Treaty’s requirements in the countries that have ratified or acceded to the Treaty. Typically these are exceptions to the copyright law, but in some countries, treaties are self-executing. This means that when a country ratifies or accedes to the Treaty, the Treaty’s provisions automatically become incorporated into domestic law. Many of the countries that have ratified or acceded to the Treaty and in which the Treaty is not self-executing have not yet implemented the Treaty in national law. Some of these countries have preexisting exceptions for print-disabled people which typically are not Marrakesh compliant. We have included these non-compliant, preexisting provisions in this document to provide a complete picture of the situation in each country that has ratified or acceded to the Treaty.

Additionally, some countries have exceptions for private use which might permit the making of an accessible format copy for a specific person with a print disability. We have not included these private use exceptions.

We intend for this document to be dynamic: to add more implementations as more countries ratify or accede to the Treaty. Additionally, we welcome our readers to provide any corrections, missing information, and improved translations. We obviously are not experts in the copyright laws of all the countries contained in this compilation, so we may be missing relevant matters—for example, the most current exception for people with print disabilities, or whether the Treaty is self-executing.

Additional Resources on the Marrakesh Treaty

- United Nations Development Programme, “[Our right to knowledge: Legal reviews for the ratification of the Marrakesh Treaty for persons with print disabilities in Asia and the Pacific.](#)”
- World Blind Union, “[The World Blind Union Guide to the Marrakesh Treaty.](#)”
- Electronic Information For Libraries, “[The Marrakesh Treaty: An EIFL Guide for Libraries.](#)”

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Afghanistan

Afghanistan ratified the Treaty in 2018. There is no known implementation.

Argentina

Argentina ratified the Treaty in 2015. Treaties are self-executing in Argentina. Argentina has the following pre-Marrakesh exception.

Article 36

The reproduction and distribution of scientific or literary works used in special systems for the unsighted or persons with other sensory disabilities shall be exempt from the payment of copyright fees, provided that such reproduction and distribution are handled by authorized bodies.

This exemption shall also cover works that are distributed electronically, encrypted or protected by any other system which prevents them being read by unauthorized persons. The authorized bodies shall allocate and administer the access codes to the protected works.

The exemption shall not apply to the reproduction and distribution of works which were originally published in special systems for the visually impaired or persons with other sensory disabilities and which are available commercially.

For the purposes of this Article, it shall be considered that:

- “Sensory disabilities” mean severe visual impairment, amblyopia, dyslexia or any other physical or neurological impairment which affects the reading, handling or understanding of conventionally printed texts;
- “Encrypted” means material ciphered in such a way that it cannot be read by persons who do not have an access code. The use of such protection or a similar system is deemed essential for the purpose of this exemption, given that unprotected dissemination could unreasonably prejudice the legitimate interests of the author or impede the normal exploitation of the works;

- “Authorized body” means a State entity or non-profit association with legal status, whose primary task is to assist the unsighted or persons with other sensory disabilities;
- “Scientific works” mean treaties, texts, popular science books, articles from specialized journals, and any material relating to the various branches of science or technology;
- “Literary works” mean poetry, short stories, novels, philosophy, history, essays, encyclopaedias, dictionaries, texts and all other writings in which form and content combine to express knowledge and ideas of universal or national interest;
- “Unauthorized persons” mean people who are not unsighted or do not have other sensory disabilities;
- “Special systems” mean Braille, digital texts and audio recordings, provided that these are solely intended for the persons referred to in the previous paragraph;
- “Physical medium” means any tangible element that stores voices using a tape or digital recording, or digital texts, for example, cassettes, CDs, DVDs or USB memory sticks.

The following information must be recorded for works which are reproduced and distributed using special systems: the details of the authorized body, the date of original publication and the name of the individual or legal entity holding the copyright.

Likewise, there must be a warning that those making unauthorized use of these reproductions are liable to imprisonment, in accordance with Article 172 of the Criminal Code.

(Infoleg note: Article 1, last paragraph of Law No. 20.115 Official Journal January 31, 1973 establishes that the General Society of Authors of Argentina (ARGENTORES) shall be in charge of the authorizations determined in the present Article, except in cases of express prohibition of use by the author, and the protection and defense of the moral rights of the authors of said works.).

(Infoleg note: Under Articles 1 and 2 of Decree No. 8.478/1965, Official Journal October 8, 1965, the written authorization of the authors must be displayed at public performances of national or foreign music.)

Australia

Australia ratified the Treaty in 2015. It enacted the following amendment implementing the Treaty in 2017.

10 Interpretation

(1) In this Act, unless a contrary intention appears:

Copyright material means anything in which copyright subsists.

Note: This definition does not apply in Subdivision E of Division 3 of Part VI or Division 2 of Part VII (use of copyright material for the Crown): see sections 153DF and 182B.

Organisation assisting persons with a disability means:

- (a) an educational institution;
- (b) a not-for-profit organisation with a principal function of providing assistance to persons with a disability (whether or not the organisation has other principal functions).

Person with a disability means a person with a disability that causes the person difficulty in reading, viewing, hearing or comprehending copyright material in a particular form.

Part IVA

Division 1—Simplified outline of this Part

113D Simplified outline of this Part

The following do not infringe copyright in any copyright material:

- (a) certain use by or for persons with a disability;
- (b) certain use for the purposes of libraries, archives and key cultural institutions;
- (c) certain use by educational institutions.

Note 1: Other provisions of this Act, including Parts III, IV, VC, VII and X, provide that certain other use of copyright material does not infringe copyright.

Note 2: A person may circumvent an access control technological protection measure to enable the person to do an act that, under this Part, does not infringe copyright (if the act is prescribed by regulations made for the purposes of paragraph 116AN(9)(c)).

Division 2—Access by or for persons with a disability

113E Fair dealing for purpose of access by persons with a disability

(1) A fair dealing with copyright material does not infringe copyright in the material if the dealing is for the purpose of one or more persons with a disability having access to copyright material (whether the dealing is by any of those persons or by another person).

(2) The matters to which regard must be had, in determining whether the dealing is a fair dealing for the purposes of this section, include the following matters:

- (a) the purpose and character of the dealing;
- (b) the nature of the copyright material;
- (c) the effect of the dealing upon the potential market for, or value of, the material;
- (d) if only part of the material is dealt with—the amount and substantiality of the part dealt with, taken in relation to the whole material.

113F Use of copyright material by organisations assisting persons with a disability

An organisation assisting persons with a disability, or a person acting on behalf of such an organisation, does not infringe copyright in copyright material by using the material if:

- (a) the use is for the sole purpose of assisting one or more persons with a disability to access the material in a format that the person or persons require because of the disability (whether the access is provided by or on behalf of the organisation or by another body or person); and

(b) the organisation, or the person acting on behalf of the organisation, is satisfied that the material (or a relevant part of the material) cannot be obtained in that format within a reasonable time at an ordinary commercial price.

Austria

The European Union, of which Austria is a Member State, ratified the Treaty in 2018. Under EU law, Austria is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section below.

Azerbaijan

Azerbaijan ratified the Treaty in 2018. Azerbaijan has the following pre-Marrakesh exception:

Article 19. The following shall be permitted without the consent of the author or other copyright holder and without paying the author's remuneration, but with mandatory indication of the author's name and of the source of borrowing:

6. the reproduction of lawfully published works in Braille characters or other special means without commercial purpose (except for the works created especially for publication by such means).

Belgium

The European Union, of which Belgium is a Member State, ratified the Treaty in 2018. Under EU law, Belgium is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section below.

Belize

Belize acceded to the Treaty in 2018. There is no known implementation.

Bolivia

Bolivia acceded to the Treaty in 2019. There is no known implementation.

Botswana

Botswana acceded to the Treaty in 2016. There is no known implementation.

Brazil

Brazil ratified the Treaty in 2015. Brazil has the following pre-Marrakesh exception.

46. The following shall not constitute violation of copyright:

I. the reproduction

(d) of literary, artistic or scientific works for the exclusive use of the visually handicapped, provided that the reproduction is done without gainful intent, either in Braille or by means of another process using a medium designed for such users....

Bulgaria

The European Union, of which Bulgaria is a Member State, ratified the Treaty in 2018. Under EU law, Bulgaria is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section below.

Burkina Faso

Burkina Faso ratified the Treaty in 2017. There is no known implementation.

Canada

Canada acceded to the Treaty in 2016. It enacted the following amendment implementing the Treaty in 2016.

Persons with Perceptual Disabilities Reproduction in alternate format 32 (1)

It is not an infringement of copyright for a person with a perceptual disability, for a person acting at the request of such a person or for a non-profit organization acting for the benefit of such a person to

(a) reproduce a literary, musical, artistic or dramatic work, other than a cinematographic work, in a format specially designed for persons with a perceptual disability;

(a.1) fix a performer's performance of a literary, musical, artistic or dramatic work, other than a cinematographic work, in a format specially designed for persons with a perceptual disability;

(a.2) reproduce a sound recording, or a fixation of a performer's performance referred to in paragraph (a.1), in a format specially designed for persons with a perceptual disability;

(b) translate, adapt or reproduce in sign language a literary or dramatic work, other than a cinematographic work, in a format specially designed for persons with a perceptual disability;

(b.1) provide a person with a perceptual disability with, or provide such a person with access to, a work or other subject-matter to which any of paragraphs (a) to (b) applies, in a format specially designed for persons with a perceptual disability, and do any other act that is necessary for that purpose; or

(c) perform in public a literary or dramatic work, other than a cinematographic work, in sign language, either live or in a format specially designed for persons with a perceptual disability.

Limitation

(2) Subsection (1) does not apply if the work or other subject-matter is commercially available, within the meaning of paragraph (a) of the definition commercially available in section 2, in a format specially designed to meet the needs of the person with a perceptual disability referred to in that subsection.

Print disability—outside Canada

32.01

(1) Subject to this section, it is not an infringement of copyright for a non-profit organization acting for the benefit of persons with a print disability to do any of the following:

(a) for the purpose of doing any of the acts set out in paragraph (b),

(i) reproduce a literary, musical, artistic or dramatic work, other than a cinematographic work, in a format specially designed for persons with a print disability,

(ii) fix a performer's performance of a literary, musical, artistic or dramatic work, other than a cinematographic work, in a format specially designed for persons with a print disability, or

(iii) reproduce a sound recording, or a fixation of a performer's performance referred to in subparagraph (ii), in a format specially designed for persons with a print disability;

(b) provide either of the following with, or provide either of the following with access to, a work or other subject-matter to which any of sub-paragraphs (a)(i) to (iii) applies, in a format specially designed for persons with a print disability, and do any other act that is necessary for that purpose:

(i) a non-profit organization, in a country other than Canada, acting for the benefit of persons with a print disability in that country, or

(ii) a person with a print disability, in a country other than Canada, who has made a request to be provided with, or provided with access to, the work or other subject-matter through a non-profit organization acting for the benefit of persons with a print disability in that country.

Available in other country

(2) Paragraph (1)(b) does not apply if the work or other subject-matter, in the format specially designed for persons with a print disability, is available in the other country within a reasonable time and for a reasonable price and may be located in that country with reasonable effort.

Marrakesh Treaty country

(3) An injunction is the only remedy that the owner of the copyright in the work or other subject-matter has against a non-profit organization relying on the exception set out in paragraph (1)(b) if

(a) the other country referred to in that paragraph is a Marrakesh Treaty country; and

(b) the non-profit organization infringes copyright by reason only that the work or other subject-matter, in the format described in subsection (2), is available, and may be located, as described in that subsection.

The owner of the copyright bears the burden of demonstrating that the work or other subject-matter, in the format described in subsection (2), is available, and may be located, as described in that subsection.

Not Marrakesh Treaty country

(3.1) An injunction is the only remedy that the owner of the copyright in the work or other subject-matter has against a non-profit organization relying on the exception set out in paragraph (1)(b) if

(a) the other country referred to in that paragraph is not a Marrakesh Treaty country;

(b) the non-profit organization infringes copyright by reason only that the work or other subject-matter, in the format described in subsection (2), is available, and may be located, as described in that subsection; and

(c) the non-profit organization demonstrates that it had reasonable grounds to believe that the work or other subject-matter, in the format described in subsection (2), was not available, and could not be located, as described in that subsection.

Royalty

(4) A non-profit organization relying on the exception set out in subsection (1) shall pay, in accordance with the regulations, any royalty established under the regulations to the copyright owner.

If copyright owner cannot be located

(5) If the organization cannot locate the copyright owner, despite making reasonable efforts to do so, the organization shall pay, in accordance with the regulations, any royalty established under the regulations to a collective society.

Reports

(6) A non-profit organization relying on the exception set out in subsection (1) shall submit reports to an authority, in accordance with the regulations, on the organization's activities under this section.

Regulations

(7) The Governor in Council may make regulations

(a) requiring that, before a non-profit organization provides, or provides access to, a work or other subject-matter under paragraph (1)(b), the organization enter into a contract with respect to the use of the work or other subject-matter with, as the case may be, the recipient non-profit organization or the non-profit organization through which the request was made;

(b) respecting the form and content of such contracts;

(c) respecting any royalties to be paid under subsections (4) and (5);

(d) respecting to which collective society a royalty is payable in relation to works or other subject-matter, or classes of works or other subject-matter, for the purposes of subsection (5);

- (e) respecting what constitutes reasonable efforts for the purposes of subsection (5); and
- (f) respecting the reports to be made, and the authorities to which the reports are to be submitted, under subsection (6).

Definitions

(8) The following definitions apply in this section.

Marrakesh Treaty country means a country that is a party to the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, done at Marrakesh on June 27, 2013. (pays partie au Traité de Marrakech)

Print disability means a disability that prevents or inhibits a person from reading a literary, musical, artistic or dramatic work in its original format and includes such a disability resulting from

- (a) severe or total impairment of sight or the inability to focus or move one's eyes;
- (b) the inability to hold or manipulate a book; or
- (c) an impairment relating to comprehension.

Definition of non-profit organization

32.02

In sections 32 and 32.01, non-profit organization includes a department, agency or other portion of any order of government, including a municipal or local government, when it is acting on a non-profit basis.

Persons with perceptual disabilities

41.16

(1) Paragraph 41.1(1)(a) does not apply to a person with a perceptual disability, to another person acting at their request or to a non-profit organization, as defined in section 32.02, acting for their benefit, if that person or organization circumvents a technological protection measure solely for one or more of the following purposes:

- (a) to make a work, a performer's performance fixed in a sound recording or a sound recording perceptible to the person with a perceptual disability;
- (b) to permit a person, or a non-profit organization referred to in subsection 32(1), to benefit from the exception set out in section 32;
- (c) to permit a non-profit organization referred to in subsection 32.01(1) to benefit from the exception set out in section 32.01.

Services, technology, device or component

(2) Paragraphs 41.1(1)(b) and (c) do not apply to a person who offers or provides services to persons or nonprofit organizations referred to in subsection (1) or who manufactures, imports or provides a technology, device or component, for the sole purpose of enabling those persons or non-profit organizations to circumvent a technological protection measure in accordance with that subsection.

Cape Verde

Cape Verde acceded to the Treaty in 2019. Cape Verde has the following pre-Marrakesh exception:

1. The following shall be permitted, without the authorization of the author and without remuneration, at the request of disabled persons, with motor, intellectual, aural or visual impairments or of legal entities acting in the interests of such persons, as long as access to the work in the available versions, is not possible due to their impairment, and the reproduction is carried out on a nonprofit basis:
 - (a) the production of a copy or audio recording of a literary or dramatic work, with the exception of a cinematographic, musical or artistic work, on a material carrier intended for those disabled by the impairments listed above;
 - (b) the translation, adaptation or reproduction in sign language of a literary or dramatic work, with the exception of a cinematographic work, fixed on a material carrier intended for those disabled by any of the impairments listed above;

(c) the public performance in sign language of a literary or dramatic work, except cinematographic, or the public performance of such a work fixed on a carrier which may be of use to those disabled by any of the impairments listed above;

(d) reproduction or other form of use, using Braille or another system for blind persons;

(e) distribution in any of the cases provided for in the preceding subparagraphs, as long as it is justified by the intent of the authorized act of reproduction.

2. The author or the copyright holder shall be entitled to compensation for the reproduction and distribution of more than one copy.

3. This right may only be exercised by legal entities acting in the interests of disabled persons, after authorization from the competent administrative authority.

Chile

Chile ratified the Treaty in 2016. Chile has the following pre-Marrakesh exception.

Artículo 71 C. Es lícito, sin remunerar ni obtener autorización del titular, todo acto de reproducción, adaptación, distribución o comunicación al público, de una obra lícitamente publicada, que se realice en beneficio de personas con discapacidad visual, auditiva, o de otra clase que le impidan el normal acceso a la obra, siempre que dicha utilización guarde relación directa con la discapacidad de que se trate, se lleve a cabo a través de un procedimiento o medio apropiado para superar la discapacidad y sin fines comerciales.

En los ejemplares se señalará expresamente la circunstancia de ser realizados bajo la excepción de este artículo y la prohibición de su distribución y puesta a disposición, a cualquier título, de personas que no tengan la respectiva discapacidad.

Unofficial Translation

Article 71 C. Any act of reproduction, adaptation, distribution or communication to the public, of a lawfully published work, is permitted without remuneration or authorization from the owner, if it is carried out for the benefit of persons with visual, auditory or other disabilities that prevent normal access to the work, provided that such use is directly related to the disability in question, is carried out through a procedure or means appropriate to overcome the disability, and is for non-commercial purposes.

The copies will expressly indicate the fact of being carried out under the exception of this article and the prohibition of its distribution and making available, in any capacity, to people who do not have the respective disability.

Cook Islands

The Cook Islands acceded to the Treaty in 2019. It enacted the following provision implementing the Treaty prior to accession.

24 Copying for persons with reading disability

(1) A person does not infringe copyright in a work if the person, without the authorisation of the owner of the copyright in the work,—

(a) makes an accessible format of the work for a person with a disability;
or

(b) supplies an accessible format of the work or copies of it to 1 or more persons with disabilities by any means, including by way of lending or electronic communication.

(2) Subsection (1) applies only if the person making the accessible format of the work or copies of it—

(a) has lawful access to the work or copy from which the accessible format of the work is made; and

(b) does not make any changes to the work other than those necessary to make the work or copy accessible; and

(c) acknowledges the source of the work and the author's name (if it appears in the work); and

(d) the copying is not for commercial purposes.

(3) A person with a disability who electronically receives a work or a copy of it under subsection (1) may make a copy of the work for personal use without the authorisation of the owner of the copyright.

(4) A person or an organisation does not infringe copyright in a work by exporting or importing copies of an accessible format of a work without the authorisation of the owner of the copyright in the work if—

(a) the person is a person with a disability or the organisation is an organisation that serves people with disabilities; and

(b) the copies acknowledge the source of the work and the author's name (if it appears in the work); and

(c) the exporting or importing is not for commercial purposes.

(5) In this section,—

accessible format, in relation to a work or a copy of a work, means a format that will allow a person with a disability to access and use the work to substantially the same degree as a person without a disability **person with a disability** means a person who requires a work or a copy of a work to be manipulated in some way to enable the person to access and use the work to substantially the same degree as a person without the same disability.

25 Circumstances in which person may circumvent technological protection measures

(1) This section applies if.— (a) a person has the right to use or copy a work, or use or copy a copy of a work, in accordance with any of sections 14 to 24; and (b) some form of technological protection has been applied to the work or the copy of the work.

(2) The person may, where necessary to make the work accessible, circumvent the protection technological.

Costa Rica

Costa Rica ratified the Treaty in 2017. There is no known implementation.

Croatia

The European Union, of which Croatia is a Member State, ratified the Treaty in 2018. Under EU law, Croatia is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section below.

Cyprus

The European Union, of which Cyprus is a Member State, ratified the Treaty in 2018. Under EU law, Cyprus is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section below.

Czech Republic

The European Union, of which the Czech Republic is a Member State, ratified the Treaty in 2018. Under EU law, the Czech Republic is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section below.

Democratic People's Republic of Korea

North Korea ratified the Treaty in 2016. North Korea has the following pre-Marrakesh exception.

Article 32 (Use of copyrighted work without permission)

A copyrighted work may be used without the permission of the copyright holder in the following cases:

9. when a copyrighted work is sound-recorded or reproduced in Braille for blind people.

Denmark

The European Union, of which Denmark is a Member State, ratified the Treaty in 2018. Under EU law, Denmark is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section below. Denmark has implemented the EU directive and regulation, but an English translation is not yet available.

Dominican Republic

The Dominican Republic ratified the Treaty in 2018. The Dominican Republic has the following pre-Marrakesh exception.

Art. 44. The following shall be considered the sole exceptions to the right of public communication for the purpose of this Law:

(3) communications that are made, without being reproduced, for sightless persons and persons with other physical disabilities, where the performance is not for profitmaking purposes....

Ecuador

Ecuador ratified the Treaty in 2016. It enacted the following amendment to implement the Treaty.

Artículo 130.—De la elusión de medidas tecnológicas—Los usuarios que requieran ejercer una limitación o excepción a los derechos de autor y derechos conexos de conformidad con este Código, podrán eludir, neutralizar, o dejar sin efecto las medidas tecnológicas de que trata este Parágrafo, ello sin perjuicio de las acciones administrativas o judiciales a las que hubiere lugar.”

Artículo 212.—Actos que no requieren autorización para su uso—Sin perjuicio de lo dispuesto en el artículo anterior, de conformidad con

la naturaleza de la obra, los instrumentos internacionales de los que Ecuador es parte y los principios de este Código, no constituirá violación de los derechos patrimoniales del titular de derechos, aquellos casos determinados en el presente artículo, siempre que no atenten contra la normal explotación de las obras y no causen perjuicio injustificado a los legítimos intereses del titular o titulares de los derechos. En este sentido, los siguientes actos no requieren la autorización del titular de los derechos ni están sujetos a remuneración alguna:

7.—La reproducción, adaptación, distribución o comunicación pública con fines científicos o educativos y para garantizar acceso a las personas con discapacidad de las obras arquitectónicas, fotográficas, de bellas artes, de arte aplicado u otras similares, que se encuentren situadas permanentemente en lugares abiertos al público, mediante la fotografía, la pintura, el dibujo, la filmación o cualquier otra técnica o procedimiento similar, siempre que se indique el nombre del autor de la obra original, si ello es conocido, y el lugar donde se encuentra;

29.—Las entidades sin fines de lucro reconocidas por el Estado o aquellas que reciban apoyo financiero de éste y que presten servicios de educación, formación pedagógica, lectura adaptada o acceso a información a personas con discapacidades, podrán, de aquellas obras que hayan sido adquiridas legalmente, reproducirlas, distribuirlas y ponerlas a disposición del público, en formatos accesibles a las personas con discapacidad. El acceso a dichas obras incluirá la posibilidad de representarlas y ejecutarlas públicamente, con el fin de que puedan ser accesibles a personas con discapacidad. Las personas con discapacidad o quién actúe a su nombre, podrán realizar las mismas actividades detalladas en el inciso anterior de aquellas obras que hayan sido adquiridas legalmente para su uso personal.

Unofficial Translation

Article 130.—Of the circumvention of technological measures—Users who need to exercise a limitation or exception to copyright and related rights in accordance with this Code, may evade, neutralize, or render ineffective the technological measures that This paragraph is treated, without prejudice to any administrative or judicial action that may arise.

Article 212.—Acts that do not require authorization for use—

Notwithstanding the provisions of the preceding article, in accordance with the nature of the work, the international instruments to which Ecuador is a party and the principles of this Code, shall not constitute a violation of the economic rights of the owner of rights, those cases determined in this article, provided that they do not violate the normal exploitation of the works and do not cause unjustified prejudice to the legitimate interests of the owner or owners of the rights. In this sense, the following acts do not require the authorization of the owner of the rights nor are they subject to any remuneration:

7.—Reproduction, adaptation, distribution or public communication for scientific or educational purposes and to guarantee access to the handicapped of architectural, photographic, fine arts, applied art or other similar works, which are permanently located in Places open to the public, by means of photography, painting, drawing, filming or any other similar technique or procedure, provided the name of the author of the original work is known, if known, and the place where it is located;

29.—Non-profit entities recognized by the State or those that receive financial support from the State and that provide educational services, pedagogical training, adapted reading or access to information to persons with disabilities, may, of those works that have been legally acquired, reproduced, distributed and made available to the public, in formats accessible to persons with disabilities. Access to such works will include the possibility of representing and executing them publicly, so that they may be accessible to persons with disabilities. Persons with disabilities or those acting on their behalf may carry out the same activities detailed in the previous section of those works that have been legally acquired for their personal use.

El Salvador

El Salvador ratified the Treaty in 2014. El Salvador has the following pre-Marrakesh exception.

Art. 44. The following communications shall be lawful without the authorization of the author or payment of remuneration:

- (d) those made for the benefit of the blind and other handicapped persons, provided that the said persons may attend the communication free of charge and that none of the participants in the event receives specific remuneration for his involvement....

Estonia

The European Union, of which Estonia is a Member State, ratified the Treaty in 2018. Under EU law, Estonia is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above. Estonia has implemented the EU directive and regulation as follows.

2. USE OF WORKS WITHOUT AUTHORISATION OF AUTHOR AND WITHOUT PAYMENT OF REMUNERATION FOR BENEFIT OF PERSONS WHO ARE BLIND, VISUALLY IMPAIRED OR OTHERWISE PRINT-DISABLED

§ 25. Definitions

(1) “Work or other subject matter” within the meaning of this Division means a book, journal, newspaper, magazine or other kind of writing, and illustrations thereof, as well as a character set, including sheet music, which is lawfully published in any media, including in digital format, and which is protected by copyright or related rights.

(2) “Beneficiary person” means, regardless of any other disabilities, a person who:

- 1) is blind;
- 2) has a visual impairment which cannot be improved so as to give the person visual function substantially equivalent to that of a person who has no such impairment, and who is, as a result, unable to read printed works to substantially the same degree as a person without such an impairment;

3) has a perceptual or reading disability and is, as a result, unable to read printed works to substantially the same degree as a person without such disability; or

4) 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.

(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 such person to have access as feasibly and comfortably as a person without any of the disabilities or visual impairment referred to in subsection (2) of this section.

(4) “Authorised entity” means a governmental authority, a state authority entity administered by a government authority, a local government authority, an authority administered by a local government authority or a legal person that provides education, instructional training, adaptive reading or information access to beneficiary persons on a non-profit basis.

§ 25. Permitted uses

(1) No authorisation of the author or the holder of related rights is required for using a work or other subject matter without payment of remuneration in the cases specified in clauses 13 (1) 1), 2), 5), 9) and 91), clauses 67 (2) 31), 5), 6) and 7), clauses 70 (1) 1), 3), 4) and 5), subsection 72 1), clauses 73 (1) 1), 3), 4), 41) and 5) and subsection 754) (2) of this Act, respecting inter alia the integrity of the work or other subject matter, for any act necessary for:

1) a beneficiary person, or a person acting on their behalf, to make an accessible format copy of a work or other subject matter to which the beneficiary person has lawful access for the exclusive use of the beneficiary person;

2) an authorised entity to make an accessible format copy of a work or other subject matter to which it has lawful access, or to communicate, make available, distribute or lend an accessible format copy to a beneficiary person or another authorised entity on a non-profit basis for the purpose of exclusive use by a beneficiary person.

(2) Any condition of a contract restricting the free use of a work or other subject matter in the manner specified in subsection (1) of this section, is null and void.

(3) An authorised entity may make copies of a work or other subject matter in the cases referred to in clause 2) of subsection (1) of this section for the benefit of another authorised entity established in any other Member State, and obtain or have access to an accessible format copy from an authorised entity established in any other Member State.

§ 25. *Obligations of authorised entities*

(1) An authorised entity that makes copies of a work or other subject matter pursuant to subsection 25(1) of this Act must ensure that it:

- 1) distributes such copies, communicates them to the public or makes them available to the public only in order to enable access to such copies to beneficiary persons or other authorised entities;
- 2) takes appropriate steps to discourage the unauthorised reproduction, distribution, communication to the public or making available to the public of accessible format copies;
- 3) demonstrates due care in, and maintains records of, its handling of works or other subject matter and of accessible format copies thereof; and
- 4) publishes and updates, on its website if appropriate, or through other channels, information on how it complies with the obligations laid down in clauses 1)–3) of this subsection.

(2) The authorised entity specified in subsection (1) of this section provides the following information in an accessible way, on request, to beneficiary persons, other authorised entities or authors or holders of related rights:

- 1) the list of works or other subject matter for which it has accessible format copies and the available formats, specifying the form in which they are accessible; and
- 2) the names and contact details of the authorised entities with which it has engaged in the exchange of accessible format copies pursuant to subsection 253 (3) of this Act.

(3) An authorised entity may, for the purpose of complying with the obligation specified in clause 1) of subsection (1) of this section, process the health records of a person to ascertain whether the person is a beneficiary person within the meaning of subsection 252 (2) of this Act.

§ 25. Sharing of information on authorised entities operating for the benefit of persons who are blind, visually impaired or otherwise print-disabled

(1) The authorised entities specified in subsection 252 (4) of this Act shall inform the Estonian Library for the Blind operating as a structural unit of the Repository Library of Estonia, if they use a work or other subject matter pursuant to clause 253 (1) 2).

(2) The Estonian Library for the Blind shall send the information received from the authorised entities operating in Estonia pursuant to subsection (1) of this section to the European Commission.

European Union

The European Union ratified the Treaty in 2018. All EU Member States were required to have implemented the following directive and regulation into domestic law by October 2018, but many have not yet done so. Accordingly, in November 2018, the European Commission initiated legal proceedings against Belgium, Cyprus, the Czech Republic, Germany, Estonia, Greece, Finland, France, Italy, Lithuania, Luxembourg, Latvia, Poland, Portugal, Romania, Slovenia, and the UK for their failure to implement the directive and regulation.

**DIRECTIVE (EU) 2017/1564 OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL of 13 September 2017
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**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee (1),

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Union legal acts in the area of copyright and related rights provide legal certainty and a high level of protection for rightholders, and constitute a harmonised legal framework. That 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.

(2) Directives 96/9/EC, 2001/29/EC, 2006/115/EC and 2009/24/EC of the European Parliament and of the Council harmonise the rights of rightholders in the area of copyright and related rights. Those Directives, together with Directive 2012/28/EU of the European Parliament and of the Council, provide for an exhaustive list of exceptions and limitations to those rights, which allow the use of content without the rightholders' authorisation under certain conditions in order to achieve certain policy objectives.

(3) Persons who are blind, visually impaired or otherwise print-disabled continue to face many barriers to accessing books and other printed material which are protected by copyright and related rights. Taking into consideration the rights of blind, visually impaired or otherwise print-disabled persons as recognised in the Charter of Fundamental Rights of the European Union (the 'Charter') and the United Nations Convention on

the Rights of Persons with Disabilities (the ‘UNCRPD’), measures should be taken to increase the availability of books and other printed material in accessible formats, and to improve their circulation in the internal market.

(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. Its aim is to improve the availability and cross-border exchange of certain 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 for exceptions or limitations to copyright and related rights for the making and dissemination of copies, in accessible formats, of certain works and other protected 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 that treaty.

(5) According to Opinion 3/15 of the Court of Justice of the European Union, the exceptions or limitations to copyright and related rights for the making and dissemination of copies, in accessible formats, of certain works and other subject matter, provided for by the Marrakesh Treaty, have to be implemented within the field harmonised by Directive 2001/29/EC.

(6) 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 the corresponding measures are applied consistently throughout the internal market. This Directive should therefore provide for a mandatory exception to the rights that are harmonised by Union law and are relevant for the uses and works covered by the Marrakesh Treaty. Such rights include, in particular, the rights of reproduction, communication to the public, making available to the public, distribution and lending, as provided for in Directives 2001/29/EC, 2006/115/EC and 2009/24/EC, as well as the corresponding rights provided for in Directive 96/9/EC. As the scope of the exceptions or limitations required by the Marrakesh Treaty also includes works in audio form, like audiobooks, the mandatory exception provided for under this Directive should also apply to related rights.

(7) This Directive concerns persons who are blind, persons who have a visual impairment which cannot be improved so as to give them visual function substantially equivalent to that of a person who has no such impairment, persons who 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, and persons who are unable, due to a physical disability, to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading, insofar as, as a result of such impairments or disabilities, those persons are unable to read printed works to substantially the same degree as persons without such impairments or disabilities. This Directive therefore aims to improve the availability of books, including e-books, journals, newspapers, magazines and other kinds of writing, notation, including sheet music, and other printed 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 such impairment or disability. Accessible formats include, for example, Braille, large print, adapted e-books, audio books and radio broadcasts.

(8) The mandatory exception provided for in this Directive should 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 that makes it possible for beneficiary persons to access that work or other subject matter. This includes providing the necessary means to navigate information in an accessible format copy. It also includes changes that might be required in cases in which the format of a work or of other subject matter is already accessible to certain beneficiary persons while it might not be accessible to other beneficiary persons, due to different impairments or disabilities, or the different degree of such impairments or disabilities.

(9) The permitted uses laid down in this Directive should include the making of accessible format copies by either beneficiary persons or authorised entities serving their needs, whether those authorised entities be public or private organisations, in particular libraries, educational establishments and other non-profit organisations, that serve persons with

a print disability as one of their primary activities, institutional obligations or as part of their public interest missions. The uses laid down in this Directive should also include the making of accessible format copies, for the exclusive use of beneficiary persons, by a natural person who does so on behalf of a beneficiary person or who assists the beneficiary person making such copies. Accessible format copies should only be made of works or other subject matter to which beneficiary persons or authorised entities have lawful access. Member States should ensure that any contractual provision which seeks to prevent or limit the application of the exception in any way is void of legal effect.

(10) The exception provided for in this Directive 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. This Directive should not impose an obligation on authorised entities to make and disseminate such copies.

(11) 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 duplication of work in producing accessible format copies of one and 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 by authorised entities in any Member State can be circulated and accessed by beneficiary persons and authorised entities throughout the Union. In order to foster such cross-border exchange and to facilitate authorised entities' mutual identification and cooperation, the voluntary sharing of information regarding the names and contact details of authorised entities established in the Union, including websites if available, should be encouraged. Member States should therefore provide the information received from authorised entities to the Commission. This should not imply an obligation for Member States to check the completeness and accuracy of such information or its compliance with their national law transposing this Directive. Such information should be made available online by the Commission on a central information access point at Union level. This would also assist authorised entities, as well as beneficiary persons and rightholders in contacting authorised

entities to receive further information, in line with the provisions set out in this Directive and in Regulation (EU) 2017/1563 of the European Parliament and of the Council. The aforementioned central information access point should be complementary to the information access point to be established by the International Bureau of the World Intellectual Property Organisation (WIPO), as provided for in the Marrakesh Treaty, aiming to facilitate the identification of, and cooperation among, authorised entities at international level.

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

(13) Authorisation or recognition requirements that Member States may apply to authorised entities, such as those relating to the provision of services of a general nature to beneficiary persons, should not have the effect of preventing entities that are covered by the definition of authorised entity under this Directive from undertaking the uses allowed under this Directive.

(14) In view of the specific nature of the exception provided for under this Directive, its specific 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 the prior verification of the commercial availability of works in accessible formats, other than those laid down in this Directive. Member States should only be allowed to provide for compensation schemes regarding the permitted uses of works or other subject matter by authorised entities. In order to avoid burdens for beneficiary persons, prevent barriers to the cross-border dissemination of accessible format copies and excessive requirements on authorised entities, it is important that the possibility for Member States to provide for such compensation schemes be limited. Consequently, compensation schemes should not require payments by beneficiary persons. They should only apply to uses by authorised entities established in the territory of the Member State providing for such a scheme, and they should not require payments by authorised entities established in

other Member States or third countries that are parties to the Marrakesh Treaty. Member States should ensure that there are not more burdensome requirements for the crossborder exchange of accessible format copies under such compensation schemes than for non-cross border situations, including with regard to the form and possible level of compensation. When determining the level of compensation, due account should be taken of the non-profit nature of the activities of authorised entities, of the public interest objectives pursued by this Directive, of the interests of beneficiaries of the exception, of the possible harm to rightholders and of the need to ensure cross-border dissemination of accessible format copies. Account should also be taken of the particular circumstances of each case, resulting from the making of a particular accessible format copy. Where the harm to a rightholder is minimal, no obligation for payment of compensation should arise.

(15) It is essential that any processing of personal data under this Directive 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, and it is imperative that any such processing also be in compliance with Directives 95/46/EC and 2002/58/EC of the European Parliament and of the Council, 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.

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

(17) Under the Charter, all forms of discrimination, including on grounds of disability, are prohibited and the right of persons with disabilities to benefit from measures designed to ensure their independence, social and

occupational integration and participation in the life of the community is recognised and respected by the Union.

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

(19) The Commission should 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. It is important that the Commission review the situation in that regard closely. Changes to the scope of this Directive could be considered, if necessary, on the basis of a report presented by the Commission.

(20) Member States should be allowed to 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, in particular as regards works and other subject matter and disabilities other than those covered by this Directive, pursuant to point (b) of Article 5(3) of Directive 2001/29/EC. This Directive does not prevent Member States from providing for exceptions or limitations to rights that are not harmonised in the copyright framework of the Union.

(21) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter and the UNCRPD. This Directive should be interpreted and applied in accordance with those rights and principles.

(22) The Marrakesh Treaty imposes certain obligations regarding the exchange of accessible format copies between the Union and third countries that are parties to that Treaty. The measures taken by the Union to fulfil those obligations are contained in Regulation (EU) 2017/1563 which should be read in conjunction with this Directive.

(23) Since the objective of this Directive, namely to improve access in the Union to works and other subject matter protected by copyright and related rights for persons who are blind, visually impaired or otherwise

print-disabled, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

(24) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter and scope

This Directive aims to further harmonise the Union law applicable to copyright and related rights in the framework of the internal market, by establishing 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.

Article 2

Definitions

For the purposes of this Directive the following definitions apply:

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

(2) ‘beneficiary person’ means, regardless of any other disabilities, a person who :

(a) is blind;

(b) has a visual impairment which cannot be improved so as to give the person visual function substantially equivalent to that of a person who has no such impairment, and who is, as a result, unable to read printed works to substantially the same degree as a person without such an impairment;

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

(d) 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.

(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 such person to have access as feasibly and comfortably as a person without any of the impairments or disabilities referred to in point 2;

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

Article 3

Permitted uses

1. Member States shall provide for an exception to the effect that no authorisation of the rightholder of any copyright or related right in a work or other subject-matter is required pursuant to Articles 5 and 7 of Directive 96/9/EC, Articles 2, 3 and 4 of Directive 2001/29/EC, Article 1(1), Article 8(2) and (3) and Article 9 of Directive 2006/115/EC and Article 4 of Directive 2009/24/EC for any act necessary for:

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

(b) an authorised entity to make an accessible format copy of a work or other subject-matter to which it has lawful access or to communicate, make available, distribute or lend an accessible format copy to a beneficiary person or another authorised entity on a non-profit basis for the purpose of exclusive use by a beneficiary person.

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

3. The exception provided for in paragraph 1 shall only be applied in certain special cases which do not conflict with a normal exploitation of the work or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholder.

4. 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.

5. Member States shall ensure that the exception provided for in paragraph 1 cannot be overridden by contract.

6. Member States may provide that uses permitted under this Directive, if undertaken by authorised entities established in their territory, be subject to compensation schemes within the limits provided for in this Directive.

Article 4

Accessible format copies in the internal market

Member States shall ensure that an authorised entity established in their territory may carry out the acts referred to in point (b) of Article 3(1) for a beneficiary person or another authorised entity established in any Member State. Member States shall also ensure that a beneficiary person or an authorised entity established in their territory may obtain or may have

access to an accessible format copy from an authorised entity established in any Member State.

Article 5

Obligations of authorised entities

1. Member States shall provide that an authorised entity established in their territory carrying out the acts referred to in Article 4 establishes and follows its own practices to ensure that it:

- (a) distributes, communicates and makes available accessible format copies only to beneficiary persons or other authorised entities;
- (b) takes appropriate steps to discourage the unauthorised reproduction, distribution, communication to the public or making available to the public of accessible format copies;
- (c) demonstrates due care in, and maintains records of, its handling of works or other subject-matter and of accessible format copies thereof; and
- (d) publishes and updates, on its website if appropriate, or through other online or offline channels, information on how it complies with the obligations laid down in points (a) to (c).

Member States shall ensure that the practices referred to in the first subparagraph are established and followed in full respect of the rules applicable to the processing of personal data of beneficiary persons referred to in Article 7.

2. Member States shall ensure that an authorised entity established in their territory carrying out the acts referred to in Article 4 provides the following information in an accessible way, on request, to beneficiary persons, other authorised entities or rightholders:

- (a) the list of works or other subject-matter for which it has accessible format copies and the available formats; and
- (b) the name and contact details of the authorised entities with which it has engaged in the exchange of accessible format copies pursuant to Article 4.

Article 6

Transparency and exchange of information

1. Member States shall encourage authorised entities established in their territory carrying out the acts referred to in Article 4 of this Directive and Articles 3 and 4 of Regulation (EU) 2017/1563 to communicate to them, on a voluntary basis, their names and contact details.
2. Member States shall provide the information they have received pursuant to paragraph 1 to the Commission. The Commission shall make such information publicly available online on a central information access point and keep it up to date.

Article 7

Protection of personal data

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.

Article 8

Amendment to Directive 2001/29/EC

In Article 5(3) of Directive 2001/29/EC, point (b) is replaced by the following:

“(b) uses, for the benefit of people with a disability, which are directly related to the disability and of a non-commercial nature, to the extent required by the specific disability, without prejudice to the obligations of Member States under Directive (EU) 2017/.”

Article 9

Report

By 11 October 2020, 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 point 1 of Article 2 for beneficiary persons, and of works and other subject-matter for persons with disabilities other than those referred to in point 2 of Article 2, in the internal market. The report

shall take into account developments concerning relevant technology and shall contain an assessment of the appropriateness of broadening the scope of this Directive in order to improve access to other types of works and other subject-matter and to improve access for persons with disabilities other than those covered by this Directive.

Article 10

Review

1. By 11 October 2023, the Commission shall carry out an evaluation of this Directive and present the main findings in a report to the European Parliament, the Council and the European Economic and Social Committee, accompanied, where appropriate, by proposals for amending this Directive. Such evaluation shall include an assessment of the impact of compensation schemes provided for by Member States pursuant to Article 3(6) on the availability of accessible format copies for beneficiary persons and on their cross-border exchange . The Commission's report shall take into account the views of relevant civil society actors and of non-governmental organisations, including organisations representing persons with disabilities and those representing older persons.
2. Member States shall provide the Commission with the necessary information for the preparation of the report referred to in paragraph 1 of this Article and the preparation of the report referred to in Article 9.
3. A Member State that has valid reasons to consider that the implementation of this Directive has had a significant negative impact on the commercial availability of works or other subject-matter in accessible formats for beneficiary persons may bring the matter to the attention of the Commission providing all relevant evidence. The Commission shall take that evidence into account when drawing up the report referred to in paragraph 1.

Article 11

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 11

October 2018. They shall immediately communicate the text of those measures to the Commission.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 12

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the cross-border exchange between the Union and third countries of accessible format copies of certain works and other subject-matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled

Article 1

Subject matter and scope

This Regulation lays down uniform rules on the cross-border exchange of accessible format copies of certain works and other subject-matter between the Union and third countries that are parties to the Marrakesh Treaty without the authorisation of the rightholder, for the benefit of persons who are blind, visually impaired or otherwise print-disabled, within the field harmonised by Directives 2001/29/EC and (EU) 2017/1564, in order to prevent jeopardizing the harmonisation of exclusive rights and exceptions in the internal market.

Article 2

Definitions

For the purposes of this Regulation the following definitions apply:

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

(2) ‘beneficiary person’ means, regardless of any other disabilities, a person who:

(a) is blind;

(b) has a visual impairment which cannot be improved so as to give the person visual function substantially equivalent to that of a person who has no such impairment, and who is, as a result, unable to read printed works to substantially the same degree as a person without such an impairment;

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

(d) 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.

(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 such person to have access as feasibly and comfortably as a person without any of the impairments or disabilities referred to in point 2;

(4) ‘authorised entity established in a Member State’ means an entity that is authorised or recognised by a Member State to provide education, instructional training, adaptive reading or information access to beneficiary persons on a non-profit basis. It also includes a public institution or non-profit organisation that provides the same services to beneficiary persons as

one of its primary activities, institutional obligations or as part of its public-interest missions.

Article 3

Export of accessible format copies to third countries

An authorised entity established in a Member State may distribute, communicate or make available to beneficiary persons or to an authorised entity established in a third country that is a party to the Marrakesh Treaty an accessible format copy of a work or other subject-matter made in accordance with the national legislation adopted pursuant to Directive (EU) 2017/1564.

Article 4

Import of accessible format copies from third countries

A beneficiary person or an authorised entity established in a Member State may import or otherwise obtain or access and thereafter use, in accordance with the national legislation adopted pursuant to Directive (EU) 2017/1564, an accessible format copy of a work or other subject-matter that has been distributed, communicated or made available to beneficiary persons or to authorised entities, by an authorised entity in a third country that is a party to the Marrakesh Treaty.

Article 5

Obligations of authorised entities

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

- (a) distributes, communicates and makes available accessible format copies only to beneficiary persons or other authorised entities;
 - (b) takes appropriate steps to discourage the unauthorised reproduction, distribution, communication to the public and making available to the public of accessible format copies;
 - (c) demonstrates due care in, and maintains records of, its handling of works or other subject-matter and of accessible format copies thereof;
- and

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

An authorised entity established in a Member State shall establish and follow the practices referred to in the first subparagraph in full respect of the rules applicable to the processing of personal data of beneficiary persons referred to in Article 6.

2. An authorised entity established in a Member State carrying out the acts referred to in Articles 3 and 4 shall provide the following information in an accessible way, on request, to beneficiary persons, other authorised entities or rightholders:

(a) the list of works or other subject-matter for which it has accessible format copies and the available formats; and

(b) the name and contact details of the authorised entities with which it has engaged in the exchange of accessible format copies pursuant to Articles 3 and 4.

Article 6

Protection of personal data

The processing of personal data carried out within the framework of this Regulation shall be carried out in compliance with Directives 95/46/EC and 2002/58/EC.

Article 7

Review

By 11 October 2023, the Commission shall carry out an evaluation of this Regulation and present the main findings in a report to the European Parliament, the Council and the European Economic and Social Committee, accompanied, where appropriate, by proposals for amending this Regulation.

Member States shall provide the Commission with the necessary information for the preparation of the evaluation report.

Article 8

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. It shall apply from 11 October 2018.

Finland

The European Union, of which Finland is a Member State, ratified the Treaty in 2018. Under EU law, Finland is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above. Finland has implemented the EU directive and regulation, but an English translation is not yet available.

France

The European Union, of which France is a Member State, ratified the Treaty in 2018. Under EU law, France is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above.

Germany

The European Union, of which Germany is a Member State, ratified the Treaty in 2018. Under EU law, Germany is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above.

Ghana

Ghana ratified the Treaty in 2018. There is no known implementation.

Greece

The European Union, of which Greece is a Member State, ratified the Treaty in 2018. Under EU law, Greece is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above.

Guatemala

Guatemala ratified the Treaty in 2016. There is no known implementation.

Honduras

Honduras acceded to the Treaty in 2017. There is no known implementation.

Hungary

The European Union, of which Hungary is a Member State, ratified the Treaty in 2018. Under EU law, Hungary is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above.

India

India ratified the Treaty in 2014. India has the following pre-Marrakesh exception.

Section 31B.

(1) Any person working for the benefit of persons with disability on a profit basis or for business may apply to the Copyright Board, in such form and manner and accompanied by such fee as may be prescribed, for a compulsory license to publish any work in which copyright subsists for the benefit of such persons, in a case to which clause (zb) of sub-section (1)

of section 52 does not apply and the Copyright Board shall dispose of such application as expeditiously as possible and endeavour shall be made to dispose of such application within a period of two months from the date of receipt of the application.

(2) The Copyright Board may, on receipt of an application under subsection (1), inquire, or direct such inquiry as it considers necessary to establish the credentials of the applicant and satisfy itself that the application has been made in good faith.

(3) If the Copyright Board is satisfied, after giving to the owners of rights in the work a reasonable opportunity of being [h]eard and after holding such inquiry as it may deem necessary, that a compulsory license needs to be issued to make the work available to the disabled, it may direct the Registrar of Copyrights to grant to the applicant such a license to publish the work.

(4) Every compulsory license issued under this section shall specify the means and format of publication, the period during which the compulsory license may be exercised and, in the case of issue of copies, the number of copies that may be issued including the rate or royalty: Provided that where the Copyright Board has issued such a compulsory license it may, on a further application and after giving reasonable opportunity to the owners of rights, extend the period of such compulsory license and allow the issue of more copies as it may deem fit.

Certain acts not to be infringement of copyright

Section 52.

(1) The following acts shall not constitute an infringement of copyright, namely:

(zb) the adaptation, reproduction, issue of copies or communications to the public of any work in any accessible format by—

(i) any person to facilitate persons with disability to access to works including sharing with any person with disability of such accessible format for private or personal use, educational purpose or research;
or

(ii) any organisation working for the benefit of the persons with disabilities in case the normal format prevents the enjoyment of such works by such persons:

Provided that the copies of the works in such accessible format are made available to the persons with disabilities on a non-profit basis but to recover only the cost of production:

Provided further that the organisation shall ensure that the copies of works in such accessible format are used only by persons with disabilities and takes reasonable steps to prevent its entry into ordinary channels of business.

Explanation.—For the purposes of this sub-clause, “any organisation” includes an organisation registered under section 12A of the Income Tax Act, 1961 and working for the benefit of persons with disability or recognised under Chapter X of the Persons with Disabilities (Equal Opportunities, Protection or Rights and full Participation) Act, 1995 or receiving grants from the government for facilitating access to persons with disabilities or an educational institution or library or archives recognised by the Government.

Ireland

The European Union, of which Ireland is a Member State, ratified the Treaty in 2018. Under EU law, Ireland is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above.

Ireland has adopted the following regulation to transpose the EU directive and regulation into Irish law.

1. (1) These Regulations may be cited as the European Union (Marrakesh Treaty) Regulations 2018.
(2) These Regulations shall come into operation on 11 October 2018.
2. (1) In these Regulations, “Directive” means Directive (EU) 2017/1564 of the European Parliament and of the Council of 13 September 2017 on certain permitted uses of certain works and other subject matter

protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society.

(2) A word or expression that is used in these Regulations and that is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

3. (1) (a) It shall be an exception that no authorisation of the rightholder of any copyright or related right in a work or other subject matter is required, in relation to an act referred to in subparagraph (b) pursuant to—

(i) Articles 5 and 7 of Directive 96/9/EC,

(ii) Articles 2, 3 and 4 of Directive 2001/29/EC,

(iii) Articles 1(1), 8(2) and (3) and 9 of Directive 2006/115/EC, and

(iv) Article 4 of Directive 2009/24/EC.

(b) Any act necessary for—

(i) a beneficiary person (or a person acting on his or her behalf) to make an accessible format copy of a work or other subject matter to which the beneficiary person has lawful access for the exclusive use of the beneficiary person, and

(ii) an authorised entity to make an accessible format copy of a work or other subject matter to which it has lawful access, or to communicate, make available, distribute or lend an accessible format copy to a beneficiary person or another authorised entity on a non-profit basis for the purpose of exclusive use by a beneficiary person.

(2) Each accessible format copy shall respect the integrity of the work or other subject matter, with due consideration given to the changes required to make the work or other subject matter accessible in the alternative format.

(3) The exception provided for in paragraph (1) shall only be applied in certain special cases which do not conflict with a normal exploitation of the work or other subject matter and do not unreasonably prejudice the legitimate interests of the rightholder.

(4) 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).

(5) The exception provided for in paragraph (1) cannot be overridden by contract.

4. (1) An authorised entity established in the State may carry out the acts referred to in clause (ii) of Regulation 3(1)(b) for a beneficiary person or another authorised entity established in any Member State.

(2) A beneficiary person or an authorised entity established in the State may obtain or have access to an accessible format copy from an authorised entity established in any Member State.

5. (1) An authorised entity established in the State carrying out the acts referred to in Regulation 4 shall establish and follow its own practices to ensure that it:

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

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

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

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

(2) The practices referred to in paragraph (1) shall be established and followed in full respect of the rules applicable to the processing of personal data of beneficiary persons referred to in Article 7 of the Directive.

(3) An authorised entity established in the State carrying out the acts referred to in Regulation 4 shall provide the following information in an accessible way, on request, to beneficiary persons, other authorised entities or rightholders:

- (a) the list of works or other subject matter for which it has accessible format copies and the available formats; and
- (b) the name and contact details of the authorised entities with which it has engaged in the exchange of accessible format copies pursuant to Regulation 4.

Israel

Israel acceded to the Treaty in 2016. Israel enacted the following amendment to implement the Treaty in 2014.

28A Formatting of a work for persons with disabilities

(A) In this section—

“Person with Disabilities”, “Commissioner”—as defined in Paragraph 5 of the Law for Equality of Rights;

“Organization”—any one of the following:

(1) Not for profit institution as defined in the Value Added Tax law, 1975, where one of its objectives, or one of its primary activities is education, training or welfare of persons with disabilities or information access to said persons;

(2) A Government Office;

(3) An educational institution of the kind determined by the Minister pursuant to Paragraph 29;

“Law for Equality of Rights”—The Law for Equality of Rights of Persons with Disabilities, 1998;

“Formatted Work”—a work made in a format accessible for use by a person with disabilities;

(B) The doing of an act with respect to a work which is not adequately accessible to a person with disabilities due to his disability, or with a copy of such work, for the purpose of making a Formatted Work, is permitted provided the following conditions are met:

(1) An entity who does such act, himself or through another, is an entity as prescribed in the following sub-paragraphs and maintains the conditions set forth in this sub-paragraph:

(a) An Organization, provided that the act is done not for profit; and that each of the accessible format copies of the work (in this paragraph—Formatted Copy) will include a notice stating that the copying or the transfer of a Formatted Copy, in violation of the provisions of this law will constitute infringement of the copyright.

(b) A person with disabilities or a person acting on his behalf, provided that the act is done for the personal use of a person with disabilities;

(c) An entity which has an obligation under law to make Formatted Copies of a work, provided that the formatting acts are done on a scale to the extent no greater than that required under said legal obligation and that it complies with the conditions set forth in subparagraph (a).

(2) The entity carrying out the said act has legal access to the work or to a legal copy thereof;

(3) The changes in the Work are no greater than those necessary to make the Work accessible to persons with disabilities;

(4) A Formatted Copy is not available on reasonable terms; In determining whether terms are reasonable for this matter, consideration shall be taken of, inter alia, the market price of a copy of the Work, the making of which is permitted pursuant to this Law, the location and availability of Formatted Copies.

(C) The reproduction of a Formatted Work made under the provisions of this section is permitted to an Organization only; said Organization may transfer a Formatted Copy, not for profit, to any of the following:

(1) A person in Israel with disabilities or to another Organization;

(2) A person outside of Israel with disabilities or a Foreign Organization, however a Formatted Copy shall not be transferred by the Organization to said person or Organization if the Organization knows, or should have known, that the Formatted Copy will be used by or transferred to a

person other than a person with disabilities; In this paragraph, “Foreign Organization”—means a not for profit entity outside of Israel, having as one of its objectives or primary activities education, or training of persons with disabilities, or information access to such persons.

(D) Implementation of the provisions of this section shall be done in accordance with the privacy rights of persons with disabilities.

(E) The Commissioner may publish information to the public regarding the activities of any of the entities set forth in sub-sub-paragraphs (a) and (c) of Sub-Paragraph (B)(1).

Performers and Broadcasters Rights Law

4A.

(d) Notwithstanding the provisions of paragraph (c), an act with respect to a performance or fixation of a performance or reproduction of the a performance or fixation of a performance or reproduction of the fixation of a performance, which infringes a right under subparagraph (b) shall not be deemed as a civil tort if done in said performance, fixation or a reproduction that are not adequately accessible to a person with disabilities due to his disability, for the purpose of making a Formatted Fixation, in accordance with the provisions of paragraph 4(c)(1)(b).

Formatting of performance or broadcast for persons with disabilities

4C1(a).

(a) In this paragraph—

“person with disabilities”—as defined in Paragraph 5 of the Law for Equality of Rights for Persons with Disabilities, 1998;

“Formatted Fixation”—fixation of a performance or broadcast, made in a format accessible for use by a person with disabilities;

(b) The provisions of paragraph 2 and 4A1 will not apply where the aforesaid acts are done with respect to a performance, broadcast or fixation of a performance or broadcast, or reproduction of the fixation of a performance or broadcast, which is not accessible to a person with disabilities due to his disability, are done for the purpose of making a

Formatted Fixation, provided that the conditions set forth in paragraph 28A of the Copyright Law, *mutatis mutandis*, are fulfilled.

Italy

The European Union, of which Italy is a Member State, ratified the Treaty in 2018. Under EU law, Italy is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above.

Japan

Japan acceded to the Treaty in 2018. Its deposit of its instrument of accession with WIPO was accompanied by a notification that Japan will confine its exception “to works which, in the particular accessible format, cannot be obtained commercially under reasonable terms for beneficiary persons.” Japan has implemented the Treaty, but an English translation is not yet available.

Jordan

Jordan ratified the Treaty in 2018. There is no known implementation.

Kenya

Kenya ratified the Treaty in 2017. The Marrakesh Treaty is self-executing pursuant to Article 2(6) of the Constitution of Kenya, which provides that “any treaty or convention ratified by Kenya shall form part of the Law of Kenya under this Constitution.”

Kyrgyzstan

Kyrgyzstan ratified the Treaty in 2017. Kyrgyzstan enacted the following amendment to implement the Treaty in 2017.

Unofficial translation

Article 4

The beneficiary is a person who:

Has visual impairment or a limited ability to perceive or read that can not be corrected to the extent that the visual function is equivalent to the visual function of a person who does not have such a violation or limited ability; or

For other reasons, is not able, due to the nature of any disease, to use the book or to focus the eye or move the eyes to the extent that it would normally be acceptable to read, regardless of any other violations;

An authorized organization is an organization authorized by the Government of the Kyrgyz Republic to provide beneficiaries without profit-making services in the field of education, vocational training, adaptive reading or access to information. The authorized organization also includes non-profit organizations that are engaged in providing similar services to beneficiaries as one of their main activities;

A copy in an accessible format—a copy of the work in an alternative form or form that provides the beneficiary with access to the work, including allowing him to have the same real and convenient access as to a person without a visual impairment or other limited ability to perceive printed information

Article 19

(6) to make copies of the work in an accessible format, to receive from the other authorized body a copy in an accessible format and to provide these copies to the beneficiaries in any way, including non-commercial rental or electronic communication by wire or wireless means, and take any actions to achieve these goals.

Article 20-1

Limitations and exceptions for instances in accessible format

1. The authorized organization may, without the author's consent and without payment of the author's remuneration, make copies of the work in an accessible format, receive a copy in an accessible format from another

authorized body and provide these copies to the beneficiaries in any way, including non-commercial rental or electronic communication by wire or wireless means, and take any action to achieve these goals, subject to all the following conditions:

- 1) the authorized organization has legal access to the work or copy of the work;
- 2) the work is converted into a copy in an accessible format, which may include any means necessary to view the information in an accessible format, but is not associated with making changes other than those necessary for the work to be available to the beneficiary;
- 3) such copies in an accessible format are provided exclusively for use by the beneficiaries;
- 4) this activity is carried out without profit.

2. In carrying out the activities specified in part one of this article, the authorized organization:

- 1) determines whether the persons served by it are beneficiaries;
- 2) determines the limitations in the distribution and provision of copies in an accessible format by the beneficiaries and/or authorized organizations;
- 3) take measures to prevent the reproduction, distribution and provision of unauthorized copies;
- 4) keep records when working with copies of works.

Latvia

The European Union, of which Latvia is a Member State, ratified the Treaty in 2018. Under EU law, Latvia is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above. Latvia has implemented the EU directive and regulation as follows.

Article 12¹) accessible format copy—a copy of a work or subject of related rights in an alternative manner that gives a person with functional

limitations access to the work or a subject of related rights as can be accessed by a person without such limitations;

Article 19. Use of work of an author without the consent of the author and without remuneration

(1) Copyright shall not be considered infringed if a work of an author is used without the consent of the author and without remuneration in accordance with the procedures laid down this Law:

3) the work is used for the needs of persons with functional limitations;

3¹) certain work is used for the purposes of persons who are blind or with other reading disabilities;

Article 22 Use a work for people with functional limitations

Without the consent of the author and payment of the remuneration, observing the provisions of Article 18, Paragraph two of this Law, a copy of the published work for non-commercial purposes may be prepared in an accessible format copy and reproduced, distributed and made public to persons with functional limitations, insofar as it is necessary in the case of the relevant limitations of such persons.

22.¹ Use of certain works for the purposes of persons who are blind or with other reading disabilities

(1) A person who is blind or with other reading disabilities within the meaning of this Law, regardless of any other limitations on functioning, shall be a person who conforms to at least one of the following criteria:

1) is blind;

2) has a visual impairment due to which is unable to read printed works to substantially the same degree as a person without such an impairment and which cannot be mitigated so as to give the person visual function substantially equivalent to that of a person who has no such impairment;

3) has a perceptual or reading disability and is, as a result, unable to read printed works to substantially the same degree as a person without such disability;

4) 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.

(2) The competent institution within the meaning of this Law shall be an institution the performance of which is not profit-making and which provides education or access to information for persons who are blind or with other reading disabilities. Public bodies and non-profit organizations providing educational and information access services to persons who are blind or with other reading disabilities, and such services are one of the main activities or duties of those institutions or one of the tasks they perform in the public interest, shall also be recognized as competent bodies.

(3) A person who is blind or with other reading disabilities, or a person who acts for it, observing the provisions of Article 18, Paragraph two of this Law, without the consent of the author and payment of the remuneration, may prepare an accessible format copy of published writing work expressed in any form, including the audio form or the musical work expressed in the a sheet music and copy of an illustration contained in these works for the purposes of a person who is blind or with other reading disabilities.

(4) A competent institution may, without the consent of the author and payment of the remuneration, observing the provisions of Article 18, Paragraph two of this Law, for non-commercial purposes:

1) to prepare accessible format copies of the works specified in Paragraph three of this Article, for the purposes of a person who is blind or with other reading disabilities;

2) communicates to the public and makes available to the public, distributes or lends an accessible format copy to a person residing in a Member State of the European Union who is blind or with other reading disabilities or to a competent institution established in a Member State of the European Union.

(5) By preparing an accessible format copy, the author of the copy shall be obliged to respect the integrity of the work, except where the transformation of the work is necessary to make it available to persons who are blind or with other reading disabilities.

(6) A person who is blind or with other reading disabilities and a competent institution is entitled to obtain or access an accessible format copy from any competent institution established in a Member State of the European Union.

(7) A competent institution established in Latvia, which performs the activities with an accessible format copies, specified in Paragraph four or Paragraph six of this Article, for the persons who are blind or with other reading difficulties residing in other Member States of the European Union or competent institutions established in a Member State of the European Union:

- 1) takes appropriate steps to discourage the unauthorised reproduction, distribution, communication to the public or making available to the public of accessible format copies;
- 2) act with works and an accessible format copies with due diligence and maintains records of the activities carried out with them;
- 3) publishes and updates, on its website or using other forms of disclosure, information how it fulfils the obligations set out in points 1 and 2 of this Paragraphs;
- 4) upon request, provide the following information to persons who are blind or with other reading disabilities to other competent authorities or copyright holders:
 - (a) a list of works, copies of which are in their possession in an accessible format, and the formats available for those works,
 - (b) the names and contact details of the competent institutions with which it has engaged in the exchange of accessible format copies.

Lesotho

Lesotho acceded to the Treaty in 2018. There is no known implementation.

Liberia

Liberia acceded to the Treaty in 2016. Liberia enacted the following amendment to implement the Treaty in 2016.

§9.16. Visually Impaired Persons

- a) It shall be permitted without the authorization of the owner of copyright to reproduce a published work for visually or aurally impaired persons or persons with print disabilities in a specialized format which enables their perception of the work, and to distribute the copies exclusively to those persons, provided that the work is not reasonably available in an identical or largely equivalent form enabling its perception by the visually, aurally impaired or print disabled person; and the reproduction and distribution are made on a non-profit basis.
- b) The copies of works made in pursuance of this section shall bear a copyright notice identifying the copyright owner and the date of the original publication and notice that any further reproduction or distribution in a format other than a specialized format is an infringement.
- c) The distribution of works made pursuant to this section is also permitted where the copies had been made abroad and the conditions mentioned above have been fulfilled.

Lithuania

The European Union, of which Lithuania is a Member State, ratified the Treaty in 2018. Under EU law, Lithuania is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above. Lithuania has implemented the EU directive and regulation as follows.

Article 2

15. Authorized entity means a legal entity or other entity authorized by the State to provide education, training, adapted reading or access to information to disabled beneficiaries without seeking profit. An authorized entity may also be a public institution or a non-profit organization having

another legal form of a legal entity, for which the provision of these services is one of its main activities, institutional responsibilities or part of its public interest mission (for example, a library, educational institution or other non-profit organization).

33. Disabled beneficiary—a blind person; a person who due to his or her visual impairment that cannot be reduced, is unable to read works in print the same way as persons without such an impairment; a person who, due to his or her perception impairment or reading disability is unable to read printed works in a manner substantially equivalent to that of a person without such a disability or impairment; a person who because of physical disability is incapable of holding a publication, or turning pages, or concentrating glance or moving their eyes in a manner essential for reading.

39. Accessible format copy is a copy of a work or other object presented in an alternative way or format, enabling the disabled beneficiary to access the work or other subject in the same way as a person without a disability, but without compromising the integrity of the work or other object.

Article 25. The use of works or other objects in ways accessible for disabled people

1. Without the permission of the author or other copyright holder of the work and without royalties, but indicating, if possible, the source and author's name used, for non-commercial purposes, lawfully released or published works can be reproduced, published, adapted and publicized, including making them available on public computer networks (the Internet), provided that the work is used and accessed only by persons with disabilities, to the extent justified by the specific disability, unless those works were specifically designed for that purpose.

2. Authorized entities established in the Republic of Lithuania are authorized to reproduce works or other objects by making accessible copies and making them publicly available, including making publicly available on computer networks (on the Internet), distributing and lending for the use of disabled beneficiaries or other authorized entities for the purposes of the restriction established in paragraph 1 of this Article in all Member States of the European Union. Disabled beneficiaries and

authorized entities of the Republic of Lithuania may obtain copies of an accessible format from an authorized entity established in any Member State of the European Union. For the purposes of this paragraph, the authorized entity shall be permitted to reproduce copies in accessible formats of such works or other subject matter, such as books, magazines, newspapers, periodicals, or any other form of writing, notation, including musical notes, and related illustrations on any medium, including audio format (such as audiobooks) and digital format.

3. Contracts which impede the conduct referred to in paragraph 2 of this Article, shall be null and void.

4. An authorized entity established in the Republic of Lithuania and engaged in the activities referred to in paragraph 2 of this Article, in accordance with the applicable rules on personal data management, shall:

- 1) Ensure the distribution, publicity or access to copies in accessible formats only to disabled beneficiaries or other authorized entities;
- 2) To take appropriate measures to discourage the reproduction, distribution, public disclosure or making available to the public of accessible copies without authorization;
- 3) To carefully manage the works or other objects and their copies in accessible formats by recording the management work (data collection, recording, sorting, storage, etc.);
- 4) on its website or on other means of public access, publish and update information on the fulfilment of the obligations set out in parts 1, 2 and 3 of this paragraph;
- 5) At the request of disabled beneficiaries, other authorized entities or rightsholders, provide information on availability of formats and copies of accessible formats, as well as give the names and contact details of the authorized entities with which accessible format copies were exchanged.

5. The institution authorized by the Government shall make publicly available on its website the lists of authorized entities established in the Republic of Lithuania engaged in activities defined in paragraph 2 of this Article. This information is also submitted by the institution authorized by

the Government to the European Commission—for public posting at the central information point.

6. The institution authorized by the Government shall establish procedures for the exchange of copies in accessible formats of works or other objects for the benefit of blind, visually impaired or otherwise print reading disabled persons in accordance with Regulation (EU) 2017/1563 of the European Parliament and of the European Council.

Article 31

4) Used for non-commercial purposes in accordance with Article 25 (2) of this Law.

Article 32

1. A legal user of a database or a copy of a database shall have the right, without the permission of the author or other copyright holder, to carry out the acts referred to in Article 15 (1) of this Law, if such action is necessary to enable the legitimate user of the database to access and adequately use the contents of the database. In the cases referred to in paragraph 2 of Article 25 of this Law, a legitimate user of a database or a copy thereof shall, for non-commercial purposes, without the permission of the author or other copyright holder, have the right to perform the actions specified in Article 15 (1) parts 1, 5 and 8 of this Law.

Article 63

4) The database shall be transferred and used for non-commercial purposes in the case of the exemption provided for in Article 25 (2) of this Law.

Article 75

1. Where the technical safeguards applied by the holders of copyright, related rights and *sui generis* rights prevent the users of those rights from exercising the limitations of copyright, related rights and *sui generis* rights provided for in Article 20 (1), Article 201 (1), Article 22 (1) subsection 1 of this Law, Articles 25, 27, 29 (1) subsection 2, 58 (1) subsections 4, 5, 7, 8, 9 and paragraph 2, as well as Article 63 (1), users of rights must be able to obtain or be granted appropriate means (e.g., decoding devices and others)

that allow the use of lawfully available copyright, related or *sui generis* rights objects to the extent that the rights users have non-commercial benefits from copyright, related rights and *sui generis* rights restrictions in their interest.

Luxembourg

The European Union, of which Luxembourg is a Member State, ratified the Treaty in 2018. Under EU law, Luxembourg is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above.

Malawi

Malawi acceded to the Treaty in 2017. Malawi enacted the following amendment implementing the Treaty in 2017.

49. The reproduction of a published literary, artistic or musical work in a form specifically intended for visually impaired persons or persons with print disabilities people with disabilities who, due to the nature of their disability, are not able to access or enjoy the work in any of the forms in which it is commercially available, shall be permitted:

Provided that the reproduction and the making available of the copies is not made on a commercial basis and that the copies shall be made available only to such disabled people for which they are intended, and that

- (a) the reproduction is not made from copies which are made for the same purpose;
- (b) where it is a reproduction of a musical work, it is not made in the form of a sound or audio-visual recording; and
- (c) where the reproduction is made in the form of a sound or audio-visual recording, the copies shall be made available only by way of lending to people who, due to their disability, may access and enjoy the work only in this form.

Mali

Mali ratified the Treaty in 2014. There is no known implementation.

Malta

The European Union, of which Malta is a Member State, ratified the Treaty in 2018. Under EU law, Malta is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above.

Marshall Islands

Marshall Islands acceded to the Treaty in 2019. There is no known implementation.

Mexico

Mexico ratified the Treaty in 2015. Treaties are self-executing Mexico. Additionally, Mexico enacted the following amendment to implement the Treaty in 2015.

Artículo 148.—Las obras literarias y artísticas ya divulgadas podrán utilizarse, siempre que no se afecte la explotación normal de la obra, sin autorización del titular del derecho patrimonial y sin remuneración, citando invariablemente la fuente y sin alterar la obra, sólo en los siguientes casos:

VIII. Publicación de obra artística y literaria sin fines de lucro para personas con discapacidad.

Artículo 151.—No constituyen violaciones a los derechos de los artistas intérpretes o ejecutantes, productores de fonogramas, de videogramas u organismos de radiodifusión la utilización de sus actuaciones, fonogramas, videogramas o emisiones, cuando:

I. No se persiga un beneficio económico directo;

II. Se trate de breves fragmentos utilizados en informaciones sobre sucesos de actualidad;

III. Sea con fines de enseñanza o investigación científica, o

IV. Se trate de los casos previstos en los artículos 147, 148 y 149 de la presente Ley.

Unofficial Translation

Article 148.—Literary and artistic works already disclosed may be used, provided that the normal exploitation of the work is not affected, without the authorization of the holder of the patrimonial right and without remuneration, invariably citing the source and without altering the work, only in the following cases:

VIII. Publication of non-profit artistic and literary work for people with disabilities.

Article 151.—The use of performances, phonograms, videograms or broadcasts do not constitute violations of the rights of their performers, producers of phonograms, videograms or broadcasting organizations, where:

I. No direct economic benefit is sought;

II. These are brief fragments used in information on current events;

III. Used for teaching or scientific research, or

IV. These are the cases provided for in articles 147, 148 and 149 of this Law.

Moldova

Moldova ratified the Treaty in 2018. Moldova has the following pre-Marrakesh exception.

Article 28

It shall be permitted without the consent of the author or other holder of copyright and without payment of remuneration...

h) use, for the benefit of people with a disability, which are directly related to the disability and of a non-commercial nature, to the extent required by the specific disability....

Mongolia

Mongolia ratified the Treaty in 2015. Mongolia has the following pre-Marrakesh exception.

Article 24. Exceptions and limitations

24.1. The following circumstances where the works were used without contradicting the normal exploitation of published works and without affecting the legal interests of the right holders shall not be deemed as copyright infringement:

24.1.7. To use works for the visually impaired and people with hearing problems;

24.2. The following conditions shall be considered in determining the circumstances provided in Section 24.1 of this law:

24.2.1. To have a non-profit purpose;

24.2.2. The extent of use and the importance of the used parts;

24.2.3. The value of the work and the effect of the used part on the market.

24.3. The name of the author and source must be mentioned when a work is used under Section 24.1 of this law.

Morocco

Morocco ratified the Treaty in 2019. There is no known implementation.

Netherlands

The European Union, of which the Netherlands is a Member State, ratified the Treaty in 2018. Under EU law, the Netherlands is required to

implement the EU directive and regulation relating to the Treaty, set forth in the EU section above.

Nigeria

Nigeria ratified the Treaty in 2017. Nigeria has the following pre-Marrakesh exception.

Second Schedule

The right conferred in respect of a work by section 6 of this Act does not include the right to control—

- (s) reproduction of published work in braille for the exclusive use of the blind, and sound recordings made by institutions or other establishments approved by the Government for the promotion of the welfare of other disabled persons for the exclusive use of such blind or disabled person.

Norway

As a member of the European Economic Area (EEA), Norway is part of the European Union internal market with respect to copyright issues. Thus, EU directives and regulations relating to copyright, including the Marrakesh Treaty, must be implemented in Norwegian law.

Norway adopted the following amendment to transpose the directive and regulation into Norwegian law (unofficial translation):

§ 55. Free use for persons with disabilities

From published literary works or musical works, in a form other than sound recording, copies may be made for use by persons with disabilities who cannot acquire the work in the usual way. For pure sound recording, the provision applies in section 56.

Published literary works can be reproduced on film, with or without sound, intended for hearing and speech impaired.

The provisions of the first and second paragraphs do not apply to commercial use, nor entitle them to copy copies made by others in accordance with the first paragraph.

The Ministry may in regulations provide that the specified organization may produce, import and exchange copies of published literary works, including sound recordings, adapted for use by the blind, visually impaired, to legitimate individuals and to specified organization in another land, including the transfer of customized intellectual property so that the individual can choose the time and place of access to the work.

§ 56. Conceptual license for the production and use of admission for persons with disabilities

The Ministry may, by individual decision or by regulation, decide that the specified organization or library for free use for persons with disabilities shall have the right, under specified conditions, to produce copies of published literary works through recordings on facilities that may render it. In addition to the text, published works and published photographic works may be reproduced on the recording. The holder is entitled to remuneration that is being investigated by the state. This provision does not apply to commercial use.

Panama

Panama ratified the Treaty in 2017. Panama has the following pre-Marrakesh exception.

39. The following is permitted without authorization by the author or payment of remuneration in relation to works already disclosed:

6. the reproduction of works in Braille or another specific form for the exclusive use of the visually handicapped, provided that the reproduction is not done with gainful intent and the copies are not used for profit-making purposes

Paraguay

Paraguay ratified the Treaty in 2015. There is no known implementation.

Peru

Peru ratified the Treaty in 2016. There is no known implementation.

Philippines

The Republic of the Philippines ratified the Treaty in 2018. The Philippines has the following pre-Marrakesh exception.

Section 184.1

Notwithstanding the provisions of Chapter V, the following acts shall not constitute infringement of copyright:

(I) The reproduction or distribution of published articles or materials in a specialized format exclusively for the use of the blind, visually- and reading-impaired persons: Provided, That such copies and distribution shall be made on a non-profit basis and shall indicate the copyright owner and the date of the original publication.

Poland

The European Union, of which Poland is a Member State, ratified the Treaty in 2018. Under EU law, Poland is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above. Poland has implemented the EU directive and regulation, but an English translation is not yet available.

Portugal

The European Union, of which Portugal is a Member State, ratified the Treaty in 2018. Under EU law, Portugal is required to implement the EU

directive and regulation relating to the Treaty, set forth in the EU section above.

Qatar

Qatar acceded to the Treaty in 2018. There is no known implementation.

Republic of Korea

South Korea ratified the Treaty in 2015. South Korea has the following pre-Marrakesh exception.

Article 33 (Reproduction, etc. for Visually Impaired Persons, etc.)

- (1) A work already made public may be reproduced and distributed in braille for visually impaired persons, etc.
- (2) The facilities (including the heads of the relevant facilities) prescribed by the Presidential Decree among those that seek to promote the welfare of visually impaired persons, etc. may make a sound recording of the literary work already made public, or reproduce, distribute or interactively transmit such a work by recording methods exclusively for visually impaired persons, etc. as prescribed by the Presidential Decree, in order to provide it for the use by the visually impaired persons, etc., but not for the profit-making purposes.
- (3) The scope of visually impaired persons, etc. pursuant to Paragraphs (1) and (2) shall be prescribed by the Presidential Decree.

Romania

The European Union, of which Romania is a Member State, ratified the Treaty in 2018. Under EU law, Romania is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above.

Russian Federation

The Russian Federation ratified the Treaty in 2018. The Russian Federation adopted the following amendment and regulation to implement the Treaty.

Unofficial Translation

Article 1274. Free Use of a Work for Informational, Scientific, Educational, or Cultural Purposes

2. Create copies of lawfully published works in formats that are designed exclusively for use by blind and visually impaired (Braille and other special means) (special formats), as well as the reproduction and distribution of copies without the purpose of profit allowed without the consent of the author or other holder exclusive right and without payment of remuneration but with the obligatory indication of the name of the author whose work is used and the source of borrowing.

Libraries can provide the blind and visually impaired copies of works created in a special format for temporary free use with the issue at home, as well as by providing access to them through information and telecommunication networks. The list of special formats as well as a list of libraries that provide access via information and telecommunication networks to copies of works created in a special format and procedure for granting such access are defined by the Government.

It is not allowed any further reproduction or communication to the public in a different format of the work is intended solely for the use of blind and visually impaired.

The provisions of this paragraph shall not apply to works created for use in specific formats, as well as in respect of phonograms, consisting mainly of music.

Decision Of January 23, 2016 N 32

On The Approval Of The List Of Formats Intended Only For Use Of The Blind And Visually Impaired (Rough-File Font And By Other Special Ways), List Of Libraries, Providing The Blind And Visually Impaired Access Through Information-Telecommunication Networks To Copyrights Works Created In The Formats Intended Exclusively

For Use By The Blind And Visually Impaired (Rough-Point Font And Other Special Methods), And Also Licenses Provided By Libraries Access Blind And Visually Impaired To The Worldwide Workshops, Created In Formats Designed Exclusively For The Use Of The Blind And Visually Impaired (Rough-Point Font And Other Special Methods), Through Information Telecommunication Networks

In accordance with paragraph 2 of Article 1274 of the Civil Code of the Russian Federation, the Government of the Russian Federation decides:

Approve the attached:

A list of formats intended solely for use by blind and visually impaired (relief-point font and other special methods);

A list of libraries providing blind and visually impaired access through information and telecommunication networks to copies of works created in formats intended solely for use by blind and visually impaired (relief-point font and other special methods);

The rules for granting libraries of access to blind and visually impaired copies of works created in formats intended solely for use by blind and visually impaired (relief-point font and other special methods) through information and telecommunication networks.

Formats Intended Only For Use Of The Blind And Visually Impaired (Rough-File Font And By Other Special Ways)

1. Braille relief, intended for writing and reading blind and visually impaired, in hard copy format.
2. The relief-dot Braille font, intended for writing and reading blind and visually impaired, in digital format.
3. «Talking» books created on magnetic 4-track cassettes with a playback speed of 2.38 centimeters per second for listening on a typhlo-tape recorder: a special format for audio recordings, providing technical and (or) software protection of works from unauthorized listening.
4. «Talking» books recorded in digital crypto-protected audio format for listening on a tifloflayer: electronic audiobooks, files of which are created with the help of special software and equipped with crypto protection,

which is implemented using 3-pass stream block encryption MP3 using the algorithm XXTEA with key length 128 bit.

5. Relief graphics: maps, diagrams, drawings, drawings produced in a relief-graphic manner with the help of relief, smooth, dotted, dashed and dot-dashed lines.

Libraries Which Provide The Blind And The Visually Impaired Access Through Information-Telecommunication Networks To Copyrighted Works Created In The Formats Intended Exclusively For Use By Blinds And Visually Impaired (Rough-Dot-Point Font And Other Special Methods)

1. Special libraries for the blind and visually impaired, established by public authorities, local authorities.
2. Public libraries with special units for the blind and visually impaired, established by public authorities, local authorities.
3. Libraries of educational organizations where blind and visually impaired are trained.

Regulations For The Libraries That Provide Access To The Blind And Visually Impaired To The Worldwide Worksheets Created Formats For Designation For Only Use Blind And Visually Impaired (Rough-Spot Font And Other Special Ways), Via Information-Telecommunication Networks

1. These Rules regulate the relations associated with granting access to the blind and visually impaired (hereinafter referred to as users) to copies of legally published works created in formats intended solely for use by the blind and visually impaired listed in paragraphs 2 and 4 of the list of formats intended solely for use Blind and visually impaired (relief-point font and other special methods) (hereinafter—special formats), approved by the Government of the Russian Federation From January 23, 2016 N 32, through information and telecommunication networks.

Access to copies of works created in special formats is provided by libraries listed in the list of libraries that provide blind and visually impaired access through information and telecommunication networks to copies of works created in formats intended solely for use by blind and visually impaired Other special

methods) (hereinafter referred to as the library) approved by the Decree of the Government of the Russian Federation of January 23, 2016 No. 32.

2. Users' access to copies of works created in special formats via information and telecommunication networks can be provided by libraries both in the library room and in the remote access mode from any point where there is a connection to information and telecommunications networks and there is the possibility of using typhlo-technical Means specified in paragraph 10 of these Rules.

3. To obtain access through information and telecommunication networks to copies of works created in special formats, the user must be registered as a user of the library providing the specified access.

4. To register as a user, the library must be submitted to the library:

Identity document (for minors under the age of 14 years—a document proving the identity of their legal representatives (parents, adoptive parents, guardians);

A document confirming the need to use copies of works created in special formats (a certificate of vision disability, a certificate from a doctor about the presence of eye diseases or a membership card of the All-Russian public organization of the disabled «All-Russian Order of the Red Banner of Labor blind company»).

The user can submit these documents personally, through an authorized representative, by facsimile, by e-mail or using other means of communication. By fax and e-mail copies of the specified documents are submitted to the library.

5. Within one working day from the day of receiving the documents specified in clause 4 of these Rules, a library service contract is concluded between the library or educational organization (if the library is a structural subdivision of the educational organization) and the user enters into a contract for library services, including user services in Online mode (hereinafter referred to as the service contract).

For minors under the age of 14, their legal representatives (parents, adoptive parents, guardians) enter into a service contract.

Minors aged between 14 and 18 years, with the exception of minors who have acquired full legal capacity, enter into a service agreement with the written consent of their legal representatives (parents, adoptive parents or guardians).

An essential condition of the service contract is the user's obligation not to transfer copies of copies of works created in special formats to third parties.

6. After the conclusion of the service contract, the library employee (hereinafter referred to as the librarian) independently registers the library user.

The librarian enters the data of the documents specified in clause 4 of these Rules into the library user database and provides the user with a personal login and password for accessing the database containing instances of works created in special formats, as well as an online library user service instruction.

The user can get the login and password for access to copies of works created in special formats, as well as instructions for library user service online, both at personal visits to the library, and by e-mail.

The method for obtaining the specified login, password and instructions (in-house in the library or via e-mail) is determined by the user.

7. The user's online library service instruction contains the information necessary for the user:

- A) to install and configure the program in the information and telecommunications network, allowing access to the database of copies of works created in special formats;
- B) the network address of the database of copies of works created in special formats in the information and telecommunications network;
- C) on the implementation of the entry into the database of copies of works created in special formats, for personal login and password;
- D) to organize the search, selection and copying of copies of works created in special formats in the database.

8. The database of copies of works created in special formats is placed by the library in the information and telecommunications network in the form of an independent information resource at the address indicated in the user's online library user service issued to the user in accordance with paragraph 6 of these Rules. After receiving the personal login and password, the user independently enters them into the database of copies

of works created in special formats and starts searching and copying selected copies of works for their subsequent use on special equipment specified in paragraph 10 of this Regulation.

9. In case the user experiences questions related to the use of copies of works created in special formats, the user can ask for the necessary consultation with the librarian.

Consultations can be provided to the user or his authorized representative when visiting the library, by phone, by e-mail or using other means of communication.

The method of providing advice (when visiting the library, by phone, by e-mail or using other means of communication) is determined by the user.

10. User access to databases of copies of works created in special formats is possible only with the following software and hardware means:

A) screen access programs that read digital information and provide its sound and (or) tactile representation with the help of speech synthesis programs and output to a braille display;

B) computer special workplaces for visually impaired people in accordance with the requirements specified in GOST R 51645-2000 «The state standard of the Russian Federation.» The workplace for the visually impaired is a type of special computer. «Technical requirements for equipment and production environment»;

C) flashplayers;

D) mobile digital devices with software for the reproduction of digital «talking» books with cryptographic protection.

Saint Vincent and Grenadines

Saint Vincent and Grenadines acceded to the Treaty in 2015. There is no known implementation.

Saudi Arabia

Saudi Arabia acceded to the Treaty in 2018. There is no known implementation.

Singapore

Singapore acceded to the Treaty in 2015. Singapore enacted the following amendment to implement the Treaty in 2015.

Division 7—Copying of Works in Institutions Assisting Persons with Reading Disabilities and Institutions Assisting Intellectually Handicapped Readers

Copying, etc., under statutory license for persons with reading disabilities

54.—(1) Where all of the conditions in subsection (4) are satisfied, the copyright in a relevant work that has been published is not infringed by the making, on a non-profit basis, by or on behalf of the body administering an institution assisting persons with reading disabilities or an educational institution, of an accessible format copy of the work for use by a local person with a reading disability for a permitted purpose.

(2) Where all of the conditions in subsection (4) are satisfied, the copyright in a relevant work that has been published is not infringed by the distribution, on a non-profit basis, by or on behalf of the body administering an institution assisting persons with reading disabilities or an educational institution, of an accessible format copy in a physical form of the work to a local person with a reading disability, for use by that person for a permitted purpose.

(3) Where all of the conditions in subsection (4) are satisfied, the copyright in a relevant work that has been published is not infringed by the making available, on a non-profit basis, by or on behalf of the body administering an institution assisting persons with reading disabilities or an educational institution, of an accessible format copy in an electronic form of the work

to a local person with a reading disability, for use by that person for a permitted purpose.

(4) The conditions referred to in subsections (1), (2) and (3) are as follows:

(a) as soon as practicable after the making, distribution or making available of the accessible format copy, as the case may be, the body administering the institution assisting persons with reading disabilities or the educational institution, or the person acting on behalf of that body, makes a record of that act setting out such particulars as may be prescribed in regulations;

(b) the body administering the institution assisting persons with reading disabilities or the educational institution, or the person acting on behalf of that body, is satisfied after reasonable investigation that no new accessible format copy of the relevant work that has been separately published and is in the same format as the copy which is to be made, distributed or made available, can be obtained within a reasonable time at an ordinary commercial price; (c) in the case of an educational institution, the local person with a reading disability for or to whom the accessible format copy is made, made available or distributed is a student of the institution;

(d) such other conditions as may be prescribed in regulations.

(5) Where the conditions in subsection (6) are satisfied, the copyright in a relevant work that has been published is not infringed by—

(a) the making, on a non-profit basis, of an accessible format copy in a physical form of the work for the purpose of export; or

(b) the making available, on a non-profit basis, of an accessible format copy in an electronic form of the work, by or on behalf of a body administering an institution assisting persons with reading disabilities or an educational institution, for or to—

(i) a foreign institution assisting persons with reading disabilities; or

(ii) a person with a reading disability who is not resident in Singapore.

(6) The conditions referred to in subsection (5) are as follows:

(a) the body administering the institution assisting persons with reading disabilities or the educational institution, or the person acting on behalf of that body, complies with such requirements at such time as may be prescribed in regulations, for the purpose of ascertaining or verifying the identity of, and other information concerning—

(i) the foreign institution assisting persons with reading disabilities;
or

(ii) the person with a reading disability who is not resident in Singapore;

(b) as soon as practicable after the making, or the making available, of the accessible format copy, as the case may be, the body administering the institution assisting persons with reading disabilities or the educational institution, or the person acting on behalf of that body makes a record of the act, setting out such particulars as may be prescribed in regulations;

(c) such other conditions as may be prescribed in regulations.(7) Where all of the conditions in subsection (10) are satisfied, the copyright in a relevant work that has been published is not infringed by the making, by or on behalf of the body administering an institution assisting persons with reading disabilities or an educational institution, of a temporary or transient reproduction of an accessible format copy in an electronic form of the work that is received from a foreign institution assisting persons with reading disabilities, being a reproduction that is made incidentally as part of the technical process of such receipt.

(8) Where all of the conditions in subsection (10) are satisfied, the copyright in a relevant work that has been published is not infringed by the importation, by or on behalf of the body administering an institution assisting persons with reading disabilities or an educational institution, of an accessible format copy in a physical form of a relevant work that originated from a foreign institution assisting persons with reading disabilities.

(9) Where all of the conditions in subsection (10) are satisfied, the copyright in a relevant work that has been published is not infringed by the distribution, on a non-profit basis, by or on behalf of the body

administering an institution assisting persons with reading disabilities or an educational institution, of an accessible format copy in a physical form of the work to a local person with a reading disability for use by him for a permitted purpose, being an accessible format copy that originated from a foreign institution assisting persons with reading disabilities.

(10) The conditions referred to in subsections (7), (8) and (9) are as follows:

(a) the body administering the institution assisting persons with reading disabilities or the educational institution made a request to the foreign institution assisting persons with reading disabilities for the accessible format copy for use by a person with a reading disability for a permitted purpose, or for the purpose of distributing that copy on a non-profit basis to a person with a reading disability for use by the person for a permitted purpose;

(b) in the case of an educational institution, the person with a reading disability referred to in paragraph (a) and in subsection (9) is a student of that institution;(c) as soon as practicable after receiving the accessible format copy, the body, or a person acting on its behalf, makes a record setting out such particulars as may be prescribed in regulations;

(d) the body, or the person acting on its behalf, is satisfied after reasonable investigation that no new accessible format copy of the relevant work that has been separately published and is in the same format as the copy requested for, can be obtained within a reasonable time at an ordinary commercial price;

(e) such other conditions as may be prescribed in regulations.

(11) Where all of the conditions in subsection (12) are satisfied, the copyright in a relevant work that has been published is not infringed by the making by—

(a) a local person with a reading disability; or

(b) a person acting on behalf of a local person with a reading disability, not being the body administering—

(i) an institution assisting persons with reading disabilities; or

(ii) an educational institution of which the person with a reading disability is a student, of an accessible format copy of the work for use by the person with a reading disability for a permitted purpose.

(12) The conditions referred to in subsection (11) are as follows:

(a) the local person with a reading disability, or the person acting on his behalf, is satisfied after reasonable investigation that no new accessible format copy of the relevant work that has been separately published and is in the same format as the copy which is to be made, can be obtained within a reasonable time at an ordinary commercial price;

(b) such other conditions as may be prescribed in regulations.

(13) For the purposes of subsections (4)(a), (6)(b) and (10)(c), a record—

(a) shall be kept in writing or in any other manner prescribed by the regulations; and

(b) if it is kept in writing, shall be in accordance with the prescribed form.

(14) For the purposes of subsections (4)(b), (10)(d) and (12)(a), “new accessible format copy”, in relation to a relevant work, means—(a) if the accessible format copy of the work is a physical copy, a copy that is not secondhand;

(b) if the accessible format copy of the work is a sound recording or an electronic copy of the work that is embodied or stored in a record or other article, a copy that is embodied or stored in a record or other article that is not secondhand; or

(c) where the accessible format copy of the work is a sound recording or an electronic copy of the work that is not embodied or stored in a record or other article, a copy that is fit for use.

(15) Where—

(a) by virtue of subsection (1), (2), (3) or (9), the making, or the making available or distribution to a person, of an accessible format copy of a relevant work does not infringe the copyright in a relevant work; and

(b) the owner of the copyright in the relevant work makes a request in writing, at any time during the period prescribed by regulations after

that act for payment for the copy so made, made available or distributed, then the body administering the institution assisting persons with reading disabilities or the educational institution shall pay to the owner such amount by way of equitable remuneration for that act—

- (i) as is agreed upon between the owner and the body; or
- (ii) in default of agreement, such amount as is determined by a Copyright Tribunal under section 158(3) on the application of either the owner or the body.

(16) Where a Copyright Tribunal has determined the amount of equitable remuneration payable to the owner of the copyright by the body administering the institution assisting persons with reading disabilities or the educational institution, the owner may recover that amount from the body in a court of competent jurisdiction as a debt due to him.

(17) Notwithstanding any other provision of this Act, copyright shall not vest in the maker of a copy of a relevant work for a person with a reading disability by reason of the maker making that copy.

(18) Nothing in this section shall affect the right of the owner of the copyright in a relevant work to grant a license authorising a body administering an institution assisting persons with reading disabilities or an educational institution to make, make available or distribute, or cause to be made, made available or distributed, an accessible format copy of the relevant work without infringement of that copyright.

(19) In this section—

“local person with a reading disability” means a person with a reading disability who is resident in Singapore;

“permitted purpose”, in relation to a person with a reading disability, means—

- (a) the purpose of research or study undertaken or to be undertaken by the person; or
- (b) the purpose of otherwise instructing himself in any matter;

“relevant work” means—

- (a) a literary work;

- (b) a dramatic work; or
- (c) an artistic work.

Multiple copying under statutory license by institutions assisting intellectually handicapped readers

54A.—(1) The copyright in a work that has been published is not infringed by the making, by or on behalf of the body administering an institution assisting intellectually handicapped readers, of a copy of the whole or a part of the work, for use in the provision, whether by the institution or otherwise, of assistance to intellectually handicapped readers.

(2) Subsection (1) shall not apply to the making of any copy of a work, being a work that has been separately published in a form that would be suitable for use in the provision of the assistance referred to in that subsection, unless the person who makes the copy, or causes that copy to be made, for or on behalf of the body administering an institution assisting intellectually handicapped readers is satisfied, after reasonable investigation, that no new copy of the work in a form suitable for use in the provision of that assistance can be obtained within a reasonable time at an ordinary commercial price.

(3) For the purposes of subsection (2), a copy shall be taken to be new if it is not secondhand.(4) Subsection (1) shall not apply to the reproduction of the whole or a part of an article contained in a periodical publication by way of the making, by or on behalf of the body administering an institution assisting intellectually handicapped readers, of an intellectually handicapped reader's copy of the article or of that part of the article unless there is made, by or on behalf of that body, as soon as practicable after the making of that copy, a record of the copying setting out such particulars as may be prescribed by regulations.

(5) Subsection (1) shall not apply to the reproduction of the whole or a part of a work (not being an article contained in a periodical publication) by way of the making, by or on behalf of the body administering an institution assisting intellectually handicapped readers, of an intellectually handicapped reader's copy of the work or of that part of the work unless there is made, by or on behalf of that body, as soon as practicable after the

making of that copy, a record of the copying setting out such particulars as may be prescribed by regulations.

(6) For the purposes of subsections (4) and (5), a record of the copying of a work or a part of a work—

(a) shall be kept in writing or in any other manner prescribed by regulations; and

(b) if it is kept in writing, shall be in accordance with the prescribed form.

(7) Where an intellectually handicapped reader's copy of the whole or a part of a work is made by or on behalf of the body administering an institution assisting intellectually handicapped readers and, by virtue of this section, the making of that copy does not infringe copyright in the work, that body shall, if the owner of the copyright in the work makes a request, in writing, at any time during the prescribed period after the making of the copy, for payment for the making of the copy, pay to the owner such an amount by way of equitable remuneration for the making of that copy as is agreed upon between the owner and the body, or, in default of agreement, such amount as is determined by a Copyright Tribunal on the application of either the owner or the body.

(8) Where a Copyright Tribunal has determined the amount of equitable remuneration payable to the owner of the copyright in a work by the body administering an institution assisting handicapped readers in relation to an intellectually handicapped reader's copy of the whole or a part of that work that has been made by or on behalf of that body in reliance on this section, the owner may recover that amount from the body in a court of competent jurisdiction as a debt due to him.

(9) Notwithstanding any other provision of this Act, copyright shall not vest in the maker of the intellectually handicapped reader's copy by reason of his making that copy.

(10) Nothing in this section shall affect the right of the owner of the copyright in a work to grant a license authorising the body administering an institution assisting intellectually handicapped readers to make, or cause to be made, copies of the whole or a part of the work without infringement of that copyright.

Slovakia

The European Union, of which Slovakia is a Member State, ratified the Treaty in 2018. Under EU law, Slovakia is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above. Slovakia has implemented the EU directive and regulation, but an English translation is not yet available.

Slovenia

The European Union, of which Slovenia is a Member State, ratified the Treaty in 2018. Under EU law, Slovenia is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above.

Spain

The European Union, of which Spain is a Member State, ratified the Treaty in 2018. Under EU law, Spain is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above.

Spain has adopted the following regulation to transpose the EU directive and regulation into Spanish law (unofficial translation).

Article 31 ter. Accessibility for people with disabilities.

1. The acts of reproduction, distribution and public communication of works already disclosed that benefit people with disabilities do not need authorization from the owner of the intellectual property rights, provided they do not have a lucrative purpose, they have a direct relationship with the disability in question, are carried out through a procedure or means adapted to the disability and are limited to what it demands.
2. In those special cases that do not conflict with the normal exploitation of the work, and that do not prejudice in excess the legitimate interests of the right holder, the authorized entities established in Spain that produce copies in accessible format of works for exclusive use of blind people, with

visual impairment or with other difficulties to access printed texts, may carry out the acts of the previous section, in the manner referred to in it, for the exclusive use of said beneficiaries or of an authorized entity established in any State member of the European Union. Likewise, the beneficiaries and authorized entities established in Spain may obtain or consult a copy in an accessible format provided by an authorized entity established in any Member State of the European Union.

Visual impairment and difficulty in accessing printed works are understood, in order to determine the beneficiaries of this section, those that have the persons who:

- a) they are blind;
- b) have a visual disability that cannot be corrected to give a visual function substantially equivalent to that of a person without that type of disability, and who, consequently, are not able to read printed works to a degree substantially equivalent to that of a person without that type of disability;
- c) have a difficulty in perceiving or reading which, consequently, makes it impossible for them to read printed works to a degree substantially equivalent to that of a person without that difficulty, or
- d) Publish information on the actions carried out in application of the previous letters, being sufficient, for these purposes, a half-yearly update on its website and a referral of this information, updated every six months, to the management center of the Ministry of Education, Culture and Sport competent in the matter of intellectual property and the entity or entities of management of intellectual property rights that represent the owners of the works adapted to accessible format. The referred center of the Ministry of Education, Culture and Sport will create and keep a record of the authorized entities and may verify, at any time, the actions reported by them.
- e) Provide in an accessible manner, upon request, the list of works and formats available as provided in letter d), and the data of the authorized entities with which they have exchanged copies in accessible format, to the beneficiaries of the previous section , to other authorized entities or right holders.

The Ministry of Education, Culture and Sports will send the European Commission the information it has received from the authorized entities, including their name and contact information.

These obligations must be fulfilled in full compliance with the regulations in force regarding the processing of personal data.

4. The entities will communicate to the directive center of the Ministry of Education, Culture and Sport competent in the matter of intellectual property, the fulfillment of the requirements contained in the previous sections 2 and 3, enforceable to an authorized entity. In the event of non-compliance with the same and the failure to respond to the timely request for rectification, the termination of the activity regulated in this article will be required.

5. The provisions of paragraphs 2, 3 and 4 above are without prejudice to the applicability of European Union regulations on the cross-border exchange between these and third countries of copies in accessible format of certain works and other benefits protected by copyright and related rights in favor of blind people, visually impaired or with other difficulties in accessing printed texts.

Sri Lanka

Sri Lanka acceded to the Treaty in 2016. There is no known implementation.

Sweden

The European Union, of which Sweden is a Member State, ratified the Treaty in 2018. Under EU law, Sweden is required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above. Sweden has implemented the EU directive and regulation, but an English translation is not yet available.

Tajikistan

Tajikistan acceded to the Treaty in 2019. There is no known implementation.

Thailand

Thailand acceded to the Treaty in 2019. Thailand implemented the Treaty in 2018, but an English translation is not yet available.

Tunisia

Tunisia ratified the Treaty in 2016. There is no known implementation.

Uganda

Uganda ratified the Treaty in 2018. Uganda has the following pre-Marrakesh exception.

15. (1) The fair use of a protected work in its original language or in a translation shall not be an infringement of the right of the author and shall not require the consent of the owner of the copyright where—
 - (k) any work is transcribed into braille or sign language for educational purpose of persons with disabilities.
- (2) In determining whether the use made of a work in any particular case is a fair use the following factors shall be considered— (a) the purpose and character of the use, including whether the use is of a commercial nature or is for non-profit educational purposes; (b) the nature of the protected work; (c) the amount and substantiality of the portion used in relation to the protected work as a whole; and (d) the effect of the use upon the potential market for value of the protected work.

United Arab Emirates

United Arab Emirates acceded to the Treaty in 2014. There is no known implementation.

United Kingdom

When the European Union ratified the Treaty in 2008, the United Kingdom was still an EU Member State. Under EU law, the UK was required to implement the EU directive and regulation relating to the Treaty, set forth in the EU section above.

The UK adopted the following provision in 2014 to conform to the Treaty.

31A Disabled persons: copies of works for personal use

- (1) This section applies if—
 - (a) a disabled person has lawful possession or lawful use of a copy of the whole or part of a work, and
 - (b) the person's disability prevents the person from enjoying the work to the same degree as a person who does not have that disability.
- (2) The making of an accessible copy of the copy of the work referred to in subsection (1)(a) does not infringe copyright if—
 - (a) the copy is made by the disabled person or by a person acting on behalf of the disabled person,
 - (b) the copy is made for the disabled person's personal use, and
 - (c) the same kind of accessible copies of the work are not commercially available on reasonable terms by or with the authority of the copyright owner.
- (3) If a person makes an accessible copy under this section on behalf of a disabled person and charges the disabled person for it, the sum charged must not exceed the cost of making and supplying the copy.
- (4) Copyright is infringed by the transfer of an accessible copy of a work made under this section to any person other than—

(a) a person by or for whom an accessible copy of the work may be made under this section, or

(b) a person who intends to transfer the copy to a person falling within paragraph (a),

except where the transfer is authorised by the copyright owner.

(5) An accessible copy of a work made under this section is to be treated for all purposes as an infringing copy if it is held by a person at a time when the person does not fall within subsection (4)(a) or (b).

(6) If an accessible copy made under this section is subsequently dealt with—

(a) it is to be treated as an infringing copy for the purposes of that dealing, and

(b) if that dealing infringes copyright, it is to be treated as an infringing copy for all subsequent purposes.

(7) In this section “dealt with” means sold or let for hire or offered or exposed for sale or hire.

31B Making and supply of accessible copies by authorised bodies

(1) If an authorised body has lawful possession of a copy of the whole or part of a published work, the body may, without infringing copyright, make and supply accessible copies of the work for the personal use of disabled persons.

(2) But subsection (1) does not apply if the same kind of accessible copies of the work are commercially available on reasonable terms by or with the authority of the copyright owner.

(3) If an authorised body has lawful access to or lawful possession of the whole or part of a broadcast or a copy of a broadcast, the body may, without infringing copyright—

(a) in the case of a broadcast, make a recording of the broadcast, and make and supply accessible copies of the recording or of any work included in the broadcast, and

(b) in the case of a copy of a broadcast, make and supply accessible copies of that copy or of any work included in the broadcast,

for the personal use of disabled persons.

(4) But subsection (3) does not apply if the same kind of accessible copies of the broadcast, or of any work included in it, are commercially available on reasonable terms by or with the authority of the copyright owner.

(5) For the purposes of subsections (1) and (3), supply “for the personal use of disabled persons” includes supply to a person acting on behalf of a disabled person.

(6) An authorised body which is an educational establishment conducted for profit must ensure that any accessible copies which it makes under this section are used only for its educational purposes.

(7) An accessible copy made under this section must be accompanied by—

(a) a statement that it is made under this section, and

(b) a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise).

(8) If an accessible copy is made under this section of a work which is in copy-protected electronic form, the accessible copy must, so far as is reasonably practicable, incorporate the same or equally effective copy protection (unless the copyright owner agrees otherwise).

(9) An authorised body which has made an accessible copy of a work under this section may supply it to another authorised body which is entitled to make accessible copies of the work under this section for the purposes of enabling that other body to make accessible copies of the work.

(10) If an authorised body supplies an accessible copy it has made under this section to a person or authorised body as permitted by this section and charges the person or body for it, the sum charged must not exceed the cost of making and supplying the copy.

(11) If an accessible copy made under this section is subsequently dealt with—

(a) it is to be treated as an infringing copy for the purposes of that dealing, and

(b) if that dealing infringes copyright, it is to be treated as an infringing copy for all subsequent purposes.

(12) In this section “dealt with” means sold or let for hire or offered or exposed for sale or hire.

31BA Making and supply of intermediate copies by authorised bodies

(1) An authorised body which is entitled to make an accessible copy of a work under section 31B may, without infringing copyright, make a copy of the work (“an intermediate copy”) if this is necessary in order to make the accessible copy.

(2) An authorised body which has made an intermediate copy of a work under this section may supply it to another authorised body which is entitled to make accessible copies of the work under section 31B for the purposes of enabling that other body to make accessible copies of the work.

(3) Copyright is infringed by the transfer of an intermediate copy made under this section to a person other than another authorised body as permitted by subsection (2), except where the transfer is authorised by the copyright owner.

(4) If an authorised body supplies an intermediate copy to an authorised body under subsection (2) and charges the body for it, the sum charged must not exceed the cost of making and supplying the copy.

31BB Accessible and intermediate copies: records and notification

(1) An authorised body must keep a record of—

- (a) accessible copies it makes under section 31B,
- (b) intermediate copies it makes under section 31BA, and
- (c) the persons to whom such copies are supplied.

(2) An authorised body must allow the copyright owner or a person acting for the copyright owner, on giving reasonable notice, to inspect at any reasonable time—

- (a) records kept under subsection (1), and
- (b) records of copies made under sections 31B and 31C as those sections were in force before the coming into force of these Regulations.

(3) Within a reasonable time of making an accessible copy under section 31B, an authorised body must—

- (a) notify any body which—
 - (i) represents particular copyright owners or owners of copyright in the type of work concerned, and
 - (ii) has given notice to the Secretary of State of the copyright owners, or the classes of copyright owner, represented by it, or
- (b) if there is no such body, notify the copyright owner (unless it is not reasonably possible to ascertain the name and address of the copyright owner).

31F Sections 31A to 31BB: interpretation and general

- (1) This section supplements sections 31A to 31BB and includes definitions.
- (2) “Disabled person” means a person who has a physical or mental impairment which prevents the person from enjoying a copyright work to the same degree as a person who does not have that impairment, and “disability” is to be construed accordingly.
- (3) But a person is not to be regarded as disabled by reason only of an impairment of visual function which can be improved, by the use of corrective lenses, to a level that is normally acceptable for reading without a special level or kind of light.
- (4) An “accessible copy” of a copyright work means a version of the work which enables the fuller enjoyment of the work by disabled persons.
- (5) An accessible copy—
 - (a) may include facilities for navigating around the version of the work, but
 - (b) must not include any changes to the work which are not necessary to overcome the problems suffered by the disabled persons for whom the accessible copy is intended.
- (6) “Authorised body” means—
 - (a) an educational establishment, or
 - (b) a body that is not conducted for profit.

(7) The “supply” of a copy includes making it available for use, otherwise than for direct or indirect economic or commercial advantage, on terms that it will or may be returned.

(8) To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of section 31A, 31B or 31BA, would not infringe copyright, that term is unenforceable.

United States

The United States ratified the Treaty in 2019. The United States adopted the following amendment to implement the Treaty.

§ 121 Limitations on exclusive rights: Reproduction for blind or other people with disabilities

(a) Notwithstanding the provisions of section 106, it is not an infringement of copyright for an authorized entity to reproduce or to distribute in the United States copies or phonorecords of a previously published literary work or of a previously published musical work that has been fixed in the form of text or notation if such copies or phonorecords are reproduced or distributed in accessible formats exclusively for use by eligible persons.

(b) (1) Copies or phonorecords to which this section applies shall—

(A) not be reproduced or distributed in the United States in a format other than an accessible format exclusively for use by eligible persons;

(B) bear a notice that any further reproduction or distribution in a format other than an accessible format is an infringement; and

(C) include a copyright notice identifying the copyright owner and the date of the original publication.

(2) The provisions of this subsection shall not apply to standardized, secure, or norm-referenced tests and related testing material, or to computer programs, except the portions thereof that are in conventional human language (including descriptions of pictorial works) and displayed to users in the ordinary course of using the computer programs.

(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a publisher of print instructional materials for use in elementary or secondary schools to create and distribute to the National Instructional Materials Access Center copies of the electronic files described in sections 612(a)(23)(C), 613(a)(6), and section 674(e) of the Individuals with Disabilities Education Act that contain the contents of print instructional materials using the National Instructional Material Accessibility Standard (as defined in section 674(e)(3) of that Act), if—

- (1) the inclusion of the contents of such print instructional materials is required by any State educational agency or local educational agency;
- (2) the publisher had the right to publish such print instructional materials in print formats; and
- (3) such copies are used solely for reproduction or distribution of the contents of such print instructional materials in accessible formats.

(d) For purposes of this section, the term—

- (1) ‘accessible format’ means an alternative manner or form that gives an eligible person access to the work when the copy or phonorecord in the accessible format is used exclusively by the eligible person to permit him or her to have access as feasibly and comfortably as a person without such disability as described in paragraph (3);
- (2) ‘authorized entity’ means a nonprofit organization or a governmental agency that has a primary mission to provide specialized services relating to training, education, or adaptive reading or information access needs of blind or other persons with disabilities;
- (3) ‘eligible person’ means an individual who, regardless of any other disability—
 - (A) is blind;
 - (B) has a visual impairment or perceptual or reading disability that cannot be improved to give visual function substantially equivalent to that of a person who has no such impairment or disability and so is unable to read printed works to substantially the same degree as a person without an impairment or disability; or

(C) is otherwise unable, through physical disability, to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading; and

(4) ‘print instructional materials’ has the meaning given under section 674(e)(3)(C) of the Individuals with Disabilities Education Act.

§ 121A Limitations on exclusive rights: Reproduction for blind or other people with disabilities in Marrakesh Treaty countries

(a) Notwithstanding the provisions of sections 106 and 602, it is not an infringement of copyright for an authorized entity, acting pursuant to this section, to export copies or phonorecords of a previously published literary work or of a previously published musical work that has been fixed in the form of text or notation in accessible formats to another country when the exportation is made either to—

(1) an authorized entity located in a country that is a Party to the Marrakesh Treaty; or

(2) an eligible person in a country that is a Party to the Marrakesh Treaty, if prior to the exportation of such copies or phonorecords, the authorized entity engaged in the exportation did not know or have reasonable grounds to know that the copies or phonorecords would be used other than by eligible persons.

(b) Notwithstanding the provisions of sections 106 and 602, it is not an infringement of copyright for an authorized entity or an eligible person, or someone acting on behalf of an eligible person, acting pursuant to this section, to import copies or phonorecords of a previously published literary work or of a previously published musical work that has been fixed in the form of text or notation in accessible formats.

(c) In conducting activities under subsection (a) or (b), an authorized entity shall establish and follow its own practices, in keeping with its particular circumstances, to—

(1) establish that the persons the authorized entity serves are eligible persons;

(2) limit to eligible persons and authorized entities the distribution of accessible format copies by the authorized entity;

- (3) discourage the reproduction and distribution of unauthorized copies;
- (4) maintain due care in, and records of, the handling of copies of works by the authorized entity, while respecting the privacy of eligible persons on an equal basis with others; and
- (5) facilitate effective cross-border exchange of accessible format copies by making publicly available—
 - (A) the titles of works for which the authorized entity has accessible format copies or phonorecords and the specific accessible formats in which they are available; and
 - (B) information on the policies, practices, and authorized entity partners of the authorized entity for the crossborder exchange of accessible format copies.
- (d) Nothing in this section shall be construed to establish—
 - (1) a cause of action under this title; or
 - (2) a basis for regulation by any Federal agency.
- (e) Nothing in this section shall be construed to limit the ability to engage in any activity otherwise permitted under this title.
- (f) For purposes of this section—
 - (1) the terms ‘accessible format’, ‘authorized entity’, and ‘eligible person’ have the meanings given those terms in section 121; and
 - (2) the term ‘Marrakesh Treaty’ means the Marrakesh Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities concluded at Marrakesh, Morocco, on June 28, 2013.

Uruguay

Uruguay ratified the Treaty in 2014. The President of Uruguay issued the following regulatory decree to implement the Treaty in 2017:

Artículo 1

Se consideran comprendidas en la excepción a los derechos de autor, prevista en el numeral 12° del artículo 45 de la Ley 9.739 de 17 de diciembre de 1937 en la redacción dada por el artículo 237 de la Ley 19.149 de 24 de octubre de 2013, a favor de personas con discapacidad visual o con otra discapacidad para el acceso a la lectura en texto impreso, así como discapacidad motriz, intelectual leve, moderada o severa, las obras que se pueden expresar en forma de texto, notación o ilustraciones conexas que hayan sido lícitamente publicadas o puestas a disposición del público por cualquier medio.

Quedan igualmente comprendidas en la excepción las obras en formato audio, como los audiolibros u otros formatos accesibles.

Artículo 2

Las obras producidas o adaptadas bajo la excepción deberán cumplir con los siguientes requisitos:

- a) Estar en un formato accesible para personas con discapacidad según lo previsto en el artículo 1° del presente Decreto.
- b) Estar generadas en formatos abiertos de acuerdo a la definición dada en el literal c) del artículo 5° de la Ley 19.179 de 27 de diciembre de 2013.
- c) El ejemplar en formato accesible deberá ser utilizado exclusivamente por las personas beneficiarias y sin fines de lucro.
- d) Deberán respetar la integridad de la obra original, tomando en debida consideración los cambios necesarios para hacer que la obra sea accesible en el formato alternativo y las necesidades de accesibilidad de las personas beneficiarias.

Artículo 3

Se entenderá por formatos accesibles, a efecto del presente Decreto, aquellos formatos que permitan a las personas beneficiarias un acceso tan viable y cómodo como el de las personas sin discapacidad o sin otras dificultades para acceder al texto impreso.

Artículo 4

Podrán realizar formatos accesibles de acuerdo al presente Decreto las personas beneficiarias y las instituciones autorizadas.

Artículo 5

Se entenderá por persona beneficiaria a los efectos del presente Decreto:

- a) Personas con baja visión, ceguera u otra discapacidad visual.
- b) Personas con una discapacidad distinta a la discapacidad visual tales como la discapacidad motriz, intelectual leve, moderada o severa, o dislexia que en razón de la discapacidad tenga dificultad para acceder al texto impreso, y que por este motivo se encuentre en una situación de desventaja en el acceso a la lectura en comparación con una persona sin discapacidad.
- c) Que la persona no pueda de otra forma, por una discapacidad física, sostener o manipular un libro o centrar la vista o mover los ojos en la medida en que usualmente se considera apropiado para la lectura independientemente de otras discapacidades.

Se hará extensivo además y en lo pertinente el concepto de persona beneficiaria a aquellas personas que actúen en nombre de la beneficiaria.

Artículo 6

Será institución autorizada aquella que proporcione obras producidas o adaptadas en formato accesible a las personas beneficiarias, sin ánimo de lucro y con fines de educación, formación pedagógica, lectura adaptada o acceso a la información.

La institución podrá ser pública o privada, de naturaleza jurídica Fundación o Asociación y deberá proporcionar los mismos servicios a las personas beneficiarias, como una de sus actividades principales u obligaciones institucionales.

Artículo 7

Obligaciones de la institución autorizada:

- a) Poner a disposición los ejemplares en formato accesible solamente a las personas beneficiarias u otras instituciones autorizadas de acuerdo a la presente reglamentación.
- b) Tomar las medidas que considere a su alcance, para desalentar la reproducción, distribución, la comunicación y la puesta a disposición públicas ilícitas y/o no autorizadas de ejemplares de las obras en formato accesible.
- c) Demostrar el debido cuidado en el manejo de las obras y de sus copias en formato accesible.
- d) Mantener el debido registro de las obras creadas y adaptadas en formato accesible.
- e) Cumplir con los requisitos establecidos para el Registro de Obras en Formatos Accesibles e Instituciones Autorizadas comprendidas en la excepción de derecho de autor a favor de personas ciegas o con otras discapacidades para la lectura.
- f) Entregar a la Dirección General de la Biblioteca Nacional del Ministerio de Educación y Cultura, a su solicitud, un ejemplar en formato accesible de las obras que tengan a su disposición.
- g) Poner a disposición de manera pública, en especial en su sitio web, información sobre la manera en que se cumple con las obligaciones establecidas en el presente artículo.

Artículo 8

Los derechos de autor y derechos conexos comprendidos dentro de la excepción son el derecho de reproducción, el derecho de distribución y el derecho de comunicación al público incluida la puesta a disposición del público, así como la adaptación para permitir los cambios necesarios para hacer accesible la obra en el formato alternativo.

La persona beneficiaria podrá realizar un ejemplar en formato accesible u obtenerlo de otro beneficiario o entidad autorizada.

Artículo 9

Autorízase el intercambio transfronterizo de ejemplares de obras en formatos accesibles en las siguientes condiciones:

- a) La institución autorizada que se encuentre registrada en registro de obras en formatos accesibles e instituciones autorizadas comprendidas en la excepción de derecho de autor a favor de personas ciegas o con otras discapacidades para la lectura podrá distribuir, comunicar o poner disposición obras en formatos accesibles a personas beneficiarias o a instituciones autorizadas establecidas en otro país Parte del Tratado de Marrakech o de un país cuya legislación lo admita.
- b) Las personas beneficiarias e instituciones autorizadas podrán también importar ejemplares en formato accesible, sin la autorización del titular de los derechos.

Artículo 10

Las actividades dirigidas al goce y ejercicio de los derechos conferidos por la excepción, no se encuentran alcanzadas por las disposiciones y acciones jurídicas contra la elusión de medidas tecnológicas de protección.

Artículo 11

La aplicación de la excepción evitará el menoscabo y asegurará en todo lo posible la protección de la intimidad de los beneficiarios en igualdad de condiciones con las demás personas.

Artículo 12

La sección tendrá los siguientes cometidos:

- A) Llevar un registro de las obras producidas, adaptadas e importadas en formatos accesibles.
- B) Controlar que los usos de las mismas cumplan con los requisitos y objetivos de la excepción.
- C) Formar y mantener un catálogo público de las obras producidas e importadas bajo la excepción a fin de apoyar las tareas de producción de obras y facilitar el acceso e intercambio de las mismas por las personas beneficiarias e instituciones autorizadas.
- D) Llevar un Registro de las instituciones autorizadas para las obras producidas, adaptadas e importadas a partir de que se encuentre vigente el presente Decreto dichas instituciones deberán acreditar en

su solicitud de registro los extremos enunciados en el artículo 6° del presente Decreto.

El registro será obligatorio para las instituciones autorizadas que realicen la operación de exportación de formatos accesibles en las condiciones previstas en el literal a) del artículo 9° del presente Decreto.

Artículo 13

La Dirección General de la Biblioteca Nacional del Ministerio de Educación y Cultura tendrá a su cargo:

- a) La formación y mantenimiento de una base de datos de las obras realizadas al amparo de la excepción y el presente Decreto.
- b) Llevar adelante actividades de coordinación y cooperación con las demás instituciones autorizadas.
- c) La recopilación, ordenamiento y publicidad de toda la información relativa a la actividad de las entidades autorizadas, las publicaciones de obras que se realicen en el marco de la excepción, el intercambio transfronterizo y demás actividades que se lleven adelante en el marco del Tratado.
- d) El desarrollo de actividades por sí y en cooperación con las entidades autorizadas dirigidas a facilitar y estimular el intercambio transfronterizo.

Artículo 14

Al Consejo de Derecho de Autor le corresponderá la coordinación, vigilancia y contralor de las actividades que se lleven adelante en ejercicio de la excepción, en especial la de las instituciones autorizadas.

Artículo 15

Créase una Comisión de seguimiento y apoyo de las actividades cumplidas en el marco de la presente reglamentación, integrada por el Consejo de Derecho de Autor, la Dirección de Educación y la Dirección General de la Biblioteca Nacional del Ministerio de Educación y Cultura, la Universidad de la República, la Administración Nacional de Educación Pública y Asociaciones Civiles integradas por personas beneficiarias.

La Comisión participará en la elaboración de iniciativas y propuestas que en especial atiendan a los resultados de la experiencia en la aplicación de la excepción.

Artículo 16

Las instituciones de enseñanza públicas y/o privadas, las Bibliotecas públicas y/o privadas que venían realizando formatos accesibles entre ellas la Unión Nacional de Ciegos del Uruguay y la Fundación Braille del Uruguay, dentro de los 6 (seis) meses de aprobado el presente Decreto deberán inscribirse en el Registro de Obras en Formatos Accesibles e Instituciones Autorizadas comprendidas en la excepción de derecho de autor a favor de personas ciegas o con otras discapacidades para la lectura.

Unofficial Translation

Article 1

They are considered included in the exception to copyright, provided for in paragraph 12 of Article 45 of Law 9.739 of December 17, 1937 in the wording given by Article 237 of Law 19.149 of October 24, 2013, in favor of people with visual impairment or with another disability for access to reading in printed text, as well as motor disability, mild, moderate or severe intellectual, works that can be expressed in the form of text, notation or related illustrations that have been lawfully published or made available to the public by any means.

Works in audio format, such as audiobooks or other accessible formats, are also included in the exception.

Article 2

Works produced or adapted under the exception must comply with the following requirements:

- a) Be in an accessible format for people with disabilities as provided in article 1 of this Decree.
- b) Be generated in open formats according to the definition given in literal c) of article 5 of Law 19,179 of December 27, 2013.
- c) The copy in accessible format should be used exclusively by the beneficiaries and non-profit.

d) They must respect the integrity of the original work, taking into due consideration the necessary changes to make the work accessible in the alternative format and the accessibility needs of the beneficiaries.

Article 3

Accessible formats will be understood, for the purpose of this Decree, those formats that allow beneficiaries access as viable and comfortable as that of people without disabilities or without other difficulties to access the printed text.

Article 4

The beneficiaries and the authorized institutions can make accessible formats according to this Decree.

Article 5

Beneficiary shall be understood for the purposes of this Decree:

- a) People with low vision, blindness or other visual disability.
- b) Persons with a disability other than visual impairment, such as motor disability, mild, moderate or severe intellectual disability, or dyslexia who, due to disability, have difficulty accessing the printed text, and for this reason are in a situation of disadvantage in access to reading compared to a person without disability.
- c) That the person can not otherwise, for a physical disability, hold or manipulate a book or focus the eyes or move the eyes to the extent that is usually considered appropriate for reading independently of other disabilities.

In addition, the concept of beneficiary will be extended to those persons acting on behalf of the beneficiary.

Article 6

An authorized institution shall be one that provides works produced or adapted in an accessible format to the beneficiaries, without profit motive and for the purposes of education, pedagogical training, adapted reading or access to information.

The institution may be public or private, of a legal nature Foundation or Association and shall provide the same services to the beneficiaries, as one of its main activities or institutional obligations.

Article 7

Obligations of the authorized institution:

- a) Make available copies in accessible format only to beneficiaries or other authorized institutions according to this regulation.
- b) Take the measures considered within its reach, to discourage the reproduction, distribution, communication and public availability of illicit and / or unauthorized copies of the works in an accessible format.
- c) Demonstrate due care in handling the works and their copies in an accessible format.
- d) Maintain the proper registration of the works created and adapted in an accessible format.
- e) Comply with the requirements established for the Registry of Works in Accessible Formats and Authorized Institutions included in the exception of copyright in favor of blind people or with other disabilities for reading.
- f) Deliver to the General Directorate of the National Library of the Ministry of Education and Culture, upon request, a copy in accessible format of the works available to them.
- g) Make available in a public way, especially on its website, information on the manner in which the obligations established in this article are complied with.

Article 8

Copyright and related rights included in the exception are the right of reproduction, the right of distribution and the right of communication to the public, including the making available to the public, as well as the adaptation to allow the necessary changes to make the work in the alternative format.

The beneficiary may make a copy in accessible format or obtain it from another beneficiary or authorized entity.

Article 9

The cross-border exchange of copies of works in accessible formats is authorized under the following conditions:

- a) The authorized institution that is registered in the register of works in accessible formats and authorized institutions included in the exception of copyright in favor of blind or with other disabilities for reading may distribute, communicate or make available works in accessible formats to beneficiaries or authorized institutions established in another country Party to the Marrakesh Treaty or a country whose legislation allows it.
- b) Beneficiaries and authorized institutions may also import copies in accessible format, without the authorization of the owner of the rights.

Article 10

The activities directed to the enjoyment and exercise of the rights conferred by the exception, are not reached by the provisions and legal actions against the circumvention of technological protection measures.

Article 11

The application of the exception will avoid the impairment and will ensure as much as possible the protection of the privacy of the beneficiaries on equal terms with other people.

Article 12

The section will have the following tasks:

- A) Keep a record of the works produced, adapted and imported in accessible formats.
- B) Check that the uses thereof comply with the requirements and objectives of the exception.
- C) Form and maintain a public catalog of the works produced and imported under the exception in order to support the tasks of production of works and facilitate access and exchange of them by the beneficiaries and authorized institutions.

D) Keep a Register of the authorized institutions for the produced, adapted and imported works from which this Decree is in force. These institutions must accredit in their application for registration the ends set forth in Article 6 of this Decree.

The registration will be obligatory for the authorized institutions that carry out the export operation of accessible formats under the conditions provided in letter a) of article 9 of this Decree.

Article 13

The General Directorate of the National Library of the Ministry of Education and Culture will be in charge of:

- a) The formation and maintenance of a database of the works carried out under the exception and this Decree.
- b) Carry out coordination and cooperation activities with the other authorized institutions.
- c) The compilation, organization and publicity of all the information related to the activity of the authorized entities, the publications of works that are carried out within the framework of the exception, the cross-border exchange and other activities carried out in the framework of the Treaty.
- d) The development of activities by themselves and in cooperation with authorized entities aimed at facilitating and stimulating cross-border exchange.

Article 14

The Copyright Council shall be responsible for the coordination, monitoring and control of the activities carried out in the exercise of the exception, especially that of the authorized institutions.

Article 15

Create a Commission to monitor and support the activities carried out within the framework of the present regulation, integrated by the Copyright Council, the Directorate of Education and the General Directorate of the National Library of the Ministry of Education and Culture, the University of the Republic, the National Administration of

Public Education and Civil Associations composed of beneficiaries. The Commission will participate in the elaboration of initiatives and proposals that especially attend to the results of the experience in the application of the exception.

Article 16

Public and/or private educational institutions, public and/or private libraries that have been making accessible formats, including the National Union of the Blind of Uruguay and the Braille Foundation of Uruguay, within 6 (six) months of the approval of this Decree must be registered in the Registry of Works in Accessible Formats and Authorized Institutions included in the exception of copyright in favor of blind or with other disabilities for reading.

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