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EVALUATION

Accompanying the document

Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee

on the Review of the Marrakesh Directive 2017/1564 and Marrakesh Regulation 2017/1563

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Glossary

Term or acronym	*Meaning or definition*
Authorised entities	Entity authorised or recognised by a Member State to provide education, instructional training, adaptive reading or information access to beneficiaries on a non-profit basis (see also Article 2.4. of Directive (EU) 2017/1564)
AVMSD	Audiovisual Media Services Directive
Accessible format copies	Copy of 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) subsequently made accessible to people with disabilities (see also Article 2.3. Directive (EU) 2017/1564).
Beneficiary	Person who is blind, 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 has a reading or perception disability, or is otherwise print disabled (see also Article 2.1 of Directive (EU) 2017/1564)
Born accessible work	Work initially produced in a way that allows people with disabilities to access it.
CMO	Collective management organisation
EAA	European Accessibility Act
EU	European Union
Marrakesh Directive	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

Term or acronym	*Meaning or definition*
Marrakesh Regulation	Regulation (EU) 2017/1563 of the European Parliament and of the Council of 13 September 2017 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
SDG	Sustainable Development Goals
WIPO	World Intellectual Property Organization
UNCRPD	United Nations Committee on the Rights of Persons with Disabilities

1. INTRODUCTION

Purpose and scope of the evaluation

Ensuring accessibility of copyright protected content for people with print disabilities is essential for promoting equal access to information and culture, as well as to ensure the full participation in society of people with disabilities on an equal basis with others ([1]) ([2]). Several EU initiatives have been adopted in the past decade with the aim to make the EU more accessible for people with disabilities. In the field of copyright, the Marrakesh Directive ([3]) and Regulation ([4]), adopted in 2017, aim to increase the availability of books and other printed material in accessible format, and to improve their circulation across borders. These instruments brought the necessary adaptations to EU law following the accession of the European Union to the WIPO Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled ([5]) (hereinafter, the Marrakesh Treaty).

This staff working document is prepared on the basis of Article 10(1) of the Marrakesh Directive and Article 7 of the Marrakesh Regulation, which require the Commission to evaluate these instruments 5 years from their implementation ([6]), and to report on its

([1]) The Charter of Fundamental Rights of the European Union is available at the following link: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT.

([2]) The Strategy for the Rights of Persons with Disabilities 2021-2030 is available at the link: https://op.europa.eu/en/publication-detail/-/publication/3e1e2228-7c97-11eb-9ac9-01aa75ed71a1/language-en.

([3]) 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 – https://eur-lex.europa.eu/eli/dir/2017/1564/OJ.

([4]) Regulation (EU) 2017/1563 of the European Parliament and of the Council of 13 September 2017 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 – https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32017R1563.

([5]) The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled, which was adopted at the World Intellectual Property Organization (WIPO) in 2013. The Treaty entered into force in September 2016 and has been ratified by 119 countries (including the 27 EU Member States). The European Union signed the Marrakesh Treaty in 2014 (Council Decision of 14 April 2014 on the signing, on behalf of the European Union, of the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled) and has ratified it in October 2018 following a Council decision on its conclusion in February 2018 (Council Decision (EU) 2018/254 of 15 February 2018 on the conclusion on behalf of the European Union of the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled).

([6]) Marrakesh Directive: Transposition deadline 11 October 2018. Marrakesh Regulation: Applicable from 12 October 2018.

main findings to the European Parliament, the Council and the European Economic and Social Committee.

The aim of this evaluation is to assess the extent to which the Marrakesh Directive and Regulation have been effective in meeting their objectives, efficient, relevant, consistent with EU policy and international commitments and have demonstrated EU added value. In particular, this evaluation assesses how these two legal instruments have impacted the availability of accessible versions of works within its scope and have helped to facilitate the cross-border exchange of accessible format copies. As required expressly by Article 10 of the Marrakesh Directive, the evaluation specifically includes an assessment of the impact of the compensation schemes (that exist in certain Member States) on such availability and exchanges. Furthermore, the evaluation considers the possible impact of the rules provided for in the Directive and the Regulation on the commercial availability of certain works or other subject matter in accessible formats for beneficiaries, as well as the relevance of other policy areas related to the accessibility of published works, in particular the European Accessibility Act ('EAA') ([7]), which requires all e-books placed on the EU market after 28 June 2025 to be accessible.

This evaluation covers the period running from the transposition date in the Directive and the date of application of the Regulation (October 2018) to 2023. It covers the 27 EU Member States and their exchanges with third countries that are signatories to the Marrakesh Treaty.

The evaluation draws on a supporting study (hereinafter 'the study'), which was launched in April 2023 and was completed in May 2024. The methodology employed by the contractor was based on literature review and desk research, in combination with interviews, consultation activities, and analysis of case studies, aiming to gather qualitative and, where it was possible, quantitative data. The contractor assisted the Commission in undertaking consultation activities with Member States (which were required to provide data to the Commission, in line with Article 10(2) of the Marrakesh Directive), as well as with stakeholders, through a targeted stakeholder consultation and in-depth interviews. In line with the requirement in Article 10(1) of the Directive, the consultations took account of the views of relevant civil society actors and of non-governmental organisations, including organisations representing people with disabilities and those representing older people. The consultation activities included also rightholders, in particular for the assessment of the possible impact of the Regulation and the Directive's rules on the commercial offer. The results of the data gathering fed into the evaluation of the Marrakesh Directive and Regulation, based on the five criteria required under the Better Regulation Guidelines: effectiveness, efficiency, coherence, relevance and EU added value.

([7]) Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services, OJ L 151, 7.6.2019, pp. 70–115

The methodology is detailed in *Annex II*, while a synopsis report of consultation activities is available in *Annex V*.

2. WHAT WAS THE EXPECTED OUTCOME OF THE INTERVENTION?

2.1. Description of the intervention and its objectives

Availability of books in accessible formats for people with disabilities can be driven by the market, through the production of 'born accessible works' (i.e. produced from the beginning in a format that is accessible), or by the intervention of public or publicly funded organisations which adapt existing works in formats that are available for people with disabilities (accessible format copies). The latter process involves copyright protected acts (e.g. reproduction), meaning that, unless a copyright exception or limitation applies, rightholders have the right to authorise or prohibit the relevant uses allowing for the copyright protected work to be adapted for people with disabilities.

At global level, according to the World Blind Union, in 2013 only 7 per cent of published books had been made accessible in the developed countries (in formats such as Braille, audio and large print), and less than 1 per cent in the developing countries ([8]).

Only a small fraction of books were born accessible. Market factors did not provide economic incentives for rightholderss to licence the production of works in accessible formats, while high production costs for older works discouraged industry innovation ([9]). Even if several countries had copyright exceptions in place for people with disabilities, allowing beneficiaries or their representatives to adapt works in accessible formats without the authorisation of the rightholders, the availability of accessible formats remained overall low.

Recognising the significant negative impact of the limited access to written material in accessible form ('book famine)' on the participation in society of people with disabilities, and on their access to education, the Member States of the World Intellectual Property Organization adopted in 2013 the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or Otherwise Print Disabled. The Treaty introduced mandatory limitations and exceptions to copyright for the benefit of the blind, visually impaired and otherwise print disabled people, in order to allow the reproduction, distribution and the making available of works (such as books, newspapers and magazines, or other kinds of writing, and the related illustrations, in any media,

([8]) https://worldblindunion.org/wp-content/uploads/2020/10/Press-Release-AP-Marrakesh-2017.pdf).

([9]) Fitzpatrick, S, Setting Its Sights on the Marrakesh Treaty: The U.S. Role in Alleviating the Book Famine for Persons with Print Disabilities, Boston College International and Comparative Law Review, 2014, 37(1), pp. 139-172. https://lira.bc.edu/work/ns/b6b42abb-99aa-4e02-9956-e3b3d6a3a086/reader/6aea64d8-5009-4a4a-ad14-a7c1b8353ed2, quoted in the study, p. 29.

including audiobooks) in accessible formats. The Treaty also permits the exchange of these works across borders ([10]).

The European Union signed the Marrakesh Treaty in 2014 ([11]) and concluded the Treaty in February 2018 ([12]).

The Marrakesh Directive and the accompanying Marrakesh Regulation brought the necessary adaptations to EU law in order for the EU to ratify the Marrakesh Treaty. With the Marrakesh Directive, the EU legislator introduced a mandatory exception and harmonised the scope of the exception to improve the availability of accessible format copies (clarifying which are the beneficiaries, the type of works, the permitted uses) with effect throughout the internal market. In addition to the harmonisation of the exception, the Marrakesh Directive enabled also the cross-border exchange within the EU of these copies, while the Marrakesh Regulation enabled the exchange with third countries party to the Marrakesh Treaty.

Problems and needs

At the moment of the legislative proposal for the Marrakesh Directive ([13]), it was estimated that between 7% and 20% of books were available in formats accessible to people with visual and print-related disabilities despite the fact that digital technology facilitated accessible publishing. The international book famine negatively impacted the access to information of beneficiaries and their participation in cultural, economic and social life.

The Marrakesh Treaty aims to address these gaps by mandating at international level a copyright exception allowing people with print disabilities to access more books and other print material in formats that are accessible to them. The adoption of the Marrakesh Directive and Regulations brought EU law into line with the EU's international commitments under the Marrakesh Treaty.

([10]) https://www.wipo.int/treaties/en/ip/marrakesh/summary_marrakesh.html.

([11]) Council Decision of 14 April 2014 on the signing, on behalf of the European Union, of the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled.

([12]) Council Decision (EU) 2018/254 of 15 February 2018 on the conclusion on behalf of the European Union of the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled. The ratification of the Treaty followed in October 2018.

([13]) COM(2016) 596 final, 14.9.2016. Proposal for a Directive of the European Parliament and of the Council on certain permitted uses of works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society. (The Proposal for the Marrakesh Directive) https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016PC0596&from=HU.

The United Nations Committee on the Rights of Persons with Disabilities (the 'UNCRPD') in its Concluding observations on the initial report of the European Union, adopted on 4 September 2015 ([14]) encouraged the European Union to take all appropriate measures to implement the Marrakesh Treaty 'as soon as possible'.

Objectives

The general objective of the Marrakesh Directive and Regulation is to improve the availability of accessible format copies, accessible to beneficiaries, for books and other printed material. They also aim to improve the circulation of these copies across borders, in line with the EU's international commitments under the Marrakesh Treaty.

Similar to the other EU instruments in the field of copyright, the adoption of the Marrakesh Directive and Regulation also aims to contribute to the proper functioning of the internal market, as well as 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. Furthermore, they aim to safeguard a fair balance of rights and interests between rightholders and users.

The adoption of the Marrakesh instruments also took into consideration the rights of blind, visually impaired or otherwise print disabled people as recognised in the Charter of Fundamental Rights of the European Union (the 'Charter'). It furthermore aimed to respond to one of the objectives of the UNCRPD to promote the participation in cultural life of people with disabilities. In particular, Article 30(3) of UNCRPD requires parties 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 people with disabilities to cultural materials.

The Marrakesh Directive and Regulation, alongside the Marrakesh Treaty, are relevant to address the UN's Sustainable Development Goals (SDGs), in particular SDG 10 (Reduced inequality), by improving access to education and culture for people with print-related disabilities, both in the EU, as well as in third countries, and SDG 4 (quality education) by facilitating access to educational materials catering to the needs of people with disabilities. Finally, as indicated by the study, the Marrakesh Treaty is relevant for the SDG 17 (partnership for the goals) through the setting up of an international framework allowing cooperation between Member States (through the authorised entities) to benefit people with disabilities ([15]).

([14]) Concluding observations on the initial report of the European Union: Committee on the Rights of Persons with Disabilities, 2015, available at https://digitallibrary.un.org/record/812354?v=pdf.
([15]) The study, p. 92.

Inputs

In line with the Marrakesh Treaty, the Directive provides for a mandatory exception to copyright, for the benefit of blind, visually impaired, and otherwise print disabled people. The exception enables the beneficiaries or authorised entities to make accessible format copies of books and other written material, including in the form of audio books. The Directive allows Member States, in line with the Marrakesh Treaty, to subject the uses under the Directive to compensation schemes, within certain limits. The framework introduces obligations for authorised entities to prevent the unauthorised dissemination of the works in accessible formats and to ensure the access to relevant information for beneficiaries, rightholders and other authorised entities.

The Directive also facilitates the cross-border exchange of the accessible format copies in the internal market. In addition, the Regulation facilitates the exchanges of accessible format copies between EU Member States and the third countries parties to the Marrakesh.

Expected outputs

The main outputs expected were an increase in availability of books and other printed material in accessible formats for people with print-related disabilities, as well as an increase in the circulation of such formats in the internal market and with third countries. In addition, authorised entities – which are organisations, such as libraries, educational establishments and other public or non-profit organisations, that serve people with a print disability as one of their primary activities, institutional obligations or as part of their public interest missions ([16]) - were expected to establish practices to prevent the unauthorised dissemination of works.

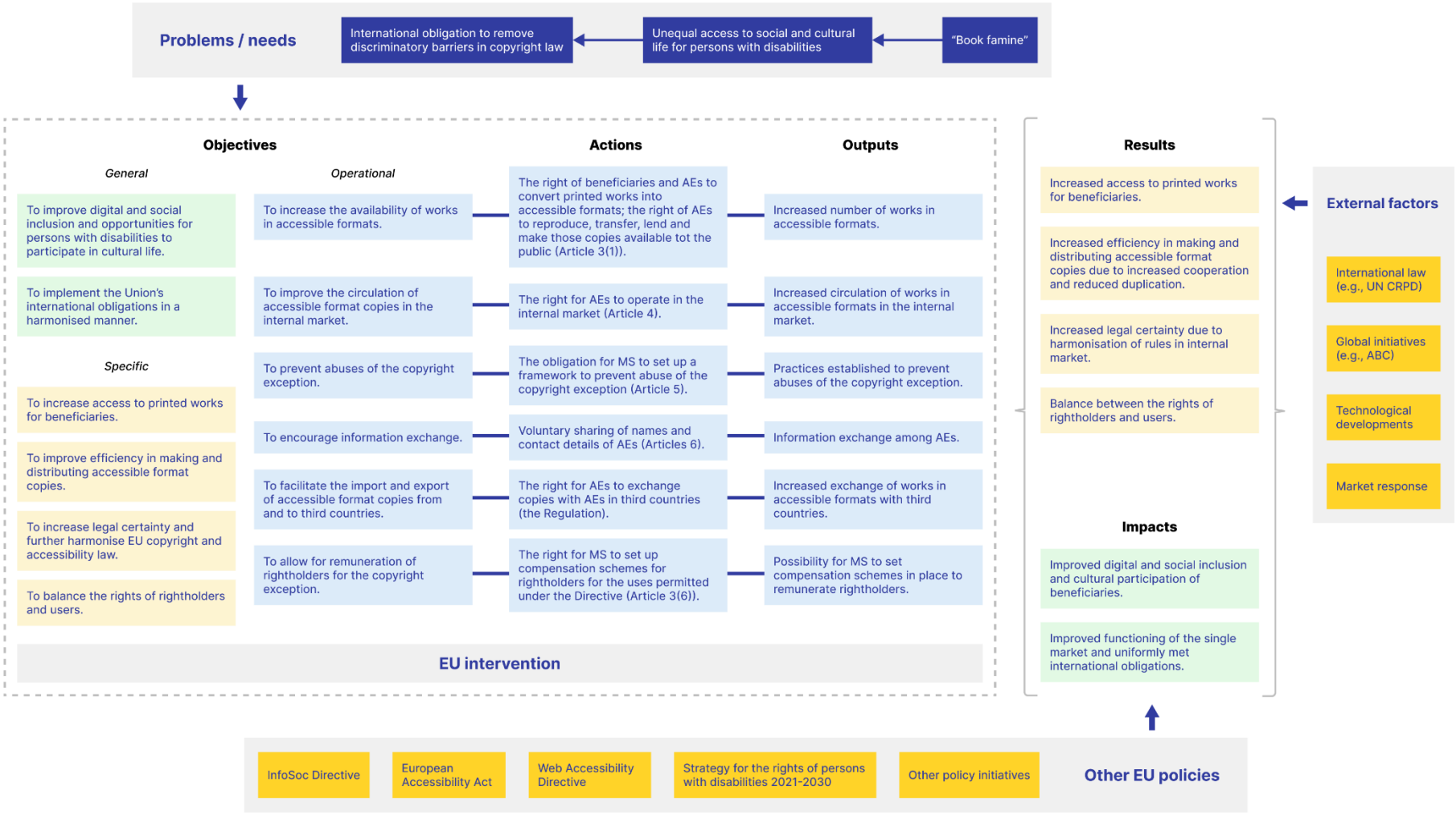
Expected results

In line with the main objectives described above, the expected results were to improve access to printed works for beneficiaries, including through cross-border access within EU and with third countries, while safeguarding the balance of interests between rightholders and users. The increased cross-border access was expected to generate savings and efficiency gains, by reducing the demand for duplication of work in producing accessible format copies of the same work. Furthermore, the harmonisation of the copyright exception was expected to increase the legal certainty when beneficiaries

[16] Recital 5 of the Marrakesh Directive; see also definition in Article 2(4) of the Marrakesh Directive:‘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’.

and authorised entities were undertaking uses covered by the Marrakesh rules. More generally, the Marrakesh instruments were expected to contribute to a better integration of people with disabilities and to their participation in the life of the community. The picture below summarises and operationalises the intervention logic.

Figure 1. Intervention logic



Source: The Study.

2.2. Point(s) of comparison

Prior to the adoption of the Marrakesh Treaty, EU law already granted Member States the option to provide in national law an exception from copyright and related rights for people with disabilities, for uses of a non-commercial nature which are directly related to the disability, to the extent required by the specific disability ([17]), and all Member States had to some extent made use of the optional copyright exception or limitation ([18]).

There is no comprehensive data on how the application of these national laws impacted in quantitative terms the availability of works in accessible formats for books and other written materials prior to the adoption of the Marrakesh Directive and Regulation.

Certain estimates were available at global level. As mentioned above, in the explanatory memorandum for the legislative proposal for the Marrakesh Directive, it was estimated that between 7% and 20% of books were available in formats accessible to people with visual and print-related disabilities. According to the World Blind Union, in 2013 only 7 per cent of published books had been made accessible in developed countries (in formats such as Braille, audio and large print) ([19]). Less than 1 per cent of published books were available in developing countries ([20]), with some sources estimating that people with print-related disabilities in certain developing countries only had access to around 0.5% of the books published ([21]).

At EU level, certain data on the availability of works in accessible formats is provided in the impact assessment for the European Accessibility Act, which analysed in particular the availability of born accessible works. The impact assessment quotes a 2011 study which found that 32.5% of e-books were accessible, noting that these were often provided by public or publicly funded organisations and not by the market ([22]). The number was likely to be much lower when also considering accessibility of physical books[23]. For example, in 2013, in France it was estimated that between 8% and 20% of

([17]) Article 5(3)b of Directive 2001/29.

([18]) COM/2016/0596 final, Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on certain permitted uses of works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society.

([19]) https://worldblindunion.org/wp-content/uploads/2020/10/Press-Release-AP-Marrakesh-2017.pdf

([20]) https://worldblindunion.org/wp-content/uploads/2020/10/Press-Release-AP-Marrakesh-2017.pdf;.

([21]) Cassells, L. (2021). The Impact of the Marrakesh Treaty on South African Publishers. Publishing Research Quarterly, 37, 41-52.

([22]) The MeAc 2011 study quoted in the COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT Accompanying the document Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States as regards accessibility requirements for products and services, SWD/2015/0264 final - 2015/0278 (COD), available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2015:0264:FIN.

([23]) The Study, p.29

all the books available on the market were accessible for people with disabilities ([24]). As concerns new titles published digitally in 2012 in France, only 3.5% had been adapted in accessible formats ([25]).

Furthermore, a study from 2013 found that, even if exceptions from copyright had been introduced at national level in EU Member States for the benefit of people with disabilities, challenges remained for the cross-border exchange of accessible format copies. This was because Article 5(3)b) of Directive 2001/29[26] set out only minimum requirements, leaving it to the Member States to define the detailed conditions for the application of the exception , which lead to divergences in the scope of application of the exception ([27]) The 2013 study argued that territorial application of copyright and the different scope of the national exceptions, especially in terms of permitted acts and beneficiaries, were found to reduce legal certainty in cross-border exchanges ([28]). Similarly, stakeholders (institutional users, performing arts industry, NGOs or chambers of commerce) highlighted in a 2014 consultation on the review of copyright rules that the scope of disabilities covered by national laws was too narrow (e.g. not covering dyslexia) ([29]). Organisations representing end users and collective management organisations complained that the diverging scope of national exceptions creates legal uncertainty for the exchange of accessible format copies ([30]).

The adoption of the framework was expected to improve the availability of written works in accessible format, facilitating the production of accessible format copies by authorised entities or beneficiaries, on the basis of an EU harmonised copyright exception for the benefit of people with disabilities which increases legal certainty. The framework was also expected to facilitate the cross-border exchange of such accessible format copies adapted for the use of people with disabilities, both within EU and with third countries.

([24]) Catherine Meyer-Lereculeur 'Exception 'handicap' au droit d'auteur et développement de l'offre de publications accessibles à l'ère numérique', May 2013, quoted in the study, p. 29, and in the explanatory memorandum to the Marrakesh Directive, COM(2016) 596 final.

([25]) Catherine Meyer-Lereculeur 'Exception 'handicap' au droit d'auteur et développement de l'offre de publications accessibles à l'ère numérique', May 2013, quoted in the study, p. 29.

26 Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 167, , pp. 10–19) ("InfoSoc Directive)

([27]) European Commission, Directorate-General for the Internal Market and Services, Francquen, A., Dusollier, S., Triaille, J. et al., study on the application of Directive 2001/29/EC on copyright and related rights in the information society (the 'InfoSoc Directive'), European Commission, 2013, https://data.europa.eu/doi/10.2780/90141, p. 428.

(28) idem, p 437

([29]) Report on the responses to the Public Consultation on the Review of the EU Copyright Rules, available at https://digital-strategy.ec.europa.eu/en/library/modernisation-eu-copyright-rules-useful-documents.

([30]) idem.

3. HOW HAS THE SITUATION EVOLVED OVER THE EVALUATION PERIOD?

Current state of play

The Marrakesh Directive entered into force on 10 October 2017 and it had to be transposed into national law by 11 October 2018. After the transposition deadline, the Commission opened infringement proceedings against 16 Member States that were late in notifying complete transposition of the Marrakesh Directive. 14 of these Member States notified complete transposition by the end of 2019, while the remaining two Member States notified transposition by April 2020, putting an end to the infringements. The Commission did not open any infringement proceedings on the conformity of the national transposition.

The Marrakesh Regulation, which permits the cross-border exchange of accessible format copies made under the exception between the EU and third countries that are parties to the Treaty is directly applicable to all EU Member States since 12 October 2018 and did not need to be implemented in national law.

The implementation of the Marrakesh Treaty into EU law ensures that the obligations apply in a harmonised manner throughout the internal market, clarifying the scope of beneficiaries of the exception, works covered and permitted acts. The Directive defines the beneficiaries ([31]) as being people who are blind or have 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, as well as those who have a reading or perceptual disability or who are otherwise print disabled (they cannot hold or manipulate a book or focus or move their eyes to the extent that would be normally acceptable for reading).

The Directive clarifies also that the mandatory exception applies to the exclusive rights that are harmonised by EU law and are relevant for the uses and works covered by the Marrakesh Treaty (including the rights of reproduction, communication to the public, making available to the public, distribution and lending by beneficiaries or authorised entities). It also expressly defines the type of works for which accessible format

([31]) Based on the definitions of the Marrakesh Directive, '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.

copies ([32]) can be made under the exception, namely books, journals, newspapers, magazines 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.

The harmonisation of the category of beneficiaries led in certain cases to widening the scope of the exception compared to what was previously in place at national level, in particular because, as evidenced by the responses to the 2014 EU public consultation ([33]), not all national exceptions covered perceptual or reading disabilities. This was the case for instance in France where the above-mentioned 2013 report referred to the narrow definition existing at the time ([34]). At the same time, the harmonised rules had likely a more limited impact on the application of the exception in Member States([35]) where the scope already included these categories of beneficiaries

The Directive also includes a provision ensuring **cross-border access**: authorised entities in one Member State are allowed to make and distribute accessible format copies for beneficiaries in other Member States. In addition, beneficiaries and authorised entities are granted the right to access works held by authorised entities in any Member State. The cross-border exchange within the EU is complemented by the Marrakesh Regulation which enables cross-border exchanges with third countries party to the Marrakesh Treaty.

The Directive allows Member States to maintain or introduce **compensation schemes** for uses permitted under the Directive undertaken by authorised entities established in their territory (Article 3(6)). To date, compensation schemes are in place in Austria, Germany, Denmark, Finland, Greece, Sweden, covering different scopes ([36]); in Greece it applies to primary, secondary and higher education textbooks, in Denmark it applies to downloaded

([32]) Based on the definitions of the Marrakesh Directive, '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 Article 2 point 2 of the Directive.

([33]) Report on the responses to the Public Consultation on the Review of the EU Copyright Rules, available at https://digital-strategy.ec.europa.eu/en/library/modernisation-eu-copyright-rules-useful-documents.

([34]) Catherine Meyer-Lereculeur 'Exception 'handicap' au droit d'auteur et développement de l'offre de publications accessibles à l'ère numérique', May 2013 , available at https://www.culture.gouv.fr/Espace-documentation/Rapports/EXCEPTION-HANDICAP-AU-DROIT-D-AUTEUR-ET-DEVELOPPEMENT-DE-L-OFFRE-DE-PUBLICATIONS-ACCESSIBLES-A-L-ERE-NUMERIQUE.

([35]) For instance the exception in Sweden and the Netherlands covered dyslexia- see Catherine Meyer-Lereculeur 'Exception 'handicap' au droit d'auteur et développement de l'offre de publications accessibles à l'ère numérique', May 2013, p. 106, available at https://www.culture.gouv.fr/espace-documentation/rapports/exception-handicap-au-droit-d-auteur-et-developpement-de-l-offre-de-publications-accessibles-a-l-ere-numerique.

([36]) For a more detailed overview, see the study, p. 43.

audiobooks and e-books, in Sweden it covers talking books ([37]), in Finland it covers physical loans of CDs and digital loans that are downloaded and kept by the user, while in Germany and Austria it applies to all type of formats within the scope of the copyright exception. In two more Member States (Malta and the Netherlands), the national laws refer to the possibility to introduce a compensation scheme if there is a prejudice to the interests of rightholders. However, these Member States have not made use of this option so far ([38]).

The Directive and the Regulation introduced **obligations for authorised entities** in order to prevent the unauthorised dissemination of the works in accessible formats (Article 5(1) of the Directive and Article 5(1) of the Regulation), and to ensure the access to relevant information for beneficiaries, rightsholders and other authorised entities (Article 5(2) of the Directive and Article 5(2) of the Regulation). The authorised entities are also encouraged to voluntarily transmit their contact details to their Member States of establishment in case they engage in exchanges in the internal market or if they import or export accessible format copies under the Marrakesh Regulation (Article 6 of Marrakesh Directive). Member States transmit this information to the Commission, which makes it publicly available ([39]).

Member States generally transposed verbatim the obligations on authorised entities, leaving the organisations to establish the specific practices necessary to ensure that the works are transmitted only to the beneficiaries and other authorised entities, to prevent the unauthorised distribution, to maintain appropriate records and to publicise the way they comply with the obligations.

Authorised entities use different methods to verify the eligibility of the beneficiaries. They may require proof of disability or require users to register with the relevant organisation (e.g. the organisations for the blind), or they may accept self-declaration. Other authorised entities (e.g. Celia in Sweden) do not employ a formal verification of eligibility, however access to their service is preceded by a discussion with a librarian where the use and restrictions are explained ([40]). In addition, to prevent unauthorised use, some authorised entities use technical protection measures (e.g. watermarking with the name of the entity and user name), or keep a loan history, introduce use limitations, or provide information on liability to the users.

To ensure legal certainty, the Directive clarifies in a recital that authorised entities should not be required to check, prior to making an accessible format copy, that the work is also available in accessible format on the **commercial market**. Therefore, Member States are

([37]) In Swedish legislation there is a distinction between an audiobook, which is a commercial product, and a talking book, which is a recorded version of a published book produced by the authorised entities for people with disabilities. (https://www.mtm.se/kunskap-om-tillganglig-lasning/vad-ar-en-talbok/).
([38]) The study, p. 39.
([39]) https://digital-strategy.ec.europa.eu/en/policies/marrakesh-treaty.
([40]) The study, p. 45.

not allowed to introduce additional requirements on authorised entities such as prior verification of the commercial availability of works in accessible formats. In Denmark, the transposition of the Directive led to removing such obligation previously present in the national law. Instead, authorised entities and rightsholders developed cooperation practices incentivised by an agreement concerning the application of the compensation scheme in Denmark, which provides a higher level of compensation if a work is available as born accessible and shared in a digital form by the rightholder with the authorised entities ([41]). Furthermore, checks to verify commercial availability may sometimes take place voluntarily in Member States where the publishing market is small and where the authorised entity is in direct contact with the publishers in that market ([42]). However, the Italian law contains a provision which appears to set out such an obligation to verify the commercial availability on authorised entities ([43]). Furthermore, in France, one authorised entity reported that existing national rules create uncertainty as to whether they are required to check the commercial availability of the format requested ([44]). According to the authorised entity interviewed in the context of the study, the advice received from the authorities was that it is prohibited to adapt a work to which a person with a disability can have access without adaptation, but organisations are not obliged to check this condition beforehand. In some Member States, platforms are developed to enable the cooperation of authorised entities with rightholders, in order to facilitate the production of format copies. This is the case in France, where a platform called Platon is used by authorised entities to upload their catalogues, while rightholders upon request use it to submit a digital copy of their work ([45]). In other Member States, authorised entities and rightholders agree on a bilateral basis to receive the digital files of the works that will be converted into accessible formats (Germany, Belgium, Spain) ([46]). Finally, in certain Member States (Sweden, Lithuania) the authorised entities and rightholders have

([41]) The study, p. 35.
([42]) The study, p. 39.
([43]) According to the last sentence of paragraph 7-bis of Article**.** 71-bis of Law 633 of 22 April 1941, as amended, the exception does not apply to the authorised entity where accessible versions of a work or other subject matter are already available on the market, without prejudice to the possibility of improving their accessibility or quality **(‘***L’eccezione di cui al comma 2-bis non si applica all’entità autorizzata nel caso in cui siano già disponibili in commercio versioni accessibili di un’opera o di altro materiale, fatta salva la possibilità di miglioramento dell’accessibilità o della qualità delle stesse’*. (https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1941-04-22;633!vig= ‘).
([44]) Paragraph 7 of Article L122-5 of the Code of Intellectual Property refers to the fact that persons with disabilities are prevented, as a result of those impairments, from accessing the work in the form in which the author makes it publicly available: **‘***Dans les conditions prévues aux articles L. 122-5-1 et L. 122-5-2, la reproduction et la représentation par des personnes morales et par les établissements ouverts au public, tels que les bibliothèques, les archives, les centres de documentation et les espaces culturels multimédia, en vue d’une consultation strictement personnelle de l’œuvre par des personnes atteintes d’une ou de plusieurs déficiences des fonctions motrices, physiques, sensorielles, mentales, cognitives ou psychiques et empêchées, du fait de ces déficiences, d’accéder à l’œuvre dans la forme sous laquelle l’auteur la rend disponible au public;Ces personnes empêchées peuvent également, en vue d’une consultation strictement personnelle de l’œuvre, réaliser, par elles-mêmes ou par l’intermédiaire d’une personne physique agissant en leur nom, des actes de reproduction et de représentation*
([45]) The study, p. 39, 206, 219.
([46]) The study, p. 39.

entered into coproduction agreements, where they share the cost of production. The accessible format, which is produced by the authorised entities, is shared with the rightholder which makes it first available via commercial channels for a certain period, after which it becomes available to the beneficiaries through the authorised entity ([47]).

In order to avoid duplication of efforts, authorised entities verify if a work in accessible format, in a particular language, is available in the catalogue of another authorised entity ([48]). This may be especially the case where there are several authorised entities that operate in a Member State and benefit from platforms that support the exchange of information (e.g. France and Germany), but also in cross-border situations involving language areas that transcend one country, where authorised entities might check the availability through the WIPO ABC platform ([49]).

The authorised entities are not subject to a specific **authorisation** procedure to carry out the uses covered by the framework. At the same time, authorised entities can be those which are authorised or recognised by a Member State to provide education, instructional training, adaptive reading or information access to beneficiaries on a non-profit basis or public institution or they can be non-profit organisation that provide the same services to beneficiaries as one of its primary activities, institutional obligations or as part of its public interest mission. The Directive clarifies that authorisation and recognition requirements which Member States may apply to authorised entities, e.g. relating to the provision of services of a general nature to beneficiaries, should not have the effect of preventing them from undertaking the activities permitted by the Directive. Furthermore, the authorised entities are encouraged to voluntarily transmit their contact details to their Member States of establishment if they engage in exchanges in the internal market or if they import or export accessible format copies under the Marrakesh Regulation (Article 6 of Marrakesh Directive). Member States transmit this information to the Commission, which makes it publicly available. Based on the information available, most Member States do not impose registration and notification obligations on the authorised entities, but information was not available for all Member States. In Finland, the obligation of authorised entities to register with the national authorities was removed when transposing the Directive ([50]). In some Member States (Bulgaria, Cyprus, France, Germany, Hungary and Italy) certain procedures are in place for the authorised entities which must notify the national authorities of their contact details, and/or their status of authorised entities which provide activities addressing the needs of the people with disabilities ([51]).

([47]) The study, p. 39-40.
([48]) The study, p, 34.
([49]) The Accessible Book Consortium features notably an online catalogue allowing authorised entities from ratifying states to exchange books in accessible formats without seeking the authorisation of rightsholders; see https://www.accessiblebooksconsortium.org/.
([50]) The study, p. 35. Currently, Finnish law provides for an obligation for authorised entities established in Finland to provide their names and contact details to the Ministry for Education and Culture.
([51]) The study, p. 37.

The Directive does not include any specific **monitoring** requirements. The consultation of Member States, while not providing a comprehensive picture, revealed that monitoring practices are in place in Italy, Lithuania, Germany, Finland, Spain, Slovakia, Belgium and France. Such practices can consist of periodical reporting of the authorised entity to the relevant authority (e.g. in Spain, France, Finland, Italy, Slovakia) and/or of ad hoc controls (Belgium, Germany). At the same time, in Ireland no information was available on the implementation of the Marrakesh rules due to a lack of information on which were the authorised entities functioning in that country.

A quantitative analysis of the evolution in the reference period is difficult to perform in the absence of a baseline. In the next chapter, sample data from a few authorised entities is used to quantify to the extent possible the effectiveness of the intervention.

4. EVALUATION FINDINGS (ANALYTICAL PART)

This Section discusses the analytical findings of the evaluation, encompassing all five evaluation criteria (effectiveness, efficiency, coherence, relevance and EU added value). As described in Section 1, the analysis is based on a supporting study, which included a targeted consultation and interviews with stakeholders. The study team also assisted the Commission services in collecting and assessing the Member States' replies submitted in accordance with Article 10(2) of the Marrakesh Directive and Article 7(2) of the Marrakesh Regulation.

4.1. To what extent was the intervention successful and why?

To assess the success of the intervention, this Section discusses to what extent the intervention achieved its objectives in an effective, efficient and coherent way, addressing each of these elements separately.

4.1.1. Effectiveness

To assess if the intervention was effective, the analysis aims to understand to what extent the Marrakesh Directive and Regulation improved the availability of accessible format copies within the EU and their cross-border exchanges within the EU and with third countries which are parties of the Marrakesh Treaty. It also analyses if there are factors which affected the progress towards the objectives as well as if there were any unexpected and unintended consequences. It also looks into how the framework contributed to broader social goals. Finally, this Section looks at the impact of compensation schemes.

Availability of accessible format copies and their cross-border exchange for people with disabilities covered by the Marrakesh instruments

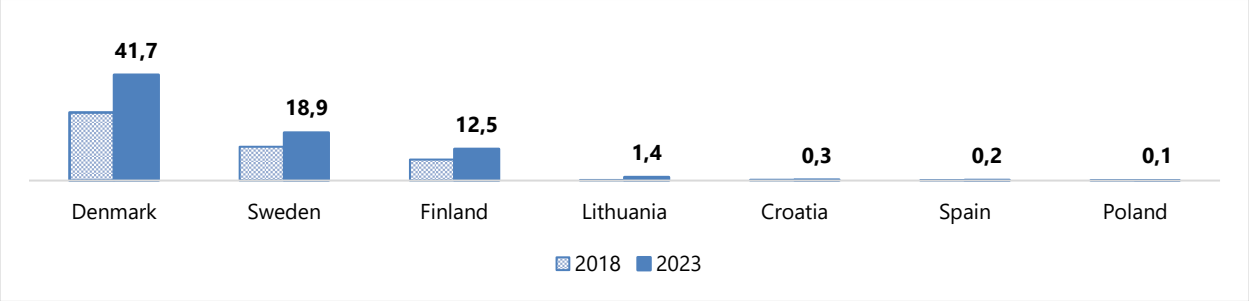
4.1.1.1. Beneficiaries

The impact assessment for the European Accessibility Act estimates that there are approximately 109 million people with disabilities in the EU (approximately 1 in 5). Of these, it was estimated that around 21.08 million people had a visual impairment and 23.87 million had a cognitive impairment ([52]), these two categories reaching approximately 1 in 10 EU residents) ([53]).

Participant statistics

Data available from authorised entities in seven Member States ([54]) shows important variations among Member States as concerns the users of the services of authorised entities in 2023. The share of users is higher in the Nordic countries, reaching approximately 4.2% of the total population in Denmark ([55]), 1.9% in Sweden and 1.25% in Finland. In the other Member States for which data was available, the share of users (expressed as a percentage of the total population) was much lower.

Figure 2. Number of users of the services of authorised entities per 1000 citizens in a sample of Member States



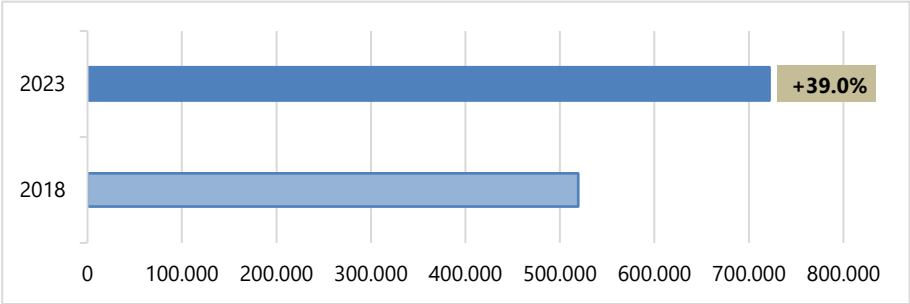
Source: The Study.

Based on the data provided by a sample of 25 authorised entities from 18 Member States (Austria, Belgium, Croatia, Czechia, Denmark, Estonia, Finland, France, Germany, Hungary, Lithuania, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain and Sweden), the study found that the overall number of users of authorised entities between 2018 and 2023 increased by 39%. There is no data to identify the precise cause of the increase. However, the fact that prior to the adoption of the Marrakesh Directive, the

([52]) https://eur-lex.europa.eu/resource.html?uri=cellar:3df7dfd6-99a0-11e5-b3b7-01aa75ed71a1.0001.02/DOC_2&format=PDF, p. 32.
([53]) For the category of print-related physical disability there is no data which allows distinctions within the category of mobility impairments covered by the impact assessment for the EAA.
([54]) The study only collected almost complete data from the major authorised entities for seven states.
([55]) The data from Denmark comes from the National Library for people with reading difficulties, which reported 235 000 users, while estimating that around 600 000 to 700 000 persons have a visual impairment or reading disability in Denmark (see the response to the call for evidence https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13615-EU-copyright-law-for-blind-and-visually-impaired-people-evaluation-of-the-Marrakesh-Directive-and-Regulation_en).

scope of beneficiaries in certain Member States did not extend to cognitive and physical print-related disabilities, while these categories are now covered by the Marrakesh Directive, can account for the overall increase in the number of users ([56]).

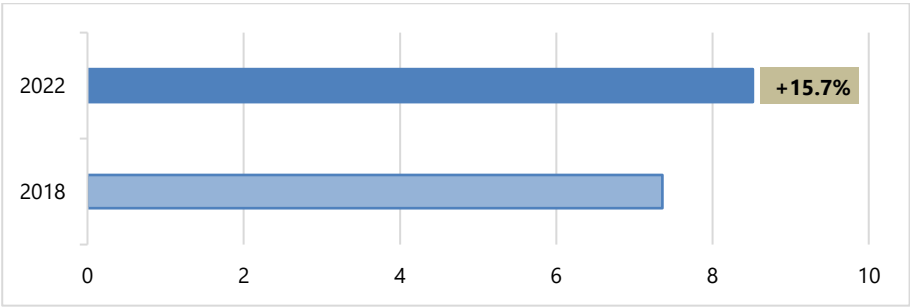
Figure 3. Number of users registered with a sample of 25 authorised entities in 2018 and 2023



Source: The Study

It should be noted that the number of loans granted by the authorised entities in the reference period increased to a lesser extent compared to the increase in the user base, reaching a 16% increase in the number of loans in 2022 compared to 2018.

Figure 4. Number of loans (in millions) made by a sample of 25 authorised entities over the period of a year in 2018 and in 2022



Source: The Study

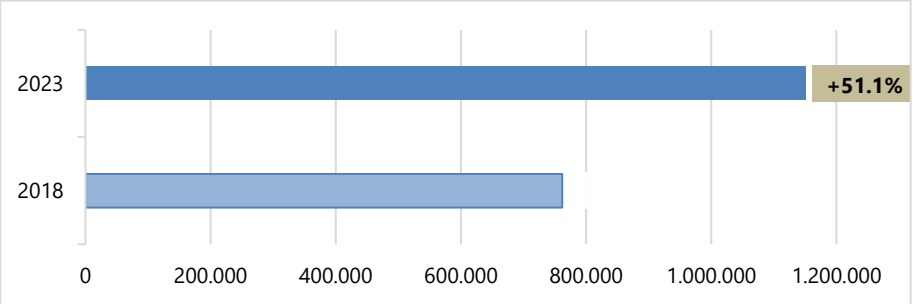
The increase in loans from authorised entities (16%) is less than half compared to the increase in the number of beneficiaries. Since the catalogues of authorised entities have increased (as detailed below) as well as their user base, it is not clear if this lower rate of increase in loans compared to the rate of increase of beneficiaries could for example be a result of beneficiaries not being always aware of the increased availability of the titles in accessible formats, or not identifying the required title or format suitable to them.

([56]) See the response to the call for evidence from Luisterpuntbibliotheek, available at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13615-EU-copyright-law-for-blind-and-visually-impaired-people-evaluation-of-the-Marrakesh-Directive-and-Regulation/feedback_en?p_id=31995115.

4.1.1.2. Availability of accessible format copies

The sample quantitative data obtained by the study provides insights into the evolution of the collections of accessible format copies of the authorised entities in the reference period. It shows that there was a substantial increase (slightly more than 50%) in the number of titles offered by authorised entities to beneficiaries in accessible formats during the period under review.

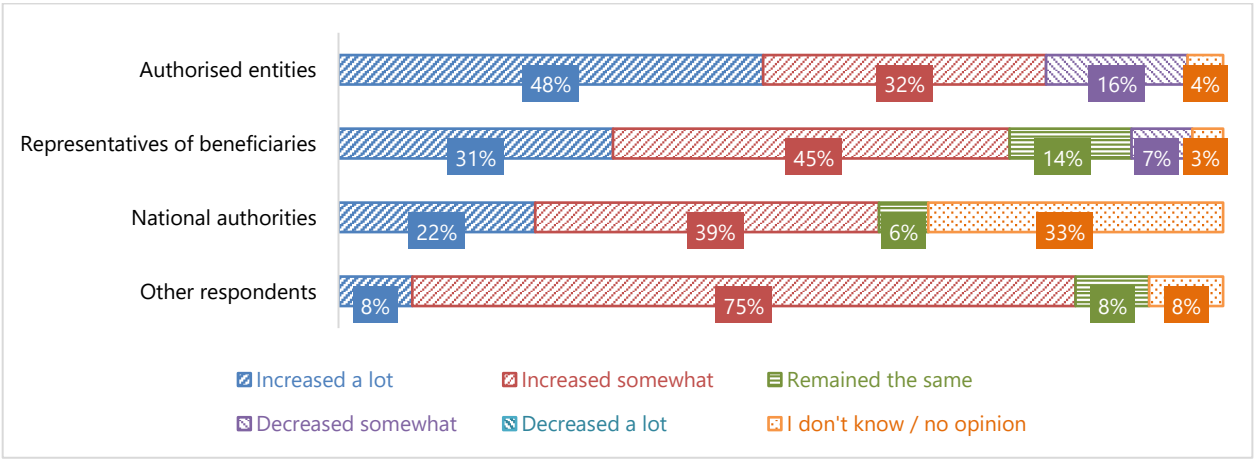
Figure 5. Numbers of titles in accessible format held by a sample of 26 authorised entities from 18 Member States, in 2018 and 2023



Source: The Study, page 61

The targeted consultation of stakeholders and the consultation of national authorities show that the increase of accessible format copies is reflected in the opinion of those consulted: in general, all categories perceive an increase in the availability of accessible format copies, as shown in Figure 6 below.

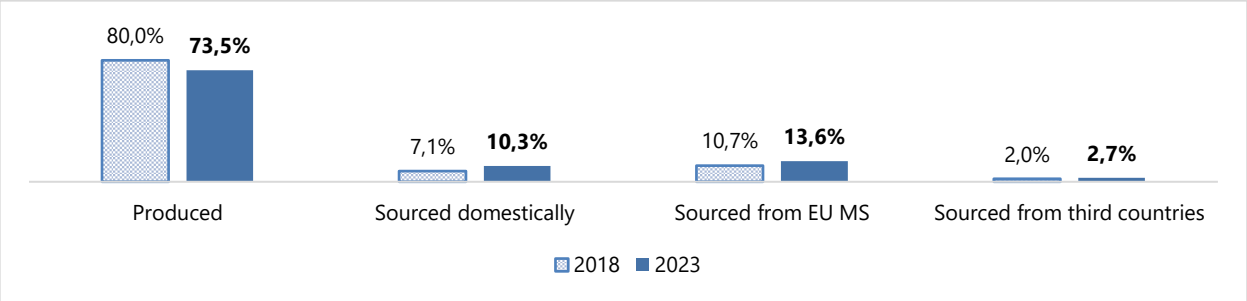
Figure 6. Results of targeted consultation and consultation of national authorities - Perceived change in the availability of accessible format copies between 2018 and 2023



Source: The Study

While in absolute terms the increase in the number of titles is mostly due to in house production by the authorised entities rather than exchange ([57]), the data gathered by the study from the authorised entities shows that, in relative terms, the production of titles of accessible format copies has slightly decreased in importance in the reference period due to the corresponding increase of the availability of titles obtained through exchanges, including cross-border. For instance, a French authorised entity interviewed by the study estimated its own production at around 35% of the accessible copies it offers (down from 96% in 2018); the rest of the titles were sourced from domestic exchanges (42%), or from cross-border exchanges (23%) ([58]).

Figure 7. Share of titles held by a sample of 19 authorised entities in 2018 and 2023 produced or sourced



Source: The Study

4.1.1.3. Cross-border exchanges

The cross-border exchange within EU and with third countries party to the Marrakesh Treaty amounted on average to 16.3% of overall titles held in 2023 by the consulted authorised entities, a slight increase compared to the 12.7% of titles sourced from EU and third countries in 2018. The cross-border exchanges that preceded the entry into force of the Marrakesh instruments can be explained by bilateral or multilateral cooperation agreements in place, especially for the countries that were part of the same language areas. For example, exchanges had been possible since 2003 between Austria, Germany and Switzerland (via the Medibus network) ([59]), between Denmark, Sweden and Norway ([60]), or between Czechia and Slovakia ([61]). The ratification of the Marrakesh Treaty has made possible the cooperation on general level with authorised entities in all EU Member States and in those third countries that are contracting parties. It also facilitated the access to the ABC Global Book Service, which supports the implementation of the Marrakesh Treaty .

([57]) The study, p. 61.
([58]) The study, p. 204.
([59]) The study, p. 207.
([60]) The study, p. 207.
([61]) Information submitted by Member States as part of the consultation.

A vast majority of the titles held by authorised entities (91.5%) are in the national language(s)([62]), which are understandably more desired by the local beneficiaries. This also explains why countries that share a common language tend to have a higher rate of imported titles. For example, the percentage of imported titles in the overall catalogue stands at 60.5% in Belgium, 34% in the Netherlands, 23% in France ([63]), and falls below 5% in Denmark or Lithuania ([64]).

While titles in foreign languages are exchanged only to a limited extent, they are mostly sourced by authorised entities through cross-border exchanges, not production. For example, the Spanish authorised entity indicates that foreign titles constitute a small percentage (1%) of the overall catalogue of the authorised entity, and 85% of these foreign works are available through imports from signatories of the Marrakesh Treaty ([65]). Such foreign titles cater for instance to the needs of people to access works in other languages, such as educational material, or to the needs of minority populations or immigrants who seek access to works in their national language ([66]).

The **imported** titles are mostly sourced from other EU Member States, however authorised entities also import titles from third countries party to the Marrakesh Treaty, with such imports reaching a share of 2.7% of the catalogue in 2023 (up from 2% in 2018). Authorised entities interviewed indicate that works are usually imported from the USA, the UK and Canada ([67]). The exchanges can be quite significant in the case of specific authorised entities. As an example, the catalogue of a French authorised entity contains 15% of titles imported from Switzerland and Canada ([68]).

The Marrakesh rules allowing cross-border exchange are also relevant for the **exports** from EU to third countries. While no overall data is available, interviews with authorised entities indicate that exchanges with countries from Latin America and Africa largely consist of exports from the EU. At the level of individual authorised entities, a relevant example is the export of accessible format copies by the Spanish authorised entity to countries in Latin America ([69]). Exports can also be directly to beneficiaries, as was the case for one authorised entity in France providing accessible format copies to beneficiaries in African countries parties to the Marrakesh Treaty (however no exports

([62]) The study, p. 62
([63]) For example, an authorised entity in France imported 50 000 titles from Belgium, Switzerland, Canada (the study, p. 208).
([64]) The study, p.e 62.
([65]) The study, p. 204.
([66]) For example, the Swedish authorised entity imports books in foreign languages to cater for minorities and refugees (the study, p. 67); Furthermore, authorised entities in Sweden, Finland and Norway cooperate to provide works in accessible format catering to the Saami speaking community in Lapland (see the study, p. 208).
([67]) The study, p. 76.
([68]) The study, p. 212.
([69]) ONCE exported 421 copies to Argentina and Peru in 2023, and 568 copies to Guatemala, Mexico and Argentine (the study, p. 212).

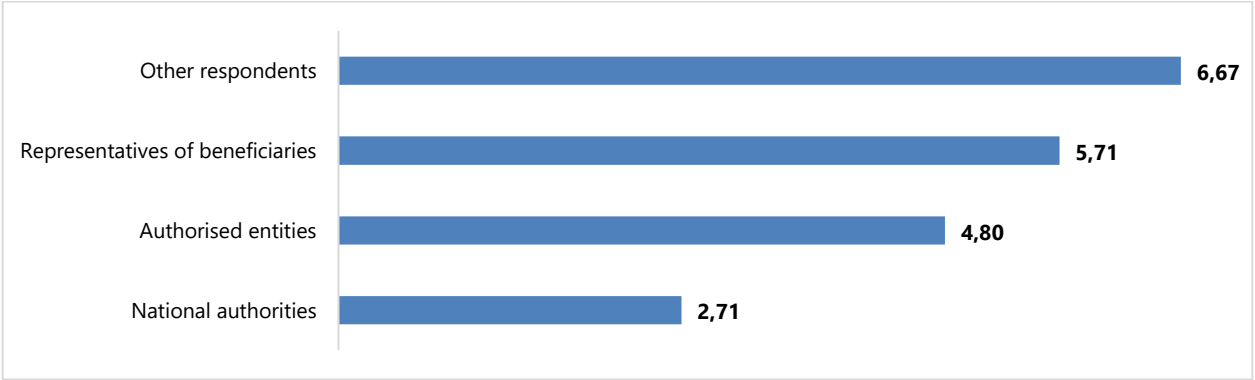
took place to the authorised entities) ([70]). The same French authorised entity has exported, through the ABC platform, 13 981 titles since 2014, with 63% of them going to third countries (predominantly Canada).

4.1.1.4. Consideration on the impact of the rules on the availability of accessible format copies

As presented above, the quantitative data available from the sample of authorised entities shows that since the adoption of the Marrakesh Directive and Regulation there has been an increase in the number of beneficiaries that used the services of authorised entities (by about 39%) and in the number of accessible works (by about 50%). In house production remains the most significant source of accessible format copies, also because users favour works in their own language, which could be available through exchanges only in countries with shared languages. Nevertheless, from the adoption of the Marrakesh instruments, the importance of in house production decreased in relative terms, due to a mild increase in the cross-border exchange.

While no quantitative data is available to qualify the impact of the implementation of the Marrakesh rules, the opinion of the stakeholders consulted by the study is that the Marrakesh framework has had a positive impact on the availability of accessible format copies (Figure 8).

Figure 8. Perceived impact of the Framework on the increased availability of accessible format copies on a scale from 0 (no impact of the Framework) to 10 (all of the increase is attributable to the Framework)



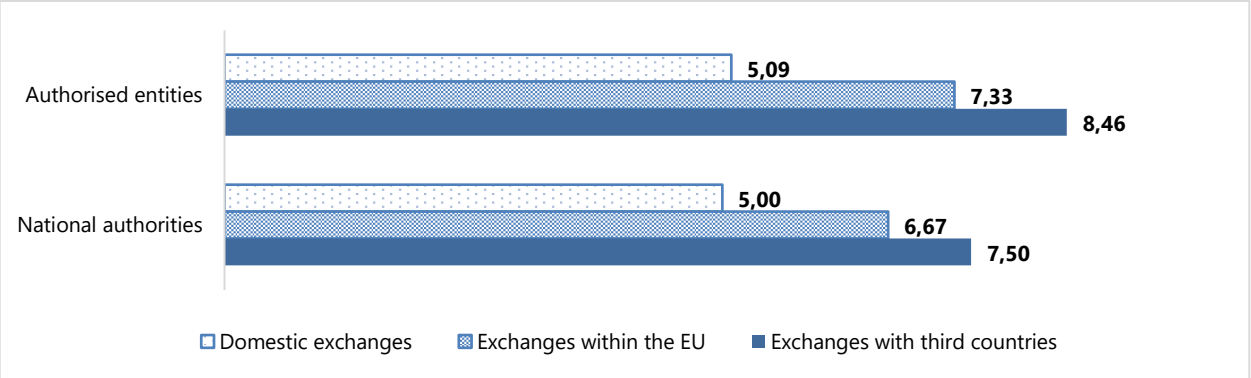
Source: The Study

([70]) The study, p. 212; the French authorised entity mentioned also that the lack of exchange with African authorised entities was due to a lack of digital and physical infrastructure of the authorised entities in African countries – see the study p. 67.

Another survey conducted for an academic article ([71]) shows that 55% of the beneficiaries interviewed perceived an increase of the access to works in accessible formats in 2022, with the article explaining that, in particular, 'persons who are blind and using Braille printers experienced an improvement in their access to printed materials' ([72]) The article suggests that the Marrakesh framework facilitated in particular the conversion of printed material into Braille format, and had little impact on access to digital books ([73]).

In addition, the responses to the targeted consultation carried out in the context of this evaluation indicate that authorised entities and national authorities appreciate that there was an important impact of the framework on the EU and international cross-border exchanges, more than on production (Figure 9).

Figure 9. Impact of the Framework on perceived increases in the exchange of accessible format copies on a scale from 0-10, where 0 indicates no impact of the Framework, and 10 indicates that the increase is entirely attributable to the Framework (n=18)



Source: The Study (based on responses to the targeted consultation and consultation with Member States)

The direct impact of the Marrakesh instruments can be seen in a more straightforward way on cross-border exchange than on the production of accessible format copies. This is because copyright exceptions to benefit people with disabilities existed prior to the adoption of the Marrakesh Directive, already allowing authorised entities to make books and other written materials in accessible formats. Furthermore, regardless of the copyright framework, budgetary constraints and technological capabilities are more likely to drive the production capacities of authorised entities. As concerns cross-border exchanges, while certain Member States had cooperation agreements in place (especially

([71]) Ferri, D. The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled in the European Union: Reflecting on Its Implementation and Gauging Its Impact from a Disability Perspective. *IIC* 55, 89-109 (2024). https://doi.org/10.1007/s40319-023-01410-y Available at https://link.springer.com/article/10.1007/s40319-023-01410-y#Sec7.
([72]) idem
([73]) idem.

covering exchanges in the same language areas), the Marrakesh instruments opened up the possibility of exchanges with all Member States and with third countries, as well as providing access to international platforms facilitating international exchanges. Authorised entities in several Member States (e.g. Austria, Germany, Finland, Lithuania) reported that the implementation of the Marrakesh Directive and Regulation either allowed them to make such exchanges for the first time, or permitted them to expand the exchanges to a wider number of countries ([74]).

At the same time, it could be speculated that the access to accessible format copies through cross-border exchange means some funds could be freed up (see Section *4.1.2* on efficiency), allowing authorised entities to use them for the production of other titles that were not available through exchanges.

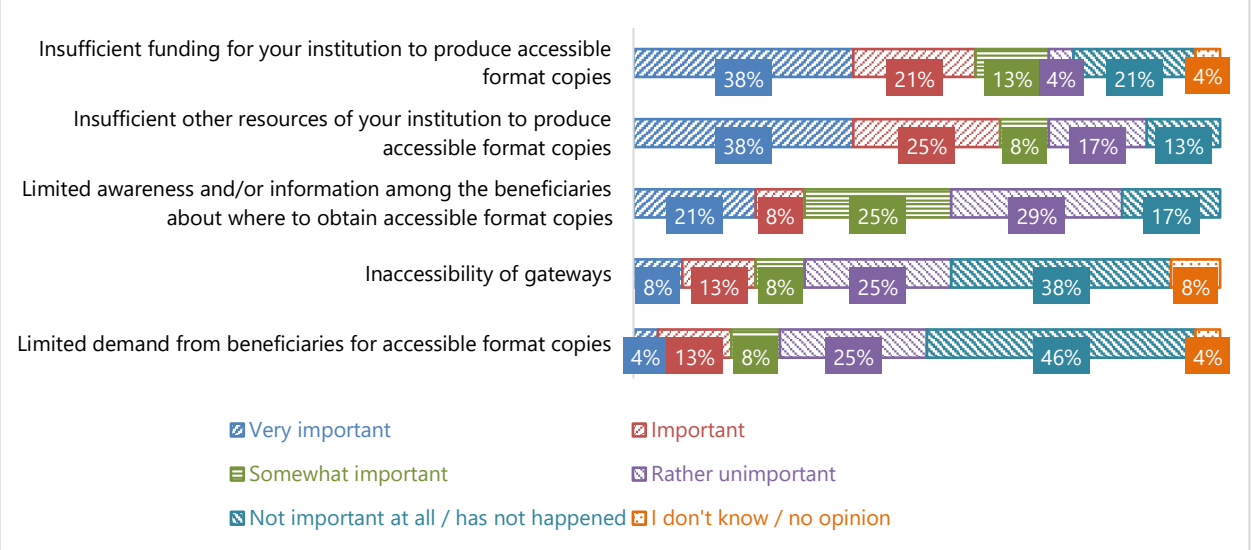
Furthermore, the framework, which also includes people with perceptual, reading or print-related physical disabilities among beneficiaries in additions to people who are blind or visually impaired, led to an expansion on the scope of beneficiaries covered in the reference period (39%). In theory, the increase in the user base could have impacted the production of the accessible format copies, however the data to correlate these factors is not available. In any case, as the study cautions, the production of new titles is influenced by several other factors, as developed in the Section below.

4.1.1.5. Factors affecting the production and exchange of accessible format copies

Based on the responses to the targeted consultation with the authorised entities, the most important obstacles to providing more accessible format copies are insufficient funding for the institutions producing the copies, or other insufficient resources (human resources, know-how, technology). Another challenge identified by respondents was the limited awareness among beneficiaries about where to obtain accessible format copies (see Figure 10).

([74]) The study, p. 35.

Figure 10. Obstacles to providing more accessible format copies, according to 24 AEs



Source: The Study, page 74

For funding sources, the authorised entities rely mostly on public funding (e.g. in Denmark, France, Lithuania), or a combination of public funding and donations (e.g. in France, Germany) ([75]). In one Member State (Spain) the authorised entity, ONCE, is funded mainly through the gross income obtained from the marketing of lotteries ([76]). There is no comprehensive data on the budget available to authorised entities in Member States, or on the variation from 2018 to 2023. However, the replies to the targeted consultation indicate that the lack of funds and other capacity constraints are viewed by the authorised entities as main limiting factors to the production of accessible format copies. In particular, authorised entities in France and Germany interviewed in the study mentioned a significant reliance on donations ([77]). Even when the authorised entities rely mostly on public funding, as in Lithuania, they are also supported by donations or by volunteers, for example for audio narration ([78]).

Authorised entities in smaller markets are also confronted by constraints due to limited production capacity, though it can be noted that among small markets, the richness of the catalogues of authorised entities varies significantly, with Nordic countries like Finland and Denmark possessing many more titles than authorised entities in Croatia or Lithuania ([79]). In particular, when they are not part of larger language areas, such countries are confronted with a lack of economies of scale and are less likely to benefit from technological tools that are more accessible in larger language markets. For

([75]) The study, p. 38.
([76]) https://www.fundacionONCE.es/en/about-us/introduction, last accessed on 6 August 2024.
([77]) The study, p. 75.
([78]) The study, p. 38.
([79]) 69 021 titles in Finland and 84 000 in Denmark versus 7 727 in Croatia and 15 433 in Lithuania (see the study, p. 215).

instance, larger markets can benefit from synthetic voices for adaptations, while in smaller markets the production would likely rely on human voice narrators, implying higher costs ([80]).

The awareness of beneficiaries (people with disabilities) as to where and how to find accessible format copies was also identified as an issue affecting access to accessible format copies, both during the targeted consultation and the call for evidence ([81]). This factor was flagged as important or very important by 29% of authorised entities, as well as by 59% of the beneficiaries representatives, educational institutions, cultural heritage institutions and other respondent participating in the targeted consultation.

Certain tools are available to facilitate access to information about available titles ([82]). For instance, beneficiaries may access online catalogues (e.g. Platon in France, catalogue of Celia in Sweden, catalogue of ONCE in Spain, Medibus catalogue in Germany). The ABC beneficiary application also ensures that information on available copies is accessible in a centralised manner for the use of beneficiaries, however it is not yet available to beneficiaries in all Member States ([83]).

The issue of awareness of the framework has been explored also by D. Ferri in 2023 ([84]). The research showed that there is limited knowledge of the Marrakesh framework, not only among people with disabilities, who can make use of copyright exceptions to access material in accessible formats, but also among representatives of organisations of people with disabilities. It seems that people who are blind might have a better awareness of the Marrakesh Treaty than people with a visual impairment, which the research article suggests could be caused by the different methods employed to access works (e.g. using copyright exceptions to produce Braille copies for people who are blind versus using visual magnifiers for people with visual impairments) ([85]).

Certain authorised entities also flagged the importance of access to the relevant technology to allow the use of the digital accessible formats, which is still lagging (for instance a survey conducted by a French authorised entity in 2021 revealed that 41% of its users did not have access to computers or laptops or smartphones, and only 7% had

([80]) The study, p. 215.
([81]) Response of EDF to the call for evidence, available at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13615-EU-copyright-law-for-blind-and-visually-impaired-people-evaluation-of-the-Marrakesh-Directive-and-Regulation_en.
([82]) The study, p. 218.
([83]) New ABC Application Gets Accessible Books Directly to People who are Print-Disabled
([84]) Ferri, D. The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled in the European Union: Reflecting on Its Implementation and Gauging Its Impact from a Disability Perspective, *IIC* 55, 89-109 (2024). https://doi.org/10.1007/s40319-023-01410-y available at https://link.springer.com/article/10.1007/s40319-023-01410-y.
([85]) Ferri, Delia and Rossello, Giulia (2023) The Role of the Marrakesh Treaty in Supporting Access to Printed Material for People Who Are Blind or Visually Impaired: A Critical Discussion of the Results of an Empirical Study Conducted in Six European Countries, *Disabilities*, 3 (2), p. 162.

read an e-book) ([86]). To facilitate access, beneficiaries are given the option to request CDs or paper-based Braille versions. In Belgium, in addition to providing online access to catalogues, the authorised entities offer information to beneficiaries via email or by phone. Furthermore, library networks are available in certain Member States, intermediating access of beneficiaries via their local library to physical copies held by authorised entities.

The cross-border exchange, especially with third countries, encounters also some challenges, for instance in the interoperability of formats and metadata (e.g. USA and Latin America have been reported to use different digital formats than the ones usually employed in the European Union) ([87]). The cross-border exchange with third countries was also reported to be impacted by legal uncertainty: even if they are parties to the Marrakesh Treaty, the legal framework in certain third countries might not be clear enough to allow seamless exchange ([88]).

4.1.1.6. Impact of compensation schemes

The Marrakesh Treaty leaves the option to contracting parties to decide whether they introduce a compensation scheme ([89]). On this basis, the European Union legislator introduced in Article 3(6) of the Marrakesh Directive the possibility for Member States to provide compensation for uses permitted under the Directive. The Directive confines the compensation scheme by providing several safeguards: compensation schemes should apply to uses undertaken by authorised entities established in the territory of the Member State introducing the scheme; compensation schemes should not require payments from beneficiaries or from authorised entities established in other Member States or third countries party to the Marrakesh Treaty; there should not be more burdensome requirements for the cross-border 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. The level of compensation should take account of the nature of the not-for-profit use. Furthermore, where the harm to a rightholder is minimal, no obligation for payment of compensation should arise.

As indicated in Section 3, six Member States have chosen to introduce compensation schemes, namely Austria, Denmark, Finland, Germany, Greece and Sweden, while two more Member States (Malta and the Netherlands) provide the possibility in their national law to introduce a compensation scheme if there is a prejudice to the interests of

([86]) The response to the call for evidence by AVH (Association Valentin Haüy) (France), 11 May 2023, available at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13615-EU-copyright-law-for-blind-and-visually-impaired-people-evaluation-of-the-Marrakesh-Directive-and-Regulation/feedback_en?p_id=31995115; see also the study, p. 75.
([87]) The study, pp. 59 and 76.
([88]) The study, p. 76
([89]) According to Article 4(5) of the Marrakesh Treaty, '[i]t shall be a matter for national law to determine whether limitations or exceptions under this Article are subject to remuneration'.

rightholders. These two Member States did not make use of the option at the time of the evaluation.

The mapping done by the study showed that the compensation schemes in use in the six Member States vary in scope: in Austria and Germany the schemes apply to all types of works to which the Marrakesh exception applies. The fee is of approximately EUR 0.12 per copy in Austria, and EUR 0.15 per copy in Germany, payable through the relevant collective management organisation (CMO) to authors and publishers. The study mentions that in 2020 the authorised entities in Germany paid EUR 27 000 as compensation for uses under Marrakesh rules ([90]) (the study did not collect this information for Austria).

In the other Member States (Denmark, Finland, Greece, Sweden) the compensation is limited either in terms of sectors or by types of medium covered. Thus, in Denmark, with the implementation of the Marrakesh Directive, the prior commercial check was removed and instead the legislation introduced a compensation scheme where the amount of compensation varies depending on whether it concerns the loan of a copy of a work that has been published commercially in an accessible format (in which case the payment per loan is approximately EUR 1.60) or not (EUR 0.94) ([91]). Overall, yearly the compensation is around EUR 1.78 million ([92]). The compensation is due to authors and publishers by the authorised entity for all copyright protected works covered by the Marrakesh framework, in relation to adaptation on certain media (audiobooks and e-books).

In Finland, the compensation is due to authors for physical loans of CDs or for digital downloads that are kept by the user. The compensation amount is negotiated by the authorised entity Celia with the CMO Sanasto. The cost is of EUR 0.38 per copy, and overall in 2022 the compensation due for uses under the Marrakesh rules was EUR 159 000. The compensation is paid from funds provided by the Ministry of Education and Culture to Celia for its statutory activities ([93]).

In Sweden, authors and translators receive compensation for uses under Marrakesh rules for ‘talking books’ (books read aloud), which are aimed at people with visual and reading disabilities ([94]). The compensation amount is calculated based on the length of the work and is paid out by the Ministry of Culture in a lump sum. For 2022, the compensation amounted to EUR 1.07 million ([95]).

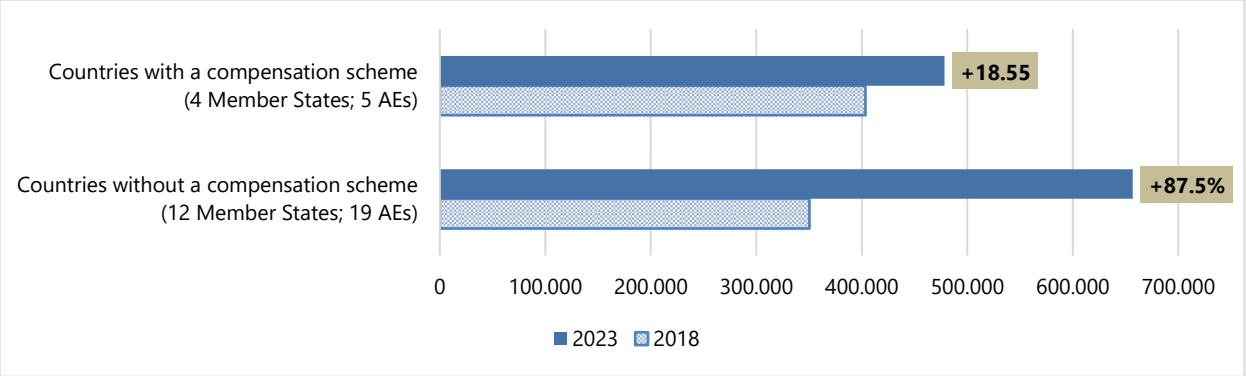
([90]) The study, p. 43.
([91]) The study, p. 159.
([92]) The study, p. 159.
([93]) The study, p. 43.
([94]) The study, p. 163.
([95]) The study, p. 163.

Finally, in Greece, authors and publishers receive compensation from the budget of the Ministry of Education for the use of educational works adapted in accessible format copies ([96]).

While the Marrakesh Directive requires the evaluation to look in particular at the impact of compensation schemes on the availability and cross-border exchange of accessible format copies, the limited data available does not allow a quantitative analysis of this impact.

The study compared the increase in the volumes of catalogues of 5 authorised entities present in 4 Member States with compensation schemes, and 19 authorised entities in 12 Member States without compensation schemes (Figure 11). While the data shows that the overall volume of titles in all the 19 authorised entities increased to a significantly greater extent than in the 5 authorised entities from the Member States with compensation schemes, the data has to be treated with many caveats. As explained in the study, the data is very limited, might not be representative, and does not allow asserting correlation between the lack of compensation schemes and the increased volume of titles in accessible formats. This is because other factors may account for the difference in the rate of increase of catalogues, such as the fact that authorised entities in Member States with compensation schemes from the outset had an extensive collection of titles while other authorised entities might have started to build up an entire collection ([97]). As shown also in the sub Section above, catalogues of authorised entities in countries like Finland and Denmark (which have a compensation scheme) had significantly more titles than authorised entities in Croatia or Lithuania where no compensation scheme applies ([98]). The lack of contextual data therefore does not permit a conclusion about impact from this comparison.

Figure 11. Total number of titles held by selected AEs in Member States with and without a compensation scheme in 2018 and in 2023 (n=24)



([96]) The study, p. 161.
([97]) The study, p. 71.
([98]) 69 021 titles in Finland and 84 000 in Denmark versus 7 727 in Croatia and 15 433 in Lithuania (see the study, p. 211).

Source: The Study

Opinions of stakeholders in their responses to the call for evidence differ depending on the interests represented, with representatives of beneficiaries considering that the compensation schemes should be eliminated ([99]), in particular mentioning that compensation schemes create barriers and that authorised entities should not be paying for work that publishers should do themselves. Two of these respondents consider that compensation schemes are against the spirit of the Marrakesh Treaty. However, the Treaty allows contracting parties to introduce compensation schemes. At the same time, rightholders emphasise in particular that compensation schemes are needed to remunerate authors and publishers ([100]).

Interviews conducted by the study team with stakeholders from Germany, Finland and Denmark, as well as replies submitted to the call for evidence, show that opinions on the impact of compensation schemes on the availability of works also vary depending on the national compensation scheme.

As concerns the production of accessible format copies, the Finnish authorised entity considers that the compensation scheme has only a minimal impact. Several factors can explain this view, as indicated also in the study ([101]). In Finland, as described above, compensation is due for a limited type of formats (copies that remain with the user - physical loans of CDs, downloads), and do not cover uses such as streaming, which have become an important method of consumption in Finland ([102]). Another factor to consider is the level of funding from the state budget also covering the compensation paid by the Finnish authorised entity ([103]). The opinion of the association representing visually impaired people living in Finland was that, in order to ensure the availability of accessible copies of works, the Finnish compensation scheme should remain at most at the current level ([104]).

On the other hand, interviews conducted by the study team with a German authorised entity, as well as with German representatives of beneficiaries, revealed that these stakeholders consider that the compensation scheme limits the capacity of authorised entities to produce accessible format copies in that country. While the yearly compensation paid by that authorised entity (approx. EUR 27 000) is lower than that paid by the Finnish authorised entity, the interviews indicate that the sum is considered

([99]) See responses to call for evidence, available at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13615-EU-copyright-law-for-blind-and-visually-impaired-people-evaluation-of-the-Marrakesh-Directive-and-Regulation_en.
([100]) See responses to call for evidence, available at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13615-EU-copyright-law-for-blind-and-visually-impaired-people-evaluation-of-the-Marrakesh-Directive-and-Regulation_en.
([101]) The study, p. 70.
([102]) The study, pp. 70 and 196.
([103]) Idem.
([104]) Response to the call for evidence by Näkövammaisten liitto ry available at EU copyright law for blind and visually impaired people – evaluation of the Marrakesh Directive and Regulation (europa.eu).

relevant in the overall budget of the authorised entity, which relies on donations for its functioning. The negative impact on production capacity was also raised by Austrian representatives of beneficiaries in relation to the compensation scheme in that country ([105]).

Finally, the compensation scheme in Denmark was considered by the Danish authorised entity Nota to have an impact on production, but for reasons that are linked to the process of setting up the scheme rather than the compensation scheme itself. More exactly, the negotiations with rightholders on the design of the compensation scheme were found by the authorised entity to have had a short term impact on its resources which had to be dedicated to administrative tasks, and halving the production of titles for 2022, when the negotiations took place ([106]). At the time the interview was conducted, the scheme had been recently put into place, thus the potential impact of the scheme itself was yet to be seen ([107]).

While quantitative data is not available to quantify possible effects, certain stakeholders argue that authorised entities engage less in **cross-border exchanges**, in particular due to uncertainties regarding the application of compensation in cross-border dissemination and the difficulty of calculating compensation for exporting, which could dissuade authorised entities from engaging in such exchanges ([108]). Representatives of beneficiaries have raised concerns in particular in relation to the compensation schemes from Germany and Austria. The Austrian federation for blind and visually impaired people considers that compensation schemes negatively affect the cross-border exchange between these countries because in both countries, in principle, compensation is claimed for the same right ([109]). The Spanish and Finnish authorised entities consider that the exchange of accessible format copies in the German language is made difficult because exporting authorised entities do not have clarity as to what extent the compensation scheme applies to the cross-border exchanges and, if it does, how to track the use for the purposes of calculating compensation ([110]),

Authorised entities from Germany, Austria and Switzerland have established a trilateral agreement for cross-border exchange. According to the input provided by the Austrian

([105]) Response to the call for evidence by Blinden- und Sehbehindertenverband Österreich (BSVÖ) and by the European Blind Union, available at EU copyright law for blind and visually impaired people – evaluation of the Marrakesh Directive and Regulation (europa.eu).
([106]) The study, p. 200.
([107]) The study, p. 71.
([108]) The study, p. 194.
([109]) See response to the call for evidence by the Austrian Federation of the Blind and Partially Sighted, and the response to the call for evidence by European Blind Union available at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13615-EU-copyright-law-for-blind-and-visually-impaired-people-evaluation-of-the-Marrakesh-Directive-and-Regulation/F3407696_en.
([110]) The study, pp. 71 and 194.

CMO Literar Mechana ([111]), the agreement with VG Wort (Germany) and Prolitteris (Switzerland) in place since 2012 ensures that works created by German or Swiss authorised entities, for which compensation is paid in Germany or Switzerland respectively, can be ordered by Austrian libraries and lent to their users without further compensation, as long as the concerned works are returned afterwards. Where the Austrian authorised entity intends to make the work part of their collection, they would have to pay a fee for such use under the Austrian compensation scheme.

In Sweden, Finland and Denmark, practices vary as to the application of compensation schemes in the case of cross-border exchange. The Finnish authorised entity reported that the number of cross-border loans is low, and considering the difficulty of tracking use abroad it is preferred not to impose a compensation fee for such use ([112]). In Sweden the compensation fee paid to rightsholders is not dependent on the number of loans (including if they are abroad) ([113]). Finally, in Denmark rightsholders are also paid for cross-border uses ([114]).

In this context, it is important to bear in mind that compensation schemes 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 party to the Marrakesh Treaty.

The correlation between compensation schemes and cross-border exchange is not possible to quantify or even establish, especially since the exchanges between Member States and with third countries are affected by various factors, linked in particular to sharing a common language, as well as in certain cases to the use of technology (interoperability of formats and metadata) ([115]) (see above, section 4.1.1.5).

To conclude, the option in Article 3(6) of the Marrakesh Directive has been used by six Member States, which have introduced schemes to compensate rightholders for uses undertaken by authorised entities under the Marrakesh Directive. The schemes differ among these Member States in terms of sectors and formats covered. It is not possible to draw conclusions on the quantitative impacts of the compensation schemes either on production or on exchange. Based on qualitative data, it appears that the impact is perceived differently by authorised entities and beneficiaries, depending on the design and financing of the scheme. Certain unclarities on the application of the scheme in some Member States may create reluctance for cross-border exchange.

([111]) Contribution submitted to the Commission services by Literar Mechana on 6 September 2023 in reaction to the call for evidence. The input was sent after the deadline to respond to the call for evidence and thus was not published online.
([112]) The study, p. 72.
([113]) The study, p. 72.
([114]) The study, p. 72.
([115]) The study, p. 72.

4.1.1.7. Possible unexpected and unintended consequences – considerations of potential impact on commercial market

As explained in Section 3, in order to ensure legal certainty, the Marrakesh Directive clarifies that authorised entities are not required to check the commercial availability of a work before deciding to produce an accessible format copy (recital 14). The question as to whether the Marrakesh framework can have unintended consequences on the commercial market has led to the specific provision in Article 10(3) of the Marrakesh Directive, according to which Member States may alert the Commission, by providing all the relevant elements, if they have valid reasons to consider that the implementation of the Directive has had a significant negative impact on the commercial availability of works or other subject matter in accessible formats for beneficiaries. The Commission is required to take such evidence into account when drawing up the evaluation report.

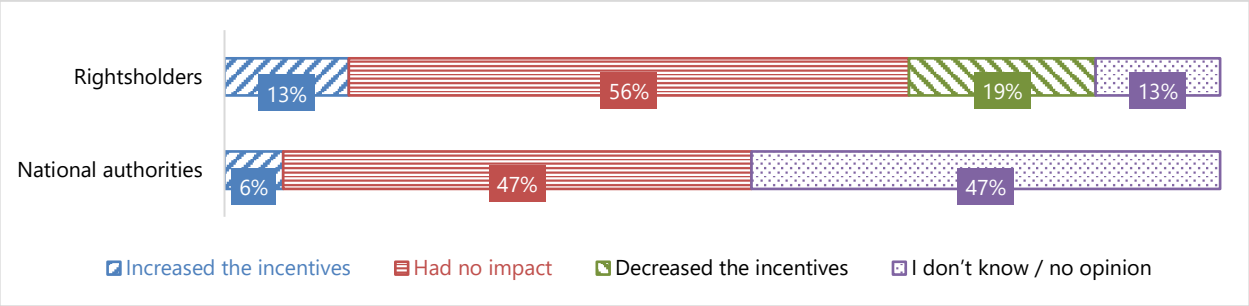
At the time of drafting of this report, no Member State has submitted such evidence to the Commission. Furthermore, the data gathered for the study did not allow conclusions to be drawn on the impact of the Marrakesh instruments on the commercial market in terms of commercial availability of born accessible works, due in particular to a lack of comprehensive data on the accessible publishing market ([116]).

During the targeted consultation, most stakeholders consulted did not identify an impact of the Marrakesh rules on the incentives for commercial production. Rightholders generally considered that there was no impact (56% of respondents), with the rest divided among those considering that it had and that it had not impacted the incentives for commercial production (Figure 12). Certain stakeholders view a positive indirect impact of the framework on the publishing market across Member States, as they consider that it has led to increased coordination and exchange between publishers and authorised entities via new initiatives, companies or mediators ([117]). Finally, almost half the replies from national authorities considered that there was no impact on commercial incentives, with none of them considering that incentives have been decreased.

([116]) The study, p. 67.

([117]) Response to the call for evidence by European Writers Council, available at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13615-EU-copyright-law-for-blind-and-visually-impaired-people-evaluation-of-the-Marrakesh-Directive-and-Regulation/F3414802_en.

Figure 12. Perceived impact of the Framework on commercial incentives (n=33)



Source: The Study

On the basis of the available information, it cannot be concluded that the rules on the copyright exception in favour of people with visual and reading impairments and print-related disabilities have had a significant negative impact on the commercial availability of works in accessible format which would warrant a revision of the current approach.

4.1.1.8. Potential impact on broader social goals

Several stakeholders indicated positive impacts of the Marrakesh framework on areas such as social inclusion and equality in general ([118]), developing opportunities to learn for children and adults ([119]); and work, culture and community participation ([120]).However, it is difficult to determine on the basis of the data available for this evaluation the extent to which the Marrakesh framework might have impacted these broader social goals.

Stakeholders also mentioned persisting difficulties, going beyond the Marrakesh framework, that might affect these goals, such as the insufficient availability of textbooks in accessible format, the insufficient accessibility of digital learning platforms, and the need for adequate training of teachers and librarians ([121]).

Stakeholders in several Member States have noted the positive impact of the framework on people with disabilities who come from ethnic minorities, diasporas or refugee populations ([122]). The cross-border exchange facilitated by the Marrakesh framework makes it possible to send works in accessible formats to people that emigrated to other

([118]) Responses to the call for evidence from an EU citizen and Nota, 2023, available at EU copyright law for blind and visually impaired people – evaluation of the Marrakesh Directive and Regulation (europa.eu).
([119]) Response to the call for evidence from Nota, 2023; available at EU copyright law for blind and visually impaired people – evaluation of the Marrakesh Directive and Regulation (europa.eu); interviews by the study team with the European Blind Union and Eureka Leuven, 2023.
([120]) Response to the call for evidence from Nota, 2023, available at EU copyright law for blind and visually impaired people – evaluation of the Marrakesh Directive and Regulation (europa.eu).
([121]) Interview by the study team with the European Disability Forum, European Writers' Council, German Federation of the Blind and Partially Sighted, Accessibility Library Celia and Eureka Leuven
([122]) The study, p. 67.

Member States or to serve the needs of minority populations or refugees by exchanging works with countries that share their language.

The framework could be seen as having contributed to awareness, in particular among publishers, of the challenges faced by people with disabilities ([123]).

4.1.2. Efficiency

The analysis of efficiency presented important limitations, as there was insufficient available data to quantify costs and benefits arising from the application of the Marrakesh framework. Much of the identified quantitative data contained limited details on the authorised entities' budget and their allocations, pertained only to a specific authorised entity, or was not accessible to the researchers in charge of the study.

Therefore, to assess if the intervention was efficient, the analysis mostly relies on a consideration of qualitative data. This Section is divided in two parts: impacts on various categories of stakeholders, and factors that may affect the efficiency.

4.1.2.1. Analysis of the impact of the Marrakesh framework

The analysis of the impact of the framework considers the categories of authorised entities, beneficiaries, rightholders and national authorities.

As mentioned in Section 3, even before the adoption of the Marrakesh Directive and Regulation, the EU framework provided Member States with the option to introduce an exception from copyright to benefit people with disabilities. While Member States have used this option to implement exceptions and limitations in their national legislation prior to the adoption of the Marrakesh Directive and Regulation, there were variations in the scope of application at national level, which in turn impacted the cross-border exchange of accessible format copies ([124]). The Marrakesh framework clarifies the exclusive rights and beneficiaries covered by the exception, increasing legal certainty and facilitating cross-border exchange.

As shown under the Section 4.1.1. above, the definition of **beneficiaries** in the Directive led in certain cases to an expansion of the categories of beneficiaries covered at national level (e.g. if the initial scope of national legislation was more limited than what the Marrakesh framework covers). Overall, based on data from a sample of authorised entities, it appears that in the reference period there was an increase of approximately

([123]) Interviews conducted by the study team with the German Centre for Accessible Reading, the European Blind Union, the European Writers' Council, and Luisterpuntbibliotheek, 2023.

([124]) European Commission, Directorate-General for the Internal Market and Services, Francquen, A., Dusollier, S., Triaille, J. et al., study on the application of Directive 2001/29/EC on copyright and related rights in the information society (the 'InfoSoc Directive'), European Commission, 2013, https://data.europa.eu/doi/10.2780/90141, pp. 420-437.

39% in the number of registered users (see *Figure 3* in Section 4.1.1.1). In the reference period, there was also an increase in the number of titles available in the catalogue of the authorised entities as well as increased access to catalogues of authorised entities (*Figure 4* in Section 4.1.1.1) . As reflected also in the perception of stakeholders (see *Figure 6* in Section 4.1.1.2), the framework appears to bring benefits to people with disabilities through improved access to accessible format copies.

Authorised entities deploy administrative, monetary and human resources for the production and exchange of accessible format copies. These costs are not generated by the Marrakesh framework, which only aims to facilitate their activities through increased legal certainty. According to data gathered by the study, the production of an accessible format copy can vary between EUR 250 and EUR 1600 for a DAISY version, and between EUR 200 and EUR 3000 for an eBraille edition. Most authorised entities interviewed by the study reported that there have not been major changes to the production costs since the implementation of the framework ([125]).

As discussed also in the Section on effectiveness, the adoption of the Marrakesh framework meant that accessible format copies could be sourced more easily through cross-border exchange (see *Figure 7* above). Authorised entities engaging in **cross-border exchanges** set up, coordinate and keep channels of exchange between authorised entities established in the EU, as well as in third countries, or through the participation in the ABC platform ([126]). While no comprehensive data was shared by the authorised entities on the impact on their resources as a result of the new rules facilitating the cross-border exchange, certain authorised entities interviewed in the study ([127]) highlighted that the framework offers them the possibility to avoid duplication of efforts and improves the availability of works to their users. For example, the Spanish authorised entity indicated that the cross-border exchange (within and outside the EU) lead to savings of approximately EUR 133 000 over a span of three and a half years ([128]). Furthermore, the increased legal certainty resulting from a harmonised exception, and the express recognition of the possibility of cross-border exchange alleviates the need for extensive checks to ensure compliance with the national copyright rules valid in the country of destination. The resources deployed by authorised entities that have access to international initiatives (ABC) have as a corollary an improved efficiency through a streamline of the exchange processes and easier access to a large pool of works ([129]).

Authorised entities are required to **prevent and discourage unauthorised uses** (see Article 5(1) of the Directive). As mentioned in Section 3, authorised entities employ

([125]) The study, p. 79.
([126]) Approximately one fifth of the authorised entities consulted during the targeted consultation identified changes in this type of costs, making it the most frequently mentioned type of changes in cost in the consultation (see the study, p. 80).
([127]) The study, p. 203.
([128]) The study, p. 213.
([129]) The study, p. 207.

different practices to determine eligibility of the beneficiaries: they may require proof of disability, membership of organisations for the blind, declaration of honour, or – even if they do not require any proof – they register users after an interview which establishes their needs ([130]). Practices differ also on the methods applied to prevent further dissemination - authorised entities may use technical protection measures, in particular watermarking, limit the number of loans, or inform about the consequences of breaches varying from exclusion from the user base to criminal liability ([131]). In addition, authorised entities are required to provide information to beneficiaries, other authorised entities or rightsholders on the list of works in an accessible format copy held by the authorised entity, and on the authorised entities it has exchanged copies with (in line with Article 5(2) of the Directive). Authorised entities also **provide user service** to beneficiaries, such as maintaining and updating catalogues, and providing customer service. In light of the increase of the user base by 40%, as indicated above, there might be some marginal increase in the impact on authorised entities for user service compared to the period prior to the intervention. However, no concrete data was available to determine if or to what extent this could be the case. In the targeted consultation, 10 authorised entities reported that they had incurred no expenses following the implementation of the Marrakesh framework, while seven indicated that they had expenses associated with the human resources required to establish and oversee the necessary information systems (such as preparing metadata, downloading copies and incorporating new entries into their catalogues).

As mentioned in Section 3, with the aim of providing legal certainty for beneficiaries, the Directive clarifies that authorised entities should not be required to perform prior checks of the commercial availability of works in accessible formats. The framework therefore does not impose obligations on authorised entities that might inhibit the production of and access to accessible format copies due to a lack of clarity on whether a work can be adapted by the authorised entity or not. As explained in Section 3, with few exceptions, the Member States refrained from introducing a requirement on authorised entities to check the commercial availability of works in accessible formats.

Furthermore, the Marrakesh framework prevents introducing specific authorisation conditions on authorised entities for the taking up of activities under the framework. While Member States can have in place authorisation or recognition requirements, applicable for instance for the provision of services of a general nature to beneficiaries, the Marrakesh Directive clarifies that this should not have the effect of preventing the authorised entities, which are confined to the categories defined in Article 2(4) of the Directive, from undertaking the uses allowed under the framework. Representatives of beneficiaries stated that in certain Member States authorised entities need to be on an

([130]) The study, p. 44.
([131]) The study, p. 45.

approved list in order to benefit from the Marrakesh provisions ([132]). On the other hand, certain stakeholders consulted during the study argued that the lack of an obligation for authorised entities to notify to the national authorities makes it difficult to track the number and identity of authorised entities operating. As mentioned in Section 3, the systems in place at national level vary, with certain Member States requiring some form of notification to the competent authority of their names, legal status, contact details, and some information on the activities of the authorised entity. However, sufficient data was not available to establish the possible impact on resources on the national systems in place. Furthermore, the framework encourages authorised entities which engaged in cross-border exchange to communicate their names and contact details to be made publicly available by the Commission in a centralised place ([133]). While this might entail some marginal use of resources for the authorised entities, it should also provide benefits for them by facilitating the mutual identification of authorised entities with which to cooperate, and more generally helps increase transparency.

As concerns **rightholders**, the rules were expected to have a limited impact on their copyright as property right (recognised by Article 17 of the Charter), since the Marrakesh Directive and Regulation are limited to fully harmonising the different copyright exceptions or limitations already existing at national level prior to their adoption and to facilitating the cross-border exchange of accessible formats. While no data is available on this impact, variations compared to the pre-Marrakesh period might have appeared from the increase in the availability of the accessible format copies, as well as from the increase in the number of beneficiaries. The Marrakesh Directive recognises the possibility of maintaining or introducing compensation scheme to address possible harm to rightholders, under certain conditions, as detailed further below. As discussed in the effectiveness Section 4.1.1.7, the evaluation did not find evidence that the adoption of the Directive and Regulation has had a negative impact on the commercial availability of accessible works in the EU.

Certain rightholders have raised concerns about the extent of unauthorised use ([134]). The evidence available during the evaluation was not sufficient to determine the impact of the practices applied by authorised entities to prevent unauthorised uses. Specialised formats (e.g Braille, or formats requiring hardware not used by non-beneficiaries) are generally by their nature limited to people falling within the scope of the framework, as they have the skills or equipment to use them ([135]). Issues might arise in cases where an authorised

([132]) See input from the EBU to the call for evidence, available at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13615-EU-copyright-law-for-blind-and-visually-impaired-people-evaluation-of-the-Marrakesh-Directive-and-Regulation/F3414790_en.

([133]) The list is available at https://digital-strategy.ec.europa.eu/en/policies/marrakesh-treaty#:~:text=The%20term%20'authorised%20entity'%20in,on%20a%20non%2Dprofit%20basis.

([134]) See in particular the response to the call for evidence of Danske Forlag, available at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13615-EU-copyright-law-for-blind-and-visually-impaired-people-evaluation-of-the-Marrakesh-Directive-and-Regulation/F3414254_en.

([135]) The study, p. 90.

entity provides high quality formats that can be equally enjoyed by non-beneficiaries (e.g. streamed audiobooks). In such cases, the measures under Article 5(1) of the Directive imposed on authorised entities to prevent and discourage unauthorised uses are likely to carry increased weight.

The framework does not engage with the financing of authorised entities. To varying extent, in most Member States the authorised entities, which are non-profit entities, are financed from public funds. Since copyright exceptions for people with disabilities were in place also prior to the Marrakesh framework, arguably the impact on **national authorities** stemming from such funding is not new. There is no data available in the study regarding possible changes in the public financing of the authorised entities across Member States after the adoption of the Marrakesh framework.

National authorities bear the costs generally linked to the enforcement of the rules. They are also required to transmit to the Commission for publication the names voluntarily notified to them by the authorised entities engaged in cross-border exchange, however such costs are likely to be negligible.

As concerns **compensation schemes**, the framework clarifies that the level of compensation of rightholders should take account of the non-profit nature of the activities of authorised entities, of the public interest objectives pursued, 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.

The compensation is paid by authorised entities, however, as mentioned previously, the schemes are in most cases funded partially or totally by the Member State ([136]). The costs (per year) vary significantly among Member States: e.g. approximately EUR 27 000 in Germany, EUR 159 000 in Finland, 1 million in Sweden and EUR 1.7 million in Denmark ([137]).

Stakeholders representing people with disabilities argue that the compensation paid by authorised entities in Germany affects their production capacity. In this context, they argued ([138]) that beneficiaries indirectly support the compensation scheme through donations, while the framework does not intend to impose on them such costs. These concerns could be linked to the scope of the compensation scheme (which in Germany applies to all uses by authorised entities under the copyright exception) and more particularly to the funds at the disposal of the authorised entities in that Member State. To the extent that Member States had a compensation scheme in place before the

([136]) The study, p. 80. For more details on the funding sources, see supra p. 25.
([137]) The study, p. 224.
([138]) The study, p. 84.

implementation of the Marrakesh framework (as is the case in Germany), these impacts are likely not new. During consultation activities, stakeholders mentioned that the transposition in Germany had not brought about substantial changes to the existing system, however they mention that the compensation scheme had caused administrative burdens([139]). Stakeholders indicated that the amount of funding available from public resources in that Member State would not be sufficient for the authorised entities, which often seek donations from the beneficiaries to continue their work([140]).

In the case of Denmark, the transposition led to the introduction of the compensation scheme, after removing the obligation on authorised entities to perform prior checks of the commercial availability of accessible formats. The Danish stakeholders reported that there had been prolonged negotiations over the compensation scheme between rightsholders and authorised entities to address various related administrative and legal issues.

The resources used by authorised entities for calculating and paying the compensation, according to the authorised entities consulted, could be negligeable in case the process is automatised, but could be higher where there is no or incomplete automatisation of data processing and transmission ([141]). Administrative costs in relation to compensation schemes may also arise for the authorised entities in countries having such schemes when they engage in cross-border exchange (see the discussions in the Section *4.1.1* on effectiveness).

As detailed above, to a large extent, the benefits and obligations under the framework are not new, as copyright exceptions or limitations for people with disabilities were also in place before its adoption. Changes compared to the situation prior to the adoption of the framework are linked to the improvement of access for people with disabilities (increase in the number of beneficiaries and in the number of accessible format copies, and the facilitation of cross-border exchange). The increase in legal certainty through the introduction of a harmonised exception alleviated the efforts of authorised entities (e.g. by limiting duplications of efforts and reducing the need of detailed checking of the legal framework in the target state).

While the available information does not permit drawing firm conclusions grounded in quantitative data, the framework does not seem to impose disproportionate or unnecessary burdens in light of the benefit of improving access for beneficiaries. The administrative requirements are limited to what is necessary to ensure the availability of accessible format copies, prevent unauthorised uses and facilitate transparency. The Marrakesh Directive and Regulation do not impose a specific authorisation procedure on authorised entities and do not include mandatory reporting obligations for authorised

[139] The study, pp. 199-200.
([140]) The study, p. 200.
([141]) The study, p. 199.

entities to national authorities. Member States need to report to the Commission only on information transmitted voluntarily to them on contact details of authorised entities engaged in cross-border exchange. Therefore, no need for simplification and streamlining was identified.

4.1.2.2. Factors influencing the framework's efficiency

The consultations undertaken within the framework of the study explored certain horizontal factors or practices which might increase the efficiency of EU intervention. However, quantitative data to support the analysis of their impact on efficiency is not available.

At national level, the **centralisation or central coordination of the authorised entities** may simplify the access for beneficiaries and facilitate economies of scale. Depending on the national specificities, this may occur as an effect of having one main authorised entity (as is the case in Denmark, Finland, Spain, and Sweden), or through good coordination of the various authorised entities functioning at national level. For instance, in France, where there are more than 200 authorised entities, the introduction of the Platon platform appears helpful to provide improved access to beneficiaries and to help authorised entities coordinate activities. However, it was also reported that some duplication of tasks might still arise, as the authorised entities need to maintain their own catalogue and coordinate exchange through ABC[142].

More generally, **cooperation between authorised entities**, both in the production of accessible format copies and in sharing titles, can improve efficiency by preventing the duplication of efforts. This can take place at national level or more widely. For instance, in Belgium, certain authorised entities developed common apps or catalogues, which can be used by libraries and schools to order accessible files ([143]).Authorised entities in Finland, Sweden and Norway interviewed by the study team reported that they coordinate production and share costs to provide works in languages for an ethnic minority. In Germany, authorised entities developed a network allowing them to share catalogues and announce production plans; the network is also available to Austrian and Swiss authorised entities. Authorised entities can also access the WIPO ABC's library application, which offers a single catalogue of accessible format copies by pooling the catalogue of other participating authorised entities. One authorised entity reported for example that they check availability of copies through ABC to avoid duplication of efforts, noting also that the efficiency of cooperation depended on the frequency with which authorised entities update the information on ABC (with some taking several months to update) ([144]). Furthermore, authorised entities in certain Member States do not use the ABC, or only some of the authorised entities in a country are part of the ABC

[142] The study, p. 86
([143]) The study, p. 217.
([144]) The study, p. 209.

network. As explained by one French authorised entity, this could be because smaller entities in particular might not employ the standardised methods that facilitate the access to ABC and, e.g. in the case of France, prefer the available national platform ([145]). Finally, depending on existing partnerships and issues of software compatibility, some authorised entities may opt for multilateral or bilateral agreements, or case-by-case arrangements, which can potentially increase costs.

Different types of **cooperation between authorised entities and publishers** can contribute to increase synergies and therefore improve efficiency of the framework. For example, in Lithuania, where the market is small, it is possible for the authorised entity to contact publishers in order to voluntarily check commercial availability and avoid duplications. In Denmark, where there is a compensation scheme in place, a higher level of compensation is offered to rightholders for born accessible works which are used by the authorised entities, thus incentivising commercial production. Publishers also have to provide the authorised entity with the copy in a digital format, which minimises the risk of duplication of work ([146]). In Finland, authorised entities and publishers share the costs of production of audiobooks, especially for human narration, to improve efficiency and to provide access through various channels (the work is initially published commercially, and after a certain period of approximately 8 weeks, becomes available to users registered with Celia) ([147]). Cooperation also exists for textbooks (e.g. in Italy and Belgium) where authorised entities cooperate with national and international publishers who provide them with digital files in a timely manner[148]. Case-by-case cooperation depends on the incentives or the willingness to cooperate of the parties, which might be more challenging in larger markets ([149]). In France, systematic cooperation set up through legislation connects rightsholders with the authorised entities through the Platon platform where they can share digital files of e-books and audiobooks to facilitate the production of accessible copies.

The **level of digitalisation and technological readiness** among authorised entities can also enhance efficiency. For instance, automatic reporting can improve efficiency by minimising the administrative costs for the operation of authorised entities (such as reporting of data, or the calculation and payment of compensation in Member States where compensation schemes are in place).

Furthermore, interoperability of formats avoids the need for additional conversion work in the context of cross-border exchange and can thus improve efficiency ([150]). Initiatives have been taken by some authorised entities to ensure interoperability in certain contexts (for instance, the Lithuanian authorised entity adjusted metadata of certain titles shared

([145]) The study, p. 218.
([146]) The study, p. 87 and 201.
([147]) The study, p. 201.
([148]) The study, p. 87
([149]) The study, p. 220.
([150]) The study, pp. 59 and 88.

by Ukrainian authorised entities to make them compatible with the metadata practices in most EU Member States).

Some good practices concerning **transparency and access to information** can be found across the Member States.

In some Member States, beneficiaries have access to online catalogues through which they can request works or directly stream or download. For instance, in France, beneficiaries have access to the Platon catalogue through which they can request works, while in Finland they can download or stream from the catalogues of the authorised entity the available copies in accessible format. The ABC beneficiary application also ensures that information on available copies is accessible in a centralised manner for the use of beneficiaries, however it is not yet available to beneficiaries in all Member States.

Nevertheless, not all beneficiaries have the know-how or the access to the technology to allow them access via an online catalogue. Practices in certain authorised entities respond to the diverse needs by training beneficiaries to use the catalogues, or allowing them to request CDs or print Braille copies via different means (email, phone). In some Member States, like Germany, in addition to providing online access, authorised entities collaborate with library networks, which provide consultation and assistance to beneficiaries ([151]). Furthermore, the know-how of teachers and librarians in guiding beneficiaries was also indicated as an area of possible improvement, with some authorised entities reporting that they have taken measures to address this issue[152].

Beyond information on available copies, some authorised entities (e.g. from Lithuania) voluntarily publish basic statistics on the use of accessible format copies, registered users, and cross-border exchanges with third countries, increasing the transparency of their services.

As concerns the practices to prevent **unauthorised dissemination** of accessible format copies, while no precise information is available to assess the impact of the methods used by authorised entities, interviews with stakeholders suggest that password protection and two factor authentication reduce accessibility for beneficiaries and are avoided by authorised entities. On the other hand, watermarking appears to provide a good cost-benefit ratio in preventing the unauthorised dissemination of downloadable copies in non-specialised formats[153].

([151]) The study, p. 219.
([152]) The study, p. 75.
([153]) The study, p. 91.

4.1.3. Coherence

To assess if the intervention is coherent, both internal and external coherence are being considered. Therefore, it is relevant to assess whether the Marrakesh Directive and Regulation are coherent in relation to international instruments, EU policies and legislation, as well as if the instruments are coherent internally (i.e. that there are no contradictory provisions in light of their aims).

4.1.3.1. International rules

As indicated in Section 3, the implementation of the Marrakesh Treaty into EU law was part of the observations of the United Nations Committee on the Rights of Persons with Disabilities on the initial report of the European Union, in relation to Article 30 of the Convention on the Rights of Persons with Disabilities (UNCRDP) ([154]).The UNCRPD, to which the European Union is party, calls for the laws protecting intellectual property rights not to constitute an unreasonable or discriminatory barrier to access by people with disabilities to cultural materials (Article 30(3)). The Marrakesh Directive and Regulation, which aim to ensure that beneficiaries have access to books and other printed material in accessible format copies in the internal market, as well as beyond through exchanges with third parties which are parties to the Marrakesh Treaty, contribute to improving access to cultural works, educational material as well as information for people with disabilities.

The Marrakesh Directive and Regulation are also coherent with the Marrakesh Treaty, in terms of objectives, personal and material scope. In the responses to the call for evidence, certain stakeholders argued that the compensation schemes allowed by the Marrakesh Directive are against the spirit of the Marrakesh Treaty ([155]). However, the Marrakesh Treaty allows contracting parties to decide whether to provide remuneration to rightholders for uses under the copyright exception introduced by the Marrakesh Treaty. The option in Article 3(6) of the Marrakesh Directive, which provides the possibility for its Member States to set out such compensation schemes under certain limits, is coherent with this option recognised by the Treaty.

At the same time, as mentioned in the previous sections, the EU legislator decided not to implement another option set out in the Marrakesh Treaty, namely to require prior checks of commercial availability of works in accessible format. It was considered that imposing such an obligation on authorised entities would be detrimental to the legal certainty and thus ultimately affect the availability of works for beneficiaries ([156]). As reported in Section 4.1.2.2., forms of cooperation have developed between authorised entities and

([154]) https://digitallibrary.un.org/record/812354?ln=en&v=pdf.
([155]) See input from EDF and EBU to the call for evidence available at EU copyright law for blind and visually impaired people – evaluation of the Marrakesh Directive and Regulation (europa.eu).
([156]) See recital 14 of the Directive, first sentence.

publishers at national level, including as part of compensation schemes, minimising the risk of duplication between the production of accessible format copies by authorised entities and the born accessible works on the commercial market.

4.1.3.2. EU copyright rules

At EU level, the Marrakesh instruments are coherent with other relevant EU copyright legislation.

As indicated in Section 3, prior to the adoption of the Marrakesh Directive and Regulation, the EU copyright framework provided Member States with the possibility to adopt a copyright exception for the benefit of people with disabilities (Article 5(3)(b) of the InfoSoc Directive). These provisions remain in place, permitting Member States to cover other disabilities or types of works than those within the scope of the Marrakesh Directive. Member States need to ensure the coherence between such additional provisions which they keep or introduce in national law and the mandatory exception harmonised by the Marrakesh Directive. This is clarified in Article 8 of that Directive (which amends Article 5(3)(b) of the InfoSoc Directive) by stating that the latter provision is 'without prejudice to the obligations of Member States under Directive (EU) 2017/1564 of the European Parliament and of the Council'. In 2022 the Commission services published a report which, in accordance with Article 9 of the Marrakesh Directive assessed the availability of works and other subject matter for people with disabilities other than those covered by the Marrakesh Directive ([157]).

4.1.3.3. EU disability legislation

The Marrakesh Directive is also coherent with EU disability rules.

The specific copyright exception in this Directive is coherent with the EU Charter of Fundamental Rights, which prohibits all forms of discrimination, including on grounds of disability, and provides that the right of people with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community is recognised and respected by the EU.

([157]) See SWD(2022) 109 final, Report on the availability of certain copyright protected works for persons with disabilities within the internal market, available at https://digital-strategy.ec.europa.eu/en/library/report-availability-copyright-protected-works-persons-disabilities.

Other relevant pieces of EU legislation addressing disability in the digital environment are the Web Accessibility Directive([158]), the Audiovisual Media Services Directive (AVMSD)[159] and the European Accessibility Act (EAA).

The Web Accessibility Directive in force since 22 December 2016, provides people with disabilities with better access to websites and mobile apps of public services.

The Audiovisual Media Services Directive (AVMSD) facilitates the cross-border circulation of audiovisual media services while ensuring a minimum level of harmonised rules in areas falling under the Directive, including the accessibility of these services by people with disabilities. Article 7 of this Directive requires traditional broadcasters and video-on-demand providers to make their services 'continuously and progressively more accessible to persons with disabilities'. It also requires Member States to report on the implementation of this obligation on a regular basis and to encourage the development of accessibility action plans by those media service providers.

The Marrakesh Directive complements these two EU pieces of legislation, which concern different sectors from written works (public sector websites, audiovisual) and which address the accessibility of these services with different legal tools than copyright legislation.

The most relevant disability legislation is the European Accessibility Act (EAA).

The EAA aims to improve the functioning of the internal market for accessible products and services, by introducing common rules on accessibility and thus removing barriers created by divergent rules in Member States. Article 2(2)(e) covers e-books and dedicated software. Under Article 4 of EAA, Member States need to ensure that economic operators only place on the market products and only provide services that comply with the accessibility requirements set out by this Act. Member States had to transpose the Directive by 28 June 2022, and the measures apply from 28 June 2025. Article 2(5) of the EAA states that it is without prejudice to copyright rules of the Marrakesh Directive and Regulation (EU) 2017/1563. In any case, the two EU pieces of legislation will apply side by side, with EAA ensuring the increased availability of born accessible e-books, while the Marrakesh instruments would continue to allow beneficiaries and authorised entities to adapt written works into accessible format copies for people with visual and reading impairments or print-related disabilities.

([158]) Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies OJ L 327, 2.12.2016, pp. 1–15

([159]) Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) OJ L 95, 15.4.2010, pp. 1–24

The coherence of the Marrakesh Directive and Regulation with the EAA could be questioned regarding the potential duplication of efforts between the commercial and non-profit sectors (authorised entities), considering also that the Marrakesh instruments prevent prior verification measures of the commercial availability of works in accessible formats. According to rightholders' representatives, the implementation of the EAA would elevate the need to ensure that the Marrakesh rules do not interfere with the normal exploitation of the work. In the replies to the call for evidence for this evaluation, certain rightholders representatives argued that authorised entities should check whether accessible copies exist in the market so as to focus on books for which it is too difficult for publishers to provide a digital accessible version ([160]). On the other hand, authorised entities consider that such a condition should not be imposed as an obligation, especially since there is no central source of information to allow the authorised entity to comprehensively verify the commercial availability of the accessible version of the work ([161]). Where the circumstances allow (in particular because the market is small), authorised entities might voluntarily verify the commercial availability of works in accessible format, for reasons of efficiency ([162]). At the same time, the e-books produced by the market in line with EAA requirements are not necessarily 'assistive' printed books or books in Braille that respond to specific needs. It is likely that authorised entities will adapt to the practicalities of the new context and steer their behaviour accordingly. For instance, one such entity reported that most likely their focus will shift from the needs of visually impaired people to people with print disabilities who have cognitive issues ([163]).

Furthermore, rightholders' representatives and authorised entities have stressed the importance of synergies and cooperation in the implementation of the EAA as well as in ensuring the complementarity between the Marrakesh rules and the EAA. The study mentioned the examples of Sweden and Finland, where the governments proposed that authorised entities operate as 'national accessibility authorities' supervising the compliance with accessibility requirements for e-books under the EAA, as well as the possible interest of publishers to contract authorised entities to advise on accessible production aspects ([164]).

In the context of the EU legislation detailed above, the Marrakesh instruments constitute one of the tools to enhance accessibility of printed material. Ultimately, access to

([160]) See in particular contributions from FEP, SNE, IFFRO available at EU copyright law for blind and visually impaired people – evaluation of the Marrakesh Directive and Regulation (europa.eu).
([161]) See in particular contributions from Association Valentin Haüy (France) and from Association for the Visual Disabled (FI), available at EU copyright law for blind and visually impaired people – evaluation of the Marrakesh Directive and Regulation (europa.eu).
([162]) See reply to the call for evidence of the Lithuanian audiosensory library, available at EU copyright law for blind and visually impaired people – evaluation of the Marrakesh Directive and Regulation (europa.eu).
([163]) The study, p. 96; for further discussion of the EAA impact, see also Section 4.3.
([164]) The study, p. 96.

information, education and culture for people with disabilities are influenced by the combined effect of all EU legislative instruments on accessibility.

Therefore, as also indicated in the academic literature, '*on the whole, as the EU awaits the full implementation of the EAA, the Marrakesh Directive and Regulation have an important role to play in ensuring accessibility, but they remain only one piece – albeit an important one – of the accessibility 'jigsaw'*" ([165]).

4.1.3.4. Internal coherence

The Marrakesh instruments are coherent with the key goal of increasing availability of works in accessible formats, including by increased cross-border exchanges within EU and with third countries parties to the Marrakesh Treaty. This aim is achieved by introducing a mandatory exception to copyright and related rights for the benefit of blind, visually impaired and otherwise print disabled people at the EU level. To further facilitate the cross-border exchange, the Directive encourages authorised entities to notify their contact details, which are published by the Commission. In turn, the increased cross-border availability is meant to reduce duplication of production of accessible format copies to ensure saving and efficiency gains.

The provisions of the Marrakesh instruments are also coherent with the objective of safeguarding the balance of rights and interests between rightholders and users. In order to protect the interests of rightholders, certain obligations are put in place on the authorised entities to prevent unauthorised use. Authorised entities are also required to provide information (to rightholders and beneficiaries, upon request) on the list of works and the available formats they hold, as well as on the name and contact details of the authorised entities with which they have engaged in the exchange of accessible format copies. Furthermore, Member States are permitted to introduce or maintain compensation schemes for the benefit of rightholders, under certain conditions.

Rightsholders would favour closer scrutiny by national authorities of how the obligations are discharged by authorised entities, in particular to prevent unauthorised dissemination. Certain rightholders mention that the lack of comprehensive information regarding the authorised entities functioning in a Member State might affect the possibility of cooperation (for instance the sharing of files by rightholders) ([166]). At the same time,

([165]) The Implementation of the Marrakesh Treaty in the European Union: An Important Piece in the Accessibility Jigsaw?Delia Ferri, Katie Donnellan, Legal Issues of Economic Integration, Volume 49, Issue 3 (2022) p. 292 https://kluwerlawonline.com/api/Product/CitationPDFURL?file=Journals\LEIE\LEIE2022013.pdf.

([166]) The study, p. 89.

beneficiaries warned that requirements in certain Member States that authorised entities be included on an approved list are contrary to the Marrakesh Treaty ([167]).

As mentioned in Section 3 and the Section on efficiency, the Directive does not introduce a specific authorisation procedure for authorised entities (which are confined to specific categories, as defined in Article 2(2)). In some Member States authorised entities need to notify the national authorities of their contact details and submit information on their services, however data was not available for all Member States. Furthermore, the framework encourages the voluntary notification to national authorities of contact details of authorised entities engaged in cross-border exchange. Such voluntary notifications are particularly useful to provide transparency to facilitate cross-border exchange and cooperation.

4.2. How did EU intervention make a difference and to whom?

4.2.1. EU added value

To assess the EU added value of the intervention, the evaluation aims to determine what the Directive and Regulation achieved compared to what was likely to have been achieved in the absence of intervention, and to determine how the EU intervention made a difference and to whom.

As seen above, the Marrakesh Directive and Regulation implement into EU law the obligations stemming from the Marrakesh Treaty. The CJEU concluded that the obligations laid down by the Marrakesh Treaty fall within an area already covered to a large extent by common EU rules, and as a consequence the European Union had 'exclusive competence' to conclude the Marrakesh Treaty ([168]). Therefore, an EU intervention was needed to fulfil the EU's international obligation under the Treaty, which Member States could not ratify otherwise.

Before the conclusion of the Marrakesh Treaty, all Member States had already implemented copyright exceptions for the benefit of visually impaired people, on the basis of the provisions of the InfoSoc Directive. As indicated in Section 3, there were divergences in the scope of beneficiaries and uses covered by the national legislation ([169]), which in turn affected the cross-border exchange of accessible format

([167]) See input to the call for evidence from EDF and EBU, available at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13615-EU-copyright-law-for-blind-and-visually-impaired-people-evaluation-of-the-Marrakesh-Directive-and-Regulation/F3414879_en.

([168]) Opinion 3/15 of 14 February 2017 of the Court of Justice of the European Union.

([169]) Study on the application of Directive 2001/29/EC on copyright and related rights in the information society (the 'InfoSoc Directive'), 2013, p. 428, available at https://op.europa.eu/en/publication-detail/-/publication/9ebb5084-ea89-4b3e-bda2-33816f11425b.

copies ([170]). The lack of EU intervention to adopt the Marrakesh Directive and Regulation would have meant the maintenance of that status quo.

The introduction of rules at EU level, in addition to being needed to fulfil the EU's international obligations, made the exception mandatory, harmonised the scope of the copyright exception, setting out the beneficiaries and types of works covered, as well as the permitted uses that can be undertaken under the copyright exception by authorised entities and beneficiaries.

The harmonised rules ensure that beneficiaries across the whole European Union benefit from the same set of rules guaranteeing access to accessible format copies within the scope of the Marrakesh framework. Furthermore, the EU harmonised rules ensure also that authorised entities enjoy increased legal certainty when distributing or exchanging accessible format copies created under the framework with other Member States and with third countries party to the Marrakesh Treaty. The possibility of cross-border exchange of accessible format copies (supported also by the sharing of voluntary information, consolidated at EU level, on the authorised entities that are involved in such exchanges) facilitates cooperation between authorised entities and increases the overall efficiency at EU level, creating economies of scale ([171]).

Therefore, the Marrakesh intervention especially aided the beneficiaries and authorised entities by ensuring increased legal certainty, in particular for the cross-border exchange of accessible format copies.

4.3. Is the intervention still relevant?

4.3.1. Relevance

In order to assess the relevance of the Marrakesh instruments, the evaluation aims in particular to establish to what extent the Directive and Regulation continue to be relevant in addressing the needs of beneficiaries, including older people, to have access to accessible formats considering the evolving policy context (including other accessibility related European legislation) and the market and technological developments that might affect the availability of such formats.

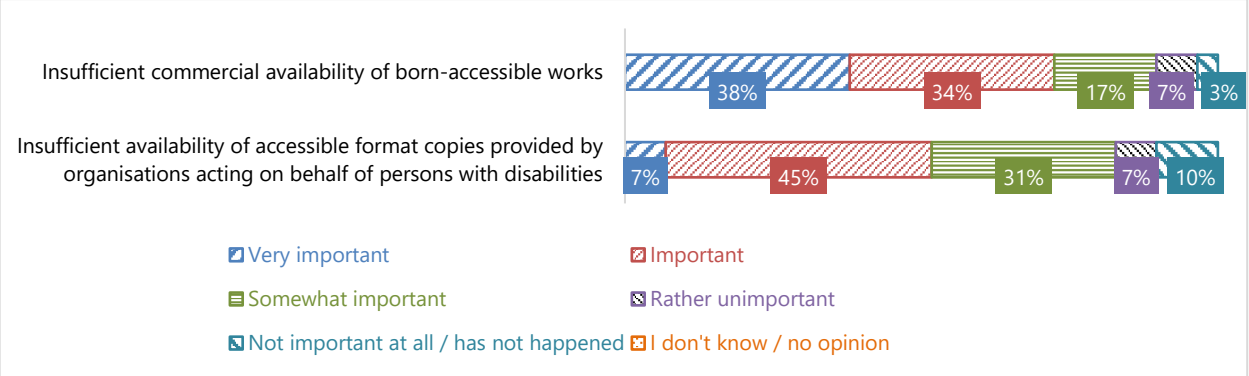
([170]) Idem, p. 437.
([171]) See also analysis in Section 4.1.2 Efficiency.

4.3.1.1. Market developments

As explained in Section 2, the adoption of the Marrakesh instruments aimed to address the book famine which negatively impacted the access to information of beneficiaries and their participation in cultural, economic and social life.

The qualitative data gathered by the study through the targeted consultation shows that for beneficiaries and relevant institutions the insufficient availability of born accessible works (provided directly by the market) is perceived as the main obstacle to the availability of works in accessible formats (see Figure 13).

Figure 13. Perceived obstacles to the availability of works in accessible formats, according to beneficiaries, educational institutions, cultural heritage institutions and other respondents (n=40)

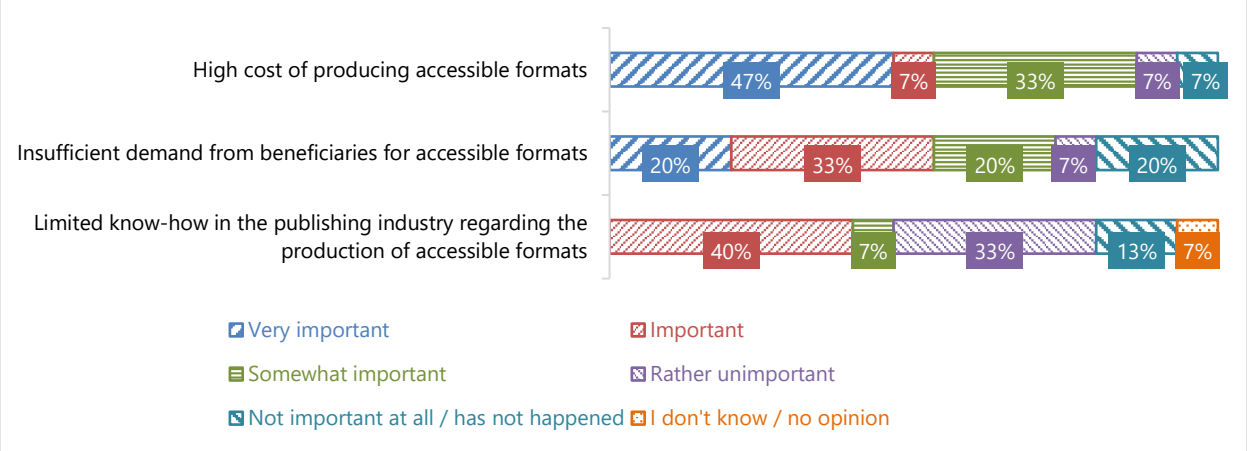


Source: The Study

Interviews conducted by the study with stakeholders indicate furthermore that the market of born accessible works is almost non-existent in most Member States ([172]), with some exceptions, as is the case for instance in Spain where publishers have been producing large format books for older people ([173]). The main obstacle to the production of born accessible works, invoked by publishers in the targeted consultation, is the high cost of production combined with insufficient demand.

([172]) The study, p. 53.
([173]) The study, p. 53, footnote 124.

Figure 14. Perceived obstacles for production of born accessible works, according to the rightsholders (n=15)



Source: The Study

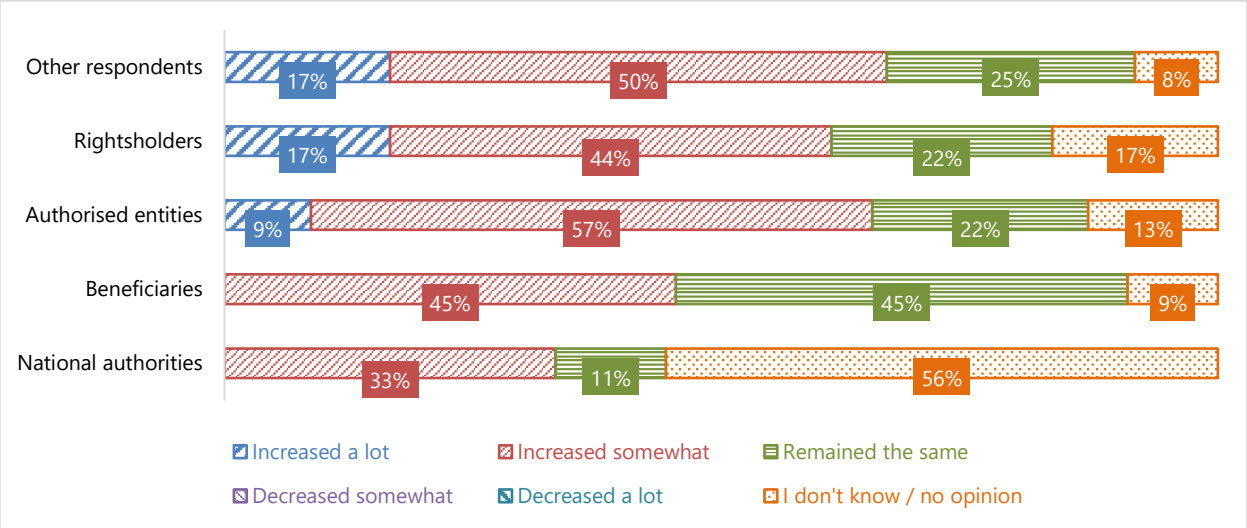
At the same time, the study points to an increase in the market for 'unintentional accessible works'. These formats, such as e-books and audiobooks (possibly incentivised by COVID-19, digitalisation and preparation for the implementation of the EAA) provide a degree of accessibility, without necessarily covering the different needs of beneficiaries under the framework ([174]). Beneficiaries indicate also that such formats might not always be accompanied by an accessible navigation through their content and are likely to be accessible for some categories of beneficiaries (partially sighted) rather than others (e.g blind users) ([175]). Further accessibility barriers might be raised by the commercial platforms or library sites where these works are available, if no accessibility features are in place to allow access to the work. In addition, certain stakeholders interviewed for the study also mentioned the possibility that certain of the streaming services do not allow downloads and the proprietary readers could prevent uses of screen magnification tools or screen reader software ([176]).

The study notes that, according to the Federation of European Publishers, around six million e-books were available on the EU market. Nevertheless, digital formats only made up 12.6% of European publishers' turnover in 2021, while audio formats constituted 2.5% of the turnover. The study also points out that the development of these digital formats appears to be uneven among the Member States, with smaller markets less inducive to production of such formats, given that the costs could be high compared to the expected revenues, especially for professionally recorded audiobooks ([177]).

([174]) The study, p. 201; see also the Section 4.3.1.1.
([175]) The study, p. 55.
([176]) The study, p. 55.
([177]) The study, p. 54.

Against this background, the responses to the targeted consultation showed that stakeholders perceive that there has been an increase in the market for born accessible works since 2018.

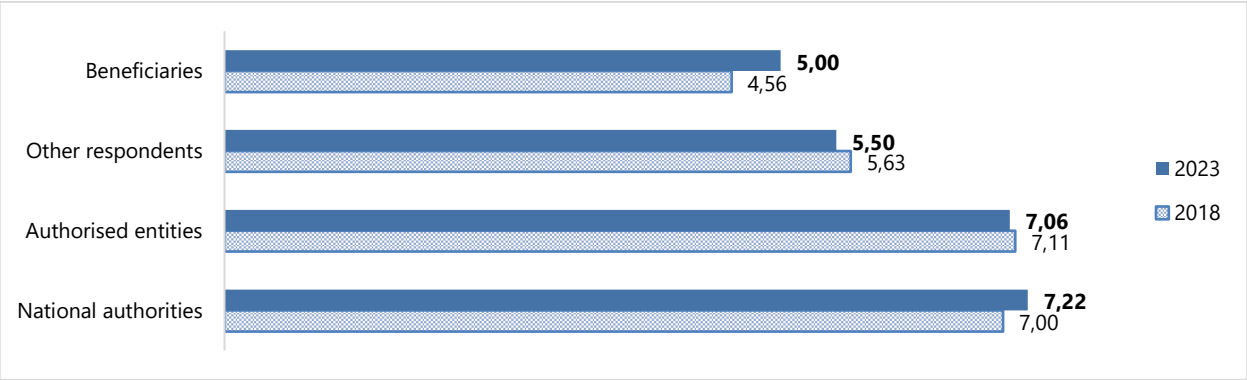
Figure 15. Perceived change in the availability of born accessible works between 2018 and 2023 (n=82)



Source: The Study (The category 'other respondents' includes educational institutions, cultural heritage institutions, and respondents who did not indicate that they belonged to any major stakeholder group).

Rightholders are the most optimistic in assessing the progress of the availability of born accessible works. Beneficiaries perceive that there has been some moderate increase in the born accessible market (see figure above) and estimate that around half the works in accessible format are born accessible (see figure below). Authorised entities, as well as national authorities, perceive that more of the accessible formats available are produced by authorised entities rather than coming from the market.

Figure 16. Perceived proportion of born accessible works and accessible format copies available in 2018 and 2023, where 0 indicates that all available works were born accessible and 10 indicates all were accessible format copies (n=49)



Source: The Study (the category 'other respondents' includes educational institutions, cultural heritage institutions and respondents who did not indicate that they belonged to any major stakeholder group).

Therefore, while the market for born accessible works is perceived as having increased (potentially due to the 'unintentionally' accessible works such as e-books or audiobooks for the general public), insufficient commercial availability of born accessible works continues to be perceived as an obstacle by beneficiaries, who also point out that in most Member States the market for 'intentionally' accessible formats, with few exceptions, was highly limited. The copyright exception, allowing the authorised entities and beneficiaries to produce accessible format copies, appears to remain relevant to facilitate access to written works for people with disabilities covered by the framework.

4.3.1.2. Policy developments – EAA

The market for born accessible e-books is expected to change with the implementation of the EAA. The EAA ensures that from June 2025 e-books and dedicated software, as well as e-readers placed on the market, comply with the accessibility requirements set out by this Act.

Annex I of the Act details the accessibility requirements that need to be addressed by the products and services covered. As concerns e-books, in addition to the general requirements (Section II of the Annex I), the following additional requirements are also applicable ([178]):

- ensuring that when an e-book contains audio in addition to text, it then provides synchronised text and audio;
- ensuring that e-book digital files do not prevent assistive technology from operating properly;
- ensuring access to the content, the navigation of the file content and layout including dynamic layout, the provision of the structure, flexibility and choice in the presentation of the content;
- allowing alternative renditions of the content and its interoperability with a variety of assistive technologies, in such a way that it is perceivable, understandable, operable and robust;
- making them discoverable by providing information through metadata about their accessibility features;
- ensuring that digital rights management measures do not block accessibility features.

([178]) See Annex I, Section 4, point f) in the EAA.

In addition, the e-readers have to provide for speech to text technology.

Therefore, e-books delivered on the market from June 2025 are available in accessible formats that facilitate access for people with disabilities. However, microenterprises delivering services are not obliged to comply with the EAA requirements (Article 4(5) of EAA). In addition, economic operators have to comply with the accessibility requirements of the EAA to the extent that they do not result in disproportionate burdens or require a significant change in a product or service that results in the fundamental alteration of its basic nature (Article 14 of EAA). Rightholders interviewed for the study argued that comic books might require fundamental alteration to be accessible. More generally, they argued that high costs for making a work accessible (in case it contains, for instance, a large number of graphics or charts), combined with low sales expectations, could be a justification for claiming that it leads to disproportionate burdens ([179]). To this end, the EAA requires carrying out an assessment of whether compliance with the accessibility requirements would introduce a fundamental alteration or, based on the relevant criteria set out in Annex VI, impose a disproportionate burden ([180]).

Overall, the EAA is expected to have an important impact on the commercial market for e-books, both in making available e-books in accessible format as well as in addressing certain shortcomings in the accessibility of gateways ([181]).

While it is a very positive development that more accessible e-books will be provided directly by the market, the EAA does not exhaust the needs of people with disabilities covered by the Marrakesh instruments. It might rather free up resources for more specialised production of accessible format copies ([182]).

The EAA ensures accessibility of e-books, whereas other assistive formats might be better suited for different disabilities. For instance, certain people might not have the skills or hardware to use e-books and they will more comfortably use Braille or large prints formats. Even in the case of e-books, it is not clear that the particular format of accessible e-books available on the market under EAA will be appropriate for all print-related disabilities. For example, while certain rightholders consider that the EPUB3 format of e-books can be used by dyslexic readers, other stakeholders argue that specific types of adaptation such as additional enhancements might be required to make the work

([179]) The study, p. 56.
([180]) Economic operators have to document the assessment and keep all relevant results for a period of 5 years to be calculated from the last making available of a product on the market or after a service was last provided, as applicable. Upon a request the economic operators have to provide the authorities with a copy of the assessment.
([181]) The study, p. 56.
([182]) See response to the call for evidence by DAISY Consortium available at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13615-EU-copyright-law-for-blind-and-visually-impaired-people-evaluation-of-the-Marrakesh-Directive-and-Regulation/feedback_en?p_id=31995115.

accessible for certain people with disabilities ([183]). In addition, it is claimed that the quality of the text-to-speech voices may not be good enough for people with learning disabilities and thus human narration might be needed ([184]). Furthermore, the exceptions of microenterprises providing services and the safeguards in the EAA may lead to the unavailability of certain titles in born accessible e-book format, in particular in small markets where publishers are more likely to qualify as micro enterprises, making the offer of born accessible books more limited ([185]).

To summarise, while the policy context has evolved since the adoption of the Marrakesh framework, with the introduction of the EAA which ensures the accessibility of e-books, the Marrakesh framework remains relevant. The EAA does not exhaust the needs of the people with disability covered by the Marrakesh Directive to have available accessible format copies. This is for instance because EAA covers one type of accessible format (e-books) and other formats might be more appropriate for certain categories of beneficiaries, as well as because e-books might require more specialised adaptation for certain disabilities. In addition, micro enterprises providing services are exempted to comply with the accessibility requirements of the EAA.

4.3.1.3. Technological developments

Since the adoption of the Marrakesh instruments, technologies have become more widely available to facilitate the accessibility of printed works and a wider availability of accessible formats, marking a shift from analogue to digital formats and from physical distribution to online access ([186]).

The types of accessible formats that are usually held by authorised entities in the EU (Figure 17 below) shows that by far the most widespread format is the DAISY digital talking book, followed by Braille (including eBraille) and e-book formats (including EPUB).

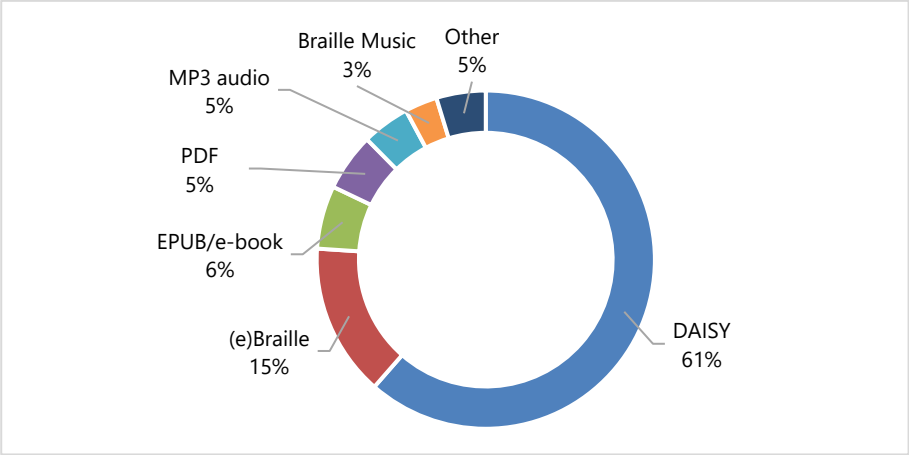
([183]) The study, p. 57; see also the reply of DAISY consortium to the call for evidence, available at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13615-EU-copyright-law-for-blind-and-visually-impaired-people-evaluation-of-the-Marrakesh-Directive-and-Regulation/feedback_en?p_id=31995115.

([184]) Celia's reply to the call for evidence, available at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13615-EU-copyright-law-for-blind-and-visually-impaired-people-evaluation-of-the-Marrakesh-Directive-and-Regulation/feedback_en?p_id=31995115.

([185]) The study, p. 96.

([186]) The study, p. 57 and 59.

Figure 17. Accessible formats held by a sample of EU-based AEs, by format (n=26)



Source: The Study

In terms of relevant technologies, the study highlights several developments, such as file conversion, availability of new hardware and software, 3D printing and machine learning ([187]). For example, the file conversion tools enable conversion of text into audio, or allow conversion between various text formats (e.g. word into EPUB). Furthermore, beneficiaries may use new hardware and software such as refreshable Braille displays, screen readers, screen magnifiers, e-readers, which facilitate their access to printed works. In addition, 3D printing is expected to replace the predominantly manual process of printing tactile materials, which is quite costly and complicated, and thus improve the availability of Braille books as well as facilitate the reading of elements (such as mathematical figures and maps) that are difficult to cover with other formats. Finally, machine learning could have a positive impact in improving text-to-speech technologies and the quality of synthetic speech.

While technological development helps progress in the accessibility of printed works, the study identified several challenges that persist in the use of these technologies, ranging from access barriers to limits of the technology itself ([188]). In particular, the study highlights that the cost of certain specialised hardware can be quite high, reaching for instance several thousand euros for refreshable Braille devices. Furthermore, some mainstream readers are not compatible with accessible formats such as EPUB3 or DAISY. Besides cost or interoperability issues, not all beneficiaries have the technical skills to use the specialised hardware and may still prefer older devices. As concerns the technology itself, despite recent progress, works containing images, mathematical formulas or graphics usually require a more individualised approach and remain more resource intensive. Limitations were also flagged for text-to-speech technology, which may still contain many errors, and for which quality is lower in smaller language areas. As concerns accessible formats themselves, it is still possible that content provided e.g.

([187]) The study, p. 58.
([188]) The study, p. 59.

in accessible pdf format, or as audiobooks or e-books, might not be fully accessible if for instance it lacks image descriptions, or the navigation is not accessible. Furthermore, the diversity of formats used could lead to difficulties of interoperability, especially in case of cross-border exchange, with additional conversion work needed to make the format compatible.

The study also flags that parts may be lost with the advancement of technology ([189]), such as the decrease of users of Braille in Member States, a technology which has been considered important in the learning process and cognitive development of children, and might be a better medium for messages in scientific areas.

Overall, despite limitations, the technology facilitates the production of accessible works by publishers and authorised entities and makes it more efficient. It also provides additional tools to beneficiaries, which improve access to printed works. The new technologies do not make the Marrakesh instruments redundant: as shown by the study, these rules remain a prerequisite to take advantage of the technological developments ([190]).

5. WHAT ARE THE CONCLUSIONS AND LESSONS LEARNED?

5.1. Conclusions

The main objective of the Marrakesh Directive and Regulation is to improve the availability of books and other printed material in formats that are accessible to beneficiaries, and to improve their circulation across borders, in line with the EU's international commitments under the Marrakesh Treaty.

To this end, these instruments brought the necessary adaptations to EU law in order for the EU to ratify the Marrakesh Treaty. They introduce a mandatory harmonised exception with effect throughout the internal market and enable cross-border exchange within the EU and with the third countries party to the Marrakesh Treaty. The increased cross-border access aims to generate savings and efficiency gains by reducing duplication of efforts in producing accessible format copies. Furthermore, the harmonisation of the copyright exception aims to increase the legal certainty when beneficiaries and authorised entities undertake activities covered by the Marrakesh rules. More generally, the objective of the Marrakesh instruments is to contribute to better integration of people with disabilities and to their participation in the life of the community.

([189]) The study, p. 60.
([190]) The study, p. 60.

Effectiveness

This evaluation found that the Marrakesh Directive and Regulation have been effective in improving the availability of accessible format copies within the EU as well as their cross-border exchanges within the EU and with third countries which are party to the Marrakesh Treaty.

The sample data available indicates a significant increase in the number of users in the reference period by 39%, which could be linked to the fact that the adoption of the Marrakesh Directive led to an expansion of the scope of beneficiaries in certain Member States to also cover cognitive and physical print-related disabilities.

The data from the authorised entities sampled in the study showed that, in the reference period, there was an increase by about 50% in the number of accessible format copies available in their collections. While data to correlate the increase with the impact of framework are not available, the stakeholders consulted by the study are of the opinion that the Marrakesh rules have had a positive impact on the availability of accessible format copies.

As regards the cross-border exchange of accessible format copies, the evaluation identified that the Marrakesh instruments opened up the possibility of exchanges with Member States and with third countries, as well as providing access to international platforms facilitating international exchanges.

Qualitative data gathered through the targeted consultation showed that certain factors going beyond the Marrakesh instruments may continue to affect progress towards the increased availability of accessible format copies. Such factors include available funds for the authorised entities, the level of awareness of beneficiaries, as well as access to technology and know-how.

The evaluation also considered the impact of the compensation schemes allowed by the Marrakesh Directive on the availability and cross-border exchange of accessible format copies. In the reference period, six Member States applied compensation schemes, four of them limiting the schemes to certain type of sectors or of formats, while the other two apply to all types of formats covered by the framework. Due to the limitations in data, it is not possible to draw conclusions about possible quantitative impacts of the compensation schemes on the production or on the exchange of accessible format works. Based on qualitative data, it appears that the impact is perceived differently depending on the design and financing of the scheme. Certain uncertainties about the application of the scheme in a few Member States might create difficulties for cross-border exchange.

Finally, the evaluation did not uncover possible unintended effects of the implementation of the Marrakesh instruments, in particular concerning the impact on the commercial availability of works in accessible format.

Efficiency

In the absence of sufficient available data to quantify costs and benefits arising from the application of the Marrakesh rules, the efficiency analysis focuses to a large extent on a qualitative analysis of the impact of the framework. Against the background of existing copyright exceptions for people with disabilities applicable in Member States also before its adoption, the framework increased legal certainty for beneficiaries and authorised entities. The harmonisation of the copyright exception and the facilitation of cross-border exchanges helped achieve the goal of improved access for beneficiaries in a more efficient manner.

The framework did not impact production costs for accessible format copies, which authorised entities reported as remaining stable compared to the period before the intervention. The increase in the number of beneficiaries and in the number of cross-border exchanges suggest that authorised entities serve a larger user base and organise more exchanges. While no comprehensive data was available to quantify the impact of the framework on their resources used for cross-border exchange, it appears that the intervention contributed to savings for authorised entities since more copies could be sourced through exchanges, and also reduced the administrative costs linked to ensuring compliance with the national copyright rules valid in the country of destination.

The impact on rightholders is also not newly generated by the framework, since the intervention is limited to harmonising existing copyright exceptions. The intervention allowed Member States, under certain conditions, to maintain or introduce schemes to compensate the harm to rightholders.

The impact of the compensation scheme on the efficiency of the framework appears to depend in particular on the fundings available to the authorised entities, as well as on their level of digitalisation. In certain cases the compensation scheme is perceived as impacting the beneficiaries when funds are considered insufficient and they are asked to contribute through donations to the overall funds of authorised entities.

The framework does not engage with the financing of authorised entities. To varying extents, in most Member States the authorised entities are financed from public funds, however the impact on national authorities stemming from such funding is not new considering the already existing copyright exceptions. National authorities bear the costs linked to the enforcement of the rules in general, though no specific monitoring obligations are set out in the framework.

In general, while the available information does not allow firm conclusions grounded in quantitative data to be drawn, the evaluation did not uncover unnecessary burdens introduced by the framework and there does not seem to be a need for simplification and streamlining. On the contrary, the framework pays attention to avoid imposing burdens on the authorised entities which could inhibit the availability of accessible format copies.

Similar to the analysis of effectiveness, qualitative data showed that certain other factors going beyond the Marrakesh framework may impact the efficiency. For instance, exchange of information and cooperation among authorised entities, as well as between authorised entities and publishers can produce synergies by coordinating efforts. The level of digitalisation among authorised entities can have an impact on the provision of accessible copies, the organisation of exchanges, and the managing of administrative tasks by authorised entities. In addition, ensuring easy access to information can contribute to the enjoyment of the framework by beneficiaries and overall improve the transparency of the system.

Coherence

The evaluation has not identified any relevant inconsistencies or overlaps as concerns the coherence of the Marrakesh instruments with other legislative interventions in the area of copyright, accessibility and inclusion at the international, EU or national level.

In particular, the Marrakesh instruments are complementary with the EAA, a piece of EU legislation which requires a wide range of everyday products and services to be accessible for people with disabilities including e-books. The EAA ensures the availability of born accessible e-books placed on the market after June 2025. Stakeholders raised the issue of possible impact on the synergies between the Marrakesh Directive and EAA, because the Marrakesh Directive does not oblige authorised entities to verify if a work they intend to adapt is already available on the market in an accessible format. The approach taken by the Marrakesh rules to avoid such an obligation on the authorised entities aims to provide legal certainty for authorised entities and to prevent a negative impact on the availability of accessible format copies for beneficiaries. This also remains a valid objective in the context of the EAA. At the same time, increased cooperation between rightholders and authorised entities should facilitate the interplay with EAA, as authorised entities might want to steer their resources to cater to needs that are unmet by the market.

The evaluation found that the Marrakesh provisions are also coherent internally, being suited to address the key goal of increasing availability of works in accessible formats copies while also safeguarding a fair balance between the rights and interests of rightholders and users.

EU added value

The EU intervention was essential to fulfil the EU's international obligation as a signatory of the Marrakesh Treaty, given that the subject matter falls within an area of exclusive EU competence. The EU intervention led to a harmonisation of the copyright exception for people with print-related disabilities, addressing the existing divergences in the scope of the existing national exceptions, and facilitated the cross-border exchange of

accessible format copies. It aided the beneficiaries and authorised entities by ensuring increased legal certainty and limiting duplication of efforts, and led to increased overall efficiency and increased availability of copies in accessible formats.

Relevance

The evaluation found that the Marrakesh instruments remain relevant in light of the policy, market and technological developments in the reference period.

The market for born accessible books does not appear to have increased in the reference period. While the market for e-books and audiobooks for the general public has increased, it remains still a rather small proportion of the offer and it does not address all the various needs of the people with disabilities covered by the Marrakesh instruments. Therefore, the copyright exception introduced by the Marrakesh framework remains relevant to improve access for beneficiaries to accessible format copies.

The European Accessibility Act is expected to have an important impact on the commercial market for accessible e-books. The EAA is likely to free up the resources of authorised entities for the more specialised production of accessible formats, however it does not exhaust the needs of the people with disability under the Marrakesh Directive for accessible copies. This is, for instance, because EAA only covers one type of accessible format (e-books) and other formats might be more appropriate for certain categories of beneficiaries covered by the Marrakesh framework, and because e-books might require more specialised adaptation for certain disabilities. In addition, micro enterprises providing services are exempted from complying with the accessibility requirements of the EAA.

Technology has become more widely available in the reference period, facilitating and making more efficient the production of born accessible works and accessible format copies. It has also ensured better tools for beneficiaries to access print-related works. However, the technologies are not making the intervention redundant, as the Marrakesh rules remain a prerequisite to take advantage of the technologies.

5.2. Lessons learned

Overall, the performance of the Marrakesh Directive and Regulation matched the expectations: against a background of existing but varied national copyright exceptions for the benefit of people with disabilities, the EU instruments improved legal certainty by clarifying the uses and beneficiaries covered by the exception, while safeguarding the balance of rights and interests. The available data suggest that EU measures helped improve availability of accessible format copies made under the exception and in particular facilitated the cross-border exchange of these copies.

At the same time, the framework did not impose burdens on the authorised entities that could inhibit the availability of accessible format copies. There is also no obligation imposed on the authorised entities to provide data to national authorities on the uses or works covered by the framework or to publish such data. (Information on works and subject matter available in accessible format copies is provided, upon request, to beneficiaries, rightholders and other authorised entities). Some authorised entities voluntarily publish data, while certain national authorities might ask authorised entities for data as part of monitoring activities. In this context, there is limited data available on the uses under the framework.

While no comprehensive data is available, in general, the evaluation did not uncover unintended effects of the intervention. At the same time, the impact of the measures may vary across Member States due to different factors, in particular due to funding or resources, as well as access to technology, awareness, and level of cooperation. The main lessons learned arising from the evaluation are the following:

The insufficient **funding** or other insufficient **resources** (human resources, know-how, technology) for the authorised entities are perceived as the main obstacles to providing more accessible format copies. Cross-border exchanges may help bring savings by removing duplication of efforts, since copies can be sourced from other authorised entities. Nevertheless, it appears that in house production remains a significant source of accessible format copies, also because users favour works in their own language, which could be available through exchanges only in countries with shared languages. In this context, a stable and sufficient level of funding of the authorised entities seems relevant for the effectiveness of the measures.

The **level of digitalisation and technological readiness** among authorised entities can also have an impact. Technology can facilitate and make more efficient the production of accessible works as well as provide additional tools to beneficiaries which improve access to printed works. In addition, automatisation of reporting can improve efficiency by minimising the administrative costs for the operation of authorised entities. Interoperability of formats (especially in exchanges with third countries) can mitigate costs linked to additional work for the format conversion ([191]).

Increased **awareness** of the services offered by the authorised entities and increased transparency allowing beneficiaries to locate the titles offered are likely to further benefit the utilisation of the framework. Certain online tools are available to facilitate access to information about available titles ([192]). At the same time, not all beneficiaries have the know-how or the access to the technology to allow them to use the available catalogues or tools efficiently. Practices in certain authorised entities respond to the diverse needs by training beneficiaries, or by allowing them to request formats (including analogues) by

([191]) The study, pp. 59 and 88.
([192]) The study, p. 218.

different means (email, phone). In some Member States, authorised entities also collaborate with library networks, which provide consultation and assistance to beneficiaries, while some also take measures to improve the know-how of teachers and librarians in guiding beneficiaries. Overall, services catering to diverse needs of support of beneficiaries appear useful in improving access and use of the accessible format copies.

In the absence of specific **monitoring** and authorisation procedure, the evaluation found that the situation at national level differs. Certain Member States require some form of notification from authorised entities, and might require them to transmit information as part of the monitoring activities, or perform spot checks. On the other hand, in one Member State the national authority was not aware of the authorised entities in that country and could not provide information on the functioning of the framework in that State. Authorised entities are confined to certain types of entities (e.g. those authorised or recognised by a Member State to provide education, instructional training, adaptive reading or information access to beneficiary, public institution or non-profit organisation dedicated to providing such services to beneficiaries). Furthermore, the voluntary notification by authorised entities to their national authorities, encouraged by the Directive for those that engage in cross-border exchanges, can contribute to increased transparency for all relevant parties and could be more widely applied.

While no precise information is available to assess the impact of the methods used by authorised entities to **prevent unauthorised dissemination** of accessible format copies, interviews with stakeholders suggest that password protection and two factor authentication reduce accessibility for beneficiaries and are avoided by authorised entities. On the other hand, watermarking appears to provide a good cost-benefit ratio in preventing the unauthorised dissemination of downloadable copies in non-specialised formats. The measures to prevent uses not covered by the framework are likely to carry increased weight when authorised entities provides high quality formats that can be equally enjoyed by non-beneficiaries (e.g. streamed audiobooks).

Cooperation between authorised entities, in both the production of accessible format copies as well as the sharing of titles, is helpful to improve efficiency. In addition to the international ABC platform, certain initiatives are in place to connect authorised entities at national level, or in same language areas, or to coordinate production and share costs to provide works in languages for an ethnic minority.

Finally, **cooperation between authorised entities and publishers** is useful to increase synergies and is likely to become even more relevant in the context of the application of the EAA. Reported cooperation takes different forms, such as: in small markets, where contacts are more easily possible, authorised entities voluntarily contact publishers in order to check commercial availability and avoid duplications; availability of platforms or incentives for publishers to provide authorised entities a copy in a digital format, so as

to minimise the risk of duplication of work; sharing costs of production of certain formats to improve efficiency and to provide access through various channels.

ANNEX I: PROCEDURAL INFORMATION

1. Lead DG, Decide Planning references

This evaluation was led by Directorate-General Communication Networks, Content and Technology (DG CNECT), Unit I2 'Copyright'.

The DECIDE reference is: PLAN/2022/1998.

2. Organisation and timing

On 29 July 2022, an Interservice Steering Group (ISG) involving services with an interest in the measure under evaluation ([193]), was consulted on the draft terms of reference (ToRs) for a study supporting the evaluation of the 'Marrakesh' Directive ((EU) 2017/1564) and Regulation ((EU) 2017/1563).

On 13 January 2023, the ISG was consulted on the call for evidence and on the consultation strategy.

In November 2022, DG CNECT issued a request for services and terms of reference for a tender on external study supporting the evaluation of the Marrakesh Directive and Regulation.

The study contract was signed on 13 March 2023, with task duration of 9 months. It began with a kick-off meeting on 29 March 2023 and ended in January 2024 (see Annex II).

The ISG has been consulted via email on the different draft reports submitted by the contractor. In particular, the ISG has been consulted on 21 June 2023 on the First Interim report, on 20 September on the Second Interim report, and on 9 November on the draft final report.

In April 2023, DG CNECT published the call for evidence for the initiative on the 'Have your say' portal, describing purpose and scope of the evaluation. The call for evidence was open to public feedback for 4 weeks (until 11 May 2023).

On 8 May 2023 the ISG has been consulted via email on the targeted consultation and on the Member States questionnaire conducted in the framework of the study.

In February 2025, the ISG was consulted on this draft staff working document.

([193]) The ISG included representatives of the following DGs: SG, SJ, GROW, EMPL, JRC, EAC, RTD, JUST, TRADE, CNECT.

3. Exceptions from the Better Regulation Guidelines

No exceptions from the usual procedural requirements of the ‘better regulation’ guidelines were required or applied to this evaluation.

4. Consultation of the Regulatory Scrutiny Board

Not applicable.

5. External expertise

The evaluation was supported by an external consortium composed of Kantar, Visionary Analytics (VA) and Olsson & Koskinen Consulting. The consortium collected the evidence, performed the study tasks, and submitted deliverables in accordance with the terms of reference.

The draft final report of the ‘study to support the evaluation of the Directive (EU) 2017/1564 and of the Regulation (EU) 2017/1563, which implement into EU law the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled’ was submitted by the consortium on 7 November 2023. The final meeting took place on 22 November 2023.

6. Evidence, sources and quality

Most of the evidence was collected with the support of an external contractor (see the ‘study to support the evaluation of the Directive (EU) 2017/1564 and of the Regulation (EU) 2017/1563, which implement into EU law the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled’ Final Report, Kantar, Visionary Analytics, Olsson & Koskinen Consulting, December 2023) (hereinafter referred to as: the study).

The study relies on the results from several data collection activities: literature review and desk research, mapping activities, country fiches for all EU27 Member States, compensation scheme fiches, technology mapping table, quantitative data from 26 AEs based in 18 Member States (Austria, Belgium, Croatia, Czechia, Denmark, Estonia, Finland, France, Germany, Hungary, Lithuania, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, and Sweden), in-depth interviews, interviews with national-level stakeholders including authorised entities and representatives of beneficiaries and rightsholders.

In addition, the study supported the Commission in the organisation of targeted consultation with stakeholders, and consultation with Member States.

a) The Targeted stakeholders' consultation ran from 22 June until 11 August 2023. It has served to gather evidence, assessments, and opinions from key stakeholders (including AEs, beneficiaries, and rightsholders) on the relevance, efficiency and effectiveness of the Marrakesh Framework;
b) The consultation with Member States ran from 19 June until 6 October 2023. It has targeted national authorities responsible for the transposition of the Directive and the implementation of corresponding laws and has fed the mapping activities on the systems and procedures in place, as well as contributed to answering the evaluation questions related in particular to the evaluation criteria of effectiveness and efficiency.

The study also took into account the responses to the call for evidence, which contained open answers and position papers of stakeholders.

A Synopsis Report, containing the summary of all consultation activities is included in Annex IX to the study (*Annex V* to the current report).

Finally, the study involves six thematic case studies, collating in-depth insights from eight selected EU Member States. Case studies are based on in-depth interviews with AEs and representatives of beneficiaries and rightsholders and other sources, such as desk research, survey, replies to the call for evidence, and exploratory interviews. The case studies are compiled in Annex X to the study.

The quantification was in some cases difficult, due to unavailability of data in Member States. The analysis of the effectiveness and efficiency criteria was thus limited, as described in *Annex II*.

Nonetheless, it was possible to draw conclusions based on available data from authorised entities, as well as consultation activities with stakeholders (*Annex V*).

ANNEX II. METHODOLOGY AND ANALYTICAL MODELS USED

The evaluation has been mainly based on a supporting study provided by an external contractor. The methodology for the evaluation activities combined desk with consultation activities involving relevant stakeholders (targeted consultation and in-depth interviews) and Member States (questionnaire-based) aiming to collect, analyse, interpret and triangulate the quantitative and qualitative data. The evaluation activities also took into account official legal and policy documents, such as EU legislation in the field of disability and accessibility (e.g. the European Accessibility Act).

The Commission has launched a call for evidence in the period 13 April and 11 May 2023, gathering input from 34 stakeholders (see *Annex V* for more details). The call for evidence detailed the consultation strategy planned for the evaluation, which included a targeted stakeholder consultation with relevant stakeholders, gathering information from

Member States, in accordance with Article 10(2) of the Marrakesh Directive and Article 7 of the Marrakesh Regulation; as well as in-depth interviews with relevant stakeholders, in particular to verify the initial findings.

The external contractor designed the methodology for the study with due account to the consultation strategy mentioned above. The methodology employed by the study involved the assessment of results from several data collection activities, namely[194]:

- Literature review, covering evidence from the academic literature, research and policy reports, position papers and web resources, as well as the availability of print materials in accessible formats (the list or sources used is detailed in Annex I of the study).
- Mapping activities done on the basis of desk research and survey results, which aimed to systematise the state of play in the implementation of the Marrakesh Directive and Regulation as well as technological developments. On this basis, the contractor prepared country fiches for all the Member States covering in particular the systems and procedures put in place to enact the framework; in addition the study includes fiches of compensation schemes for the Member States were these are in place, as well as a table mapping the relevant technology (Annex IV, V and VI of the study).
- Quantitative data collection from authorised entities (a sample of 26 authorised entities from 18 Member States: Austria, Belgium, Croatia, Czechia, Denmark, Estonia, Finland, France, Germany, Hungary, Lithuania, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain and Sweden). The data covers the availability of titles in accessible formats over time, and serves to inform the analysis of the progress made towards the framework objectives (Annex VII of the study).
- Consultation activities - the following activities were undertaken in the context of the study:
    - supporting the Commission by undertaking the targeted consultation with stakeholders. The targeted consultation ran from 22 June to 11 August 2023. The aim was to gather evidence and opinions from key stakeholders (in particular AEs, beneficiaries and rightsholders) on the relevance, efficiency and effectiveness of the Marrakesh framework. It gathered replies from 63 stakeholders.
    - supporting the Commission to collect information from the Member States in accordance with Article 10(2) of Marrakesh Directive and Article 7 of Marrakesh Regulation. The consultation took place from 19 June to 6 October 2023. The data collected was used in particular for the mapping activities regarding the systems and procedures in place, as well as contributing to

([194]) Information developed as part of the study, p. 49-50

answering the evaluation questions that relate in particular to effectiveness and efficiency.

- In addition, in depths interviews were conducted in an exploratory phase, as well as to complement and cross-check the data collected. More precisely, at the beginning of the study, the contractor conducted six in depths interviews with EU and international stakeholders, as well as with academic and legal experts, to get information on key issues, trends and challenges, and thus to help design the design the data collection. At the stage of study finalisation, four in depths interviews were conducted to cross-check the preliminary research results and fill in information gaps (Annex VIII of the Study; the interviewees are mentioned in Table 45 and 46 of the study). Further interviews were conducted with 20 stakeholders (national-level stakeholders, including authorised entities and representatives of beneficiaries and rightsholders) to discuss in more details the implementation of the framework in the specific Member State (Annex VIII of the study; the interviewees are mentioned in Table 47 of the study).

– Case studies: The contractor conducted six case studies, covering eight Member States. The case studies analyse in more depths the impact of the Marrakesh instruments, in Member States with or without a compensation scheme, cross-border exchanges within the EU and third countries, the impact of the framework in small markets, and the coordination of stakeholders. The case studies were developed using data collected from the in-depth interviews with, desk research, responses to the call for evidence (Annex X of the study).

Methodological limitations

The methodology is confronted by the following limitations ([195]):

- *Limited availability of data*: The adoption of the Marrakesh instruments was not preceded by an impact assessment, and thus quantitative data was lacking on the state of play preceding the adoption. Furthermore, data is not widely or easily accessible on the current state play. The study aimed to overcome some of the limitations by gathering data, through individual data requests addressed to authorised entities, in particular concerning the availability and use of the accessible formats. However, as flagged by the study, the response rate has been moderate, and this reduced the representativeness of the data gathered. In addition, there were limitations on data to quantify the costs and benefits of the intervention.
- *Limited evidence on the causal impacts of the Marrakesh instruments*: due to the legal framework existing prior to Marrakesh, which allowed Member States to

([195]) The study, p. 50-51.

provide a (non-harmonised) exception for people with disability, as well as the impact of other factors such as technology and budgets, the causal link between the adoption of the Marrakesh instruments and the availability of titles in accessible formats over time, cannot be authoritatively established, since any attempts to separate the causal impacts from other factors creates the risk of error.

- *Uneven geographical distribution of data*: Overall, the amount of evidence collected in some countries is considerably higher compared to other countries. Despite the efforts made by external supporting study team, the response rates for the different stakeholder consultation activities are uneven across countries.
- *Limitations in the stakeholder representativeness*: (1) the consultation strategy was not based on sample design techniques, since the pool of stakeholders to be consulted was explicitly provided in the Directive; and (2) some stakeholders engaged through dissemination did not reply to the questionnaires or surveys. Therefore the results of the consultation activities cannot be considered statistically representative of each stakeholder group.

The issues listed above may limit the analysis especially in relation to the effectiveness and efficiency evaluation criteria, and these limitations have also been highlighted in the respective sections of the evaluation. Nevertheless, certain conclusions were possible to be drawn based on the triangulation of findings from the literature review and the consultation activities with stakeholders.

Furthermore, for the analysis of efficiency, most of the categories of costs and benefits were not possible to quantify, given the lack of data on the relevant issues; instead, qualitative explanations are provided on who bears what costs, and why. Two tables summarising these factors are available in *Annex IV*.

ANNEX III. EVALUATION MATRIX AND, WHERE RELEVANT, DETAILS ON ANSWERS TO THE EVALUATION QUESTIONS (BY CRITERION) ([196])

Below we provide Evaluation Matrix tables for each evaluation criterion and the baseline. All tables consist of the following variables:

- *Evaluation questions*: the core research problems to be answered by evaluators;
- *Sub-questions*: detailed questions, which facilitate the operationalisation of the research problems;
- *Judgement criteria*: statements that need to be confirmed or disconfirmed by the analysis;
- *Examples of indicators*: quantitative or qualitative measures supporting the analysis;
- *Methods & activities*: quantitative and qualitative, primary and secondary sources used or obtained to answer the evaluation questions.

Baseline

Setting the baseline for the evaluation of the Marrakesh framework is particularly challenging because of several key factors:

- *No impact assessment*: Following the Better Regulation Guidelines, where there is a prior impact assessment, the impact assessment baseline would have been the preferred comparison point.
- *Scarce and fragmented data*: the evaluation can build its own evaluation baseline from scratch. However, as the exploratory research has revealed, there is no aggregated and reliable data on any key change markers available at the EU or Member State level.

To address these challenges, we deploy two main approaches to setting the baseline:

- *Constructing a quantitative baseline in the course of evaluation*: First, the current state-of-play can be compared to the situation at the start of an intervention, based on data (including historical data) gathered from the EU-based authorised entities. Secondly, the pace of progress could be also compared to the global benchmark (based on the ABC data). This provides a picture (albeit incomplete and covering a limited set of variables) of the progress towards the framework's objectives.
- *Qualitative description*: The framework can be evaluated against scenarios based on clearly stated assumptions, for example, the situation where the EU does not act. Stakeholders can help evaluate the perceived impact of the framework against

([196]) This Annex was developed as part of the study supporting the evaluation and corresponds to Annex III of that study (p. 112 – 123).

such constructed scenarios. Stakeholder sentiment can be also analysed against the consultation outcomes on similar topics in 2014 and 2022 consultations.

Table 1. Baseline: Points of comparison for different evaluation criteria

Criterion	Baseline/points of comparison	Methods to estimate the baseline
Relevance	• Economic and societal needs at the time of the adoption of the Framework • Policy context and needs at the time of adoption of the Framework and in a reconstructed future scenario – particularly considering the adoption of the EAA. • State of the market (market failure) at the time of adoption of the Framework and in a reconstructed future scenario – particularly considering the market response to the EAA.	• Desk research and previous consultation activities • Exploratory interviews
Effectiveness	• Historical data from AEs at the time of the adoption of the Framework • Global trends in achieving the objectives of the Marrakesh Treaty (e.g. the number of works in accessible formats according to ABC) • Qualitative assessments by key stakeholders (e.g. from the 2014 consultation).	• Desk research • Consultation activities • Analysis of quantitative data from AEs
Efficiency	Expected costs and benefits	• Exploratory interviews • Overarching analysis
Coherence	Changes in coherence between the start and end of the evaluation period	
EU added value	Estimation of the cost of the Union not acting - 'the cost of non-Europe'.	

Source: The Study

Relevance

Relevance looks at the design of an intervention, namely the relationship between the needs and problems in society and the objectives of the intervention. The key underlying question under this criterion is:

> Does the Framework remain relevant considering the evolving context? In particular, does the **market failure** (commercial unavailability of works in accessible formats) persist?

Our analysis focuses particularly on three areas that are likely to have undergone significant changes since the adoption of the framework:

- *The evolving beneficiaries' needs*: First, we explore how the needs of beneficiaries have evolved since the implementation of the framework, and whether the framework has addresses these needs adequately.
- *The evolving policy context*: The EU policy framework has considerably developed since the adoption of the framework, the impact of which needs to be evaluated. Particularly, the EAA alters the policy *status quo*, providing legal obligation on publishers to provide born accessible e-books under the EAA (albeit with exceptions).
- *The evolving market context*: It is important to analyse to what extent the market failure, identified as one of the key underlying problems and triggers for intervention, persists. The market response needs to be analysed to assess the current (and future, considering the EAA) level of access to born accessible formats.
- *Technological developments*: Technological advancements can potentially alter the market context – for example, a (hypothetical) significant decrease in cost of production of accessible formats (due to technological advancements), could render the market failure obsolete as the production of such formats becomes commercially feasible.

The relevance evaluation is done primarily through exploratory desk research and interviews (to identify key trends and needs), technology mapping (to identify the technological developments), and targeted consultation (to assess the importance and impact of these (new) trends, needs, and technologies).

Table 2. Evaluation Matrix for the relevance criteria

Evaluation question	Sub-question	Judgement criteria	Examples of indicators	Methods & activities
To what extent have the Framework (and their objectives) been instrumental, and do they continue to be relevant, in addressing the evolving needs of beneficiaries (including older people), considering the evolving policy context (including other accessibility related European legislation) and market developments?	How have the needs of **beneficiaries** changed since the framework was implemented? To what extent has the framework remained relevant considering these evolving needs?	The framework has fulfilled the needs of beneficiaries during the evaluation period. New identified needs are addressed by the framework.	Comparison of stakeholder needs at the time of implementation and at present Assessment of framework relevance	Desk research and exploratory interviews (to identify key trends and needs), targeted consultation (to assess relevance in the light of these (new) needs)
	How has the **policy context** developed since the framework was implemented? To what extent has the framework remained relevant considering the evolving policy context?	The framework has fulfilled the EU policy priorities during the evaluation period. The framework remains relevant considering the evolving policy context.	Comparison of policy context at the time of implementation and at present Assessment of framework relevance	
	How has the **market** developed since the framework was implemented? To what extent has the framework remained relevant considering the evolving market responses?	The framework has addressed the market failure (insufficient access to born accessible copies) during the evaluation period. Market failure remains a significant obstacle in the availability of works in accessible formats for beneficiaries.	Comparison of the state of the market at the time of implementation and at present Assessment of framework relevance	

Evaluation question	Sub-question	Judgement criteria	Examples of indicators	Methods & activities
Do the technological developments impact the relevance of the Framework?	What relevant **technologies** (software and hardware) are available?	N/A	Comprehensive mapping of technologies	Technology mapping
	What is the **positive** impact?	Positive impact of technological developments can be identified (e.g. decreasing cost of making accessible format copies, the emergence of new kinds of accessible formats, new file transfer options, or hardware).	Description of the key impacts of technological developments compared to the baseline	Technology mapping; targeted consultation
	What is the **negative** impact?	Negative impact of technological developments can be identified (e.g. lack of interoperability between different formats or prohibitive cost of hardware).		

Source: The Study.

Effectiveness

Following the Better Regulation Guidelines, effectiveness analysis considers how the Marrakesh framework has achieved or progressed towards its objectives. In line with the reconstruction of the Intervention Logic, we distinguish between general and specific objectives, resulting in tangible first-level effects (outputs), resulting change to the *status quo* (results), and wider effects involving more complex causalities but logically linked to the intended objectives (impacts).

First, we set to analyse the *results* – the two core questions (that provide the backbone of the evaluation overall) are:

> To what extent has the Framework improved ***the availability of works in accessible format copies*** in the EU?
>
> To what extent has the Framework facilitated ***the cross-border exchanges of accessible format copies*** within the EU and with third countries (parties of the Marrakesh Treaty)?

These questions are evaluated against the initial mapping of implementation and nuanced considering how different implementation approaches have led to different outcomes. Furthermore, we dive deeper into the results by asking questions on:

- Difficulties and obstacles that limit the progress towards achieving the intended results (including availability and cross-border exchange of works).
- Any other unintended consequences of the implementation of the framework (e.g. possible impact on the commercial market, or excessive strain on the capacity of AEs to fulfil their mission).

Finally, we move to assessing the broader *impacts* of the framework, posing a question on the contribution of the framework to the progress towards the social and digital inclusion of people with disabilities as well as awareness about the issues at stake.

Table 3. Evaluation Matrix for the effectiveness criterion

Evaluation question	Sub-question	Judgement criteria	Examples of indicators	Methods & activities
How successful has the Framework been in increasing the availability of books and other printed material in accessible format copies, and improving their circulation in the internal market and with third countries?	How successful has the framework been in **increasing the availability** of books and other printed material in accessible format copies?	The availability of books and other printed materials has increased since the transposition of the Directive. The increase can be (partially) attributed to the application of the framework.	The change in the number of books and other printed material in accessible format copies Evaluation of the framework's contribution to the increase as assessed by the key stakeholders	Quantitative data from AEs and other stakeholders; targeted consultation; case studies

Evaluation question	Sub-question	Judgement criteria	Examples of indicators	Methods & activities
	How successful has the framework been in improving their circulation in the **internal market**?	The circulation of books and other printed material in accessible format copies between the EU Member States (in the internal market) has increased since the transposition of the Directive. The increase can be (partially) attributed to the application of the framework.	The change in the number of books and other printed material in accessible format copies exchanged in the internal market Evaluation of the framework's contribution to the increase as assessed by the key stakeholders	
	How successful has the framework been in improving their **circulation with third countries**?	The cross-border exchange of books and other printed material in accessible format copies between the EU and third countries has increased since the application of the Regulation. The increase can be (partially) attributed to the application of the framework.	The change in the number of books and other printed material in accessible format copies exchanged with third countries Evaluation of the framework's contribution to the increase as assessed by the key stakeholders	

Evaluation question	Sub-question	Judgement criteria	Examples of indicators	Methods & activities
What external factors, if any, affected the progress towards the objectives and, where expectations have not been met, what obstacles hindered their achievement?	What difficulties, if any, still exist for the **production** of accessible format copies?	Obstacles that hinder the production of accessible format copies can be identified (e.g. the capacity of authorised entities, including infrastructure, financial capacity, and human resources).	Description of the key obstacles that hinder achieving the objectives of the framework	Desk research and exploratory interviews to identify key obstacles; targeted consultation to assess their impact; case studies
	What difficulties, if any, still exist for cross-border exchanges in the **internal market**?	Obstacles that hinder the exchange of accessible format copies in the internal market can be identified (e.g. insufficient access to data or lack of efficient communication channels between AEs).		
	What difficulties, if any, still exist for cross-border **exchanges between EU Member States and third countries**?	Obstacles that hinder the exchange of accessible format copies with third countries can be identified (e.g. insufficient access to data or lack of efficient communication channels between AEs).		

Evaluation question	Sub-question	Judgement criteria	Examples of indicators	Methods & activities
Are there any unexpected or unintended effects?	Are there any **positive** unintended effects?	Positive unintended effects can be identified (e.g. market response in terms of the increased commercial availability of born accessible works).	Description of the key unintended effects of the framework and their effect on the intended results and impacts	Desk research; exploratory interviews; targeted consultation
	Are there any **negative** unintended effects?	Negative unintended effects can be identified (e.g. excessive strain on the capacity of AEs to fulfil their mission or the negative impact on commercial availability).		
How does the Framework contribute to broader social goals?	To what extent does access to printed works may contribute to the **digital inclusion** of beneficiaries? How has the framework contributed to this goal?	The framework facilitates the digital inclusion of beneficiaries by improving access to printed works in digital formats and via digital distribution channels.	N/A	Overarching analysis and extrapolation from the evidence on the results of the framework
	To what extent does access to printed works may contribute to the **social inclusion** of beneficiaries? How has the framework	The framework facilitates the social inclusion of beneficiaries by improving the social infrastructure (networks of AEs) and facilitating high quality and	N/A	

Evaluation question	Sub-question	Judgement criteria	Examples of indicators	Methods & activities
	contributed to this goal?	affordable services (access to printed works).		
	To what extent has the framework contributed to **increasing awareness** about the social and digital exclusion of beneficiaries among the wider population?	The framework has contributed to increased awareness about the social and digital exclusion of beneficiaries.	N/A	

Source: The Study.

Efficiency

Following Better Regulation Guidelines, efficiency evaluation addresses the relationship between the resources used by an intervention and the positive or negative changes generated by the intervention, considering also whether other options could have brought similar changes to fewer costs. Therefore, the key questions to be addressed are:

> Has the implementation of the Framework been cost-effective?
>
> What is the distribution of costs and benefits across different stakeholder groups?

While implementation costs can, to some extent, be estimated, it is extremely challenging to quantify the benefits associated with the framework, especially in monetary terms. Conducting a fully-fledged cost-benefit analysis is methodologically unfeasible, as this kind of analysis has very high requirements (based on Better Regulation Toolbox, p. 554-557). Instead, realistically, we focus on a more analytical assessment of costs and benefits depending on quantitative and qualitative information obtained. We focus on four key issues:

- The overall cost efficiency of the framework considering the expected and achieved outcomes.
- Identification of regulatory obligations related to the implementation of the framework and potential improvements in efficiency, both in terms of simplifying rules/procedures where they are found redundant and considering best practices that might improve the cost-benefit ratio.

- The identification of impact on different stakeholder groups (rightsholders, users, authorised entities, and national regulators), depending also on the national approaches to the transposition of the Directive (particularly by the presence or absence of compensation schemes).

The answers to these questions are collated from various methods, including mapping activities (to identify regulatory obligations), exploratory interviews and targeted consultation (to identify and assess indirect costs and benefits), and consultation of Member States and case studies (to explore the distribution of costs and benefits under different transposition approaches and to identify streamlining possibilities).

Table 4. Evaluation Matrix for the efficiency criterion

Evaluation question	Sub-question	Judgement criteria	Examples of indicators	Methods & activities
To what extent has the application of both acts been cost-effective?	Overall, has the application of the framework been cost-effective?	The application of the framework has led to benefits that justify its costs. There is evidence that the resources were sufficient to implement the activities without impact on the quality of the results.	Comparison of the identified and assessed costs and benefits	Desk research; targeted consultation; consultation with Member States
	What factors influence the efficiency with which the results were achieved and how?	There is evidence that in some contexts, the application of the framework was more cost-effective than others, and factors contributing to	Information on factors influencing (both positively and negatively) the efficiency	

Evaluation question	Sub-question	Judgement criteria	Examples of indicators	Methods & activities
		this can be identified.		
What are the regulatory obligations of the Framework? Can they be improved?	What are the regulatory obligations, particularly with regards to: • implementation of the compensation schemes; • prevention of unauthorised dissemination; and • gathering and monitoring of data?	N/A	Description of regulatory obligations in different contexts (e.g. in the presence or absence of compensation schemes or the obligation to monitor data)	Implementation mapping; compensation scheme mapping; consultation with Member States; case studies
	Are the regulatory obligations justified given their (expected) outcomes? How (if at all) could the existing regulatory obligations be streamlined?	The existing regulatory obligations are necessary for the efficient application of the framework. The regulatory obligations can be streamlined.	Assessment of the value added of the regulatory provisions in different contexts	
What costs and benefits have the provisions of the Framework produced for the different stakeholders in the EU?	What costs have the provisions of the Framework produced for different stakeholder groups, particularly: rightsholders;	N/A	Assessment or estimation of costs for different stakeholder groups, e.g.: • variation due to copyright exception and potential unauthorised	Desk research; exploratory interviews; targeted consultation; case studies

Evaluation question	Sub-question	Judgement criteria	Examples of indicators	Methods & activities
	authorised entities; and national regulators?		dissemination (rightsholders) • variation of producing and distributing accessible format copies (authorised entities) • variation of governance and enforcement of the national framework (including compensation schemes and prevention of unauthorised dissemination)	
	What **benefits** have the provisions of the Framework produced for different stakeholder groups (particularly beneficiaries) and the society at large?	N/A	Assessment or estimation of variation in benefits for different stakeholder groups, e.g.: • compensation schemes (rightsholders) • production of accessible format copies, expanding the catalogues and social impact (authorised entities)	

Evaluation question	Sub-question	Judgement criteria	Examples of indicators	Methods & activities
			• societal benefits of increased awareness and digital and social inclusion (related to effectiveness criteria)	
Were the costs and benefits distributed as expected among the stakeholders?	Is the **distribution of costs and benefits** is as expected by the key stakeholders?	The distribution of costs and benefits is generally as expected, as assessed by the key stakeholders.	Description of key stakeholders' positions on the cost and benefit distribution	Targeted consultation, case studies
	How do the **benefits accrue to different stakeholders**?	Overall, there is a balance between the benefits of users (the right to social and cultural participation) and the interest of rightsholders). Impact of additional provisions (esp. compensation schemes) on the balance of rights and interests,	Evaluation of the balance between the rights of users and rightsholders in different contexts as assessed by the key stakeholders	

Source: The Study.

Coherence

The evaluation of coherence involves looking at how well, or not, different policy actions work together. The key question we pose is:

> Is the Framework coherent, both internally and externally?

Our analysis focuses on four levels:

- *International* (external coherence): Given that the framework brought the necessary changes to EU legislation stemming from the EU conclusion of the Marrakesh Treaty, it is important to consider the framework's role in meeting the EU's international obligations, including the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).
- *EU* (external coherence): We consider the broader EU policy context, particularly the advancing policies in the disability and accessibility policy area (the EAA), and how the framework fits (or will fit) in.
- *Internal coherence*: We test the coherence of elements in the Directive and Regulation in terms of their goals and provisions. For example, we examine the relationship between the obligations imposed on AEs in Article 5 and the lack of specific monitoring system and only voluntary sharing of contact information in Article 6.

The main method for evaluating coherence is desk research (particularly a detailed study of the framework's and international treaties' texts), supported by follow-up in-depth interviews and implementation mapping and case studies (for the assessment of national-level differences in transposition).

Table 5. Evaluation Matrix for the coherence criterion

Evaluation question	Sub-question	Judgement criteria	Examples of indicators	Methods & activities
What is the impact of the Framework in the context of the relevant international framework?	To what degree does the framework fulfil the EU's international obligations under the Marrakesh Treaty and the UN CRPD? Are there any inconsistencies?	The framework fully fulfils the EU's international obligations under the Marrakesh Treaty and the UN CRPD. The framework goes beyond the provisions of the international treaties.	Comparison of the legal provisions of the framework and the provisions of the Marrakesh Treaty and the UN CRPD Degree of external coherence of the Intervention Logic as assessed by evaluators and validated by the key stakeholders	Desk research; follow-up in-depth interviews
To what extent is the Framework coherent with the relevant EU legal framework, EU policies and priorities?	To what extent is the framework coherent with the **EU copyright legal framework**, particularly the InfoSoc Directive?	The framework is coherent with EU policy priorities and other instruments; synergies are acknowledged and there are no significant overlaps.	Degree of external coherence of the Intervention Logic as assessed by evaluators and validated by the key stakeholders	Desk research
	To what extent is the framework coherent with the **EU accessibility priorities and policies**, including the EU Charter of Fundamental Rights, the European Pillar of Social Rights, the EU Disability strategy for 2021-2030, the European Accessibility Act, the Web Accessibility Directive, the Audio-visual Media Services Directive?			

Evaluation question	Sub-question	Judgement criteria	Examples of indicators	Methods & activities
To what extent is the Framework coherent internally?	Are there any inconsistencies between the goals and provisions of the Directive and the Regulation?	The Directive and the Regulation are internally coherent.	Degree of internal coherence of the two acts	Desk research (detailed analysis of the framework texts)

Source: The Study.

EU added value

The EU added value criterion looks for changes which, as it can reasonably be argued, are due to the EU intervention, over and above what could reasonably have been expected from national actions by the Member States. The key underlying question is:

> Does the EU-level policy intervention make a (positive) difference compared to the non-Europe scenario?

Our analysis brings together the findings of the other criteria, presenting the arguments on causality and drawing conclusions, based on the evidence to hand, about the performance of the framework and its added value.

Table 6. Evaluation Matrix for the EU added value criterion.

Evaluation question	Sub-question	Judgement criteria	Examples of indicators	Methods & activities
What is the added value of the Directive and Regulation compared to what is likely to have been achieved at the international, EU (including by institutions) and Member State levels in their absence?	N/A	Effectiveness: The framework had a significant impact on achieving its aims (improving access to accessible books) in the years since its implementation. Efficiency: The framework offers better value for money, because	The degree and nature of EU added value as assessed by the evaluators and validated by the key stakeholders	Follow-up in-depth interviews; overarching analysis

		externalities can be addressed, resources or expertise can be pooled, and the action can be better coordinated. Synergy: The framework is necessary to complement, stimulate, and leverage action to reduce disparities, raise standards, and create synergies.		
How did the EU intervention make a difference and to whom?	To which groups of stakeholders has the framework made a positive/negative difference?	The framework has created a distinct added value across different stakeholders.	Description of how the framework made a difference across different stakeholders. Description of mechanisms contributing to the effect on stakeholders	Follow-up in-depth interviews; overarching analysis
	What would be the most likely consequences of stopping or withdrawing the framework?	Withdrawing the framework would have net negative effects on stakeholders.	Evaluation of potential effects of withdrawing the framework	

Source: The Study.

ANNEX IV. OVERVIEW OF COSTS AND BENEFITS ACROSS THE MAIN STAKEHOLDER GROUPS (QUALITATIVE FACTORS) ([197])

Note: This Annex was developed as part of the study supporting the evaluation. As indicated therein, most of the categories of costs and benefits were not possible to quantify, given the lack of data.; instead, qualitative explanations are provided on relevant impacts.

([197]) This Annex was developed as part of the study supporting the evaluation and corresponds to Annex XI of that study (p. 222-228).

Table 7. Overview of costs across the main stakeholder groups

Type	One-off or recurrent	AEs		Beneficiaries		Rightsholders		Governments / Society	
		Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment
producing and making available accessible format copies	Recurrent	The cost of producing a DAISY version, as estimated by AEs, ranges between EUR 250 and EUR 1 600, while an eBraille version costs between EUR 200 and EUR 3 000 to produce.	Costs vary, based on content type (particularly the inclusion of charts and images, which can raise production costs) as well as the existence (or not) of a digital file, as making an accessible format from a paper version is more costly.	No comprehensive quantitative estimations are available, as neither the AEs nor Member States revealed AEs' budgets as part of the consultation activities conducted for this study. In an extreme case, one French AE reported relying on donations for 94.5% of its total budget.	In some cases, AEs rely on donations from beneficiaries to help sustain their operations.	N/A	N/A	Quantitative estimates are not available, as neither AEs nor Member States revealed the AE budgets as part of the consultation activities conducted for this study.	In most Member States, AEs' activities are sustained mainly or solely through public funding.
customer service	Recurrent	The administrative costs of sustaining catalogues and customer service are difficult to estimate. AEs have not provided the evaluators with the relevant cost estimates.	AEs bear day-to-day costs relating to maintaining and updating catalogues and customer service (including providing information, sending copies, providing technical assistance, etc.)	N/A	N/A	N/A	N/A	N/A	N/A
arranging cross-border exchanges	Recurrent	Quantitatively measuring such costs is difficult,	Costs include uploading and downloading files	N/A	N/A	N/A	N/A	N/A	N/A

Type	One-off or recurrent	AEs		Beneficiaries		Rightsholders		Governments / Society	
		Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment
		due to the differing exchange mechanisms used, the scope of exchanges and the size of AEs catalogues. AEs have not provided the evaluators with relevant cost estimates.	or metadata to and from the ABC, as well as through similar exchange mechanisms with AEs based on bilateral and multilateral agreements.						
implementation of compensation schemes	Recurrent	Total annual compensation amounts can vary widely, ranging from low (EUR 27 000 in Germany) to mid-level (EUR 159 000 in Finland) and high (approx. EUR 1 million in Sweden, and an estimated EUR 1.7 million in Denmark).	AEs may bear the cost of the compensation itself (if not funded separately by the government), as well as the administrative costs of compiling and reporting data to the collecting society for the purpose of calculating the compensation.	Quantifying these costs is challenging, due to the indirect nature of the support, the diverse funding sources, complex allocation methods, privacy constraints, and variability over time.	In some Member States, beneficiaries provide financial support (donations) to the activities of AEs and, in certain scenarios, indirectly fund compensation schemes.	N/A	N/A	Annual compensation amounts vary widely, ranging from low (EUR 27 000 in Germany) to mid-level (EUR 159 000 in Finland) and high (approx. EUR 1 million in Sweden and an estimated EUR 1.7 million in Denmark).	Compensation schemes are typically covered from AEs' budgets. These, in turn, are in most cases financed from public funds.
notification obligation	One-off	Quantitatively measuring these costs is difficult, due to differing notification processes and a lack of data. AEs have not provided the evaluators with	In some Member States, (prospective) AEs are required to notify a relevant public authority of their status as an AE. This causes certain	N/A	N/A	N/A	N/A	N/A	N/A

Type	One-off or recurrent	AEs		Beneficiaries		Rightsholders		Governments / Society	
		Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment
		relevant cost estimates.	administrative costs for the AE.						
eligibility checks	Recurrent	Quantifying these costs is challenging, due to wide variations in the amount of costs potentially incurred and a lack of data.	AEs have various procedures in place with regard to checking the eligibility of beneficiaries, ranging from no checks to moderate checks (verifying a proof of disability on registration).	Quantifying these costs is challenging, due to wide variations in the amount of costs potentially incurred and a lack of data.	Beneficiaries bear (minimal) costs, in the form of the burden of registration.	N/A	N/A	N/A	N/A
prevention of unauthorised dissemination	Recurrent	Quantitatively measuring these costs is difficult, due to the differing processes employed and a lack of data. AEs have not provided the evaluators with relevant cost estimates.	AEs have various measures in place with regard to preventing unauthorised uses, ranging from no measures to moderate measures (e.g. watermarking of copies).	N/A	N/A	N/A	N/A	N/A	N/A
Enforcement cost: sharing of information and monitoring compliance	Recurrent	Quantifying such costs is challenging, as it varies between Member States, with some having established national monitoring practices, while others lack such	These costs may encompass the preparation of annual reports on the application of the copyright exception, and dissemination activities required to maintain their status as an AE.	N/A	N/A	N/A	N/A	Quantifying these costs is challenging, as they vary between Member States, with some having established national monitoring practices, while others lack such	Costs include providing lists and contact details of AEs to the Commission, *ad hoc* control of compliance by AEs, or reviewing the annual reports submitted by AEs.

Type	One-off or recurrent	AEs		Beneficiaries		Rightsholders		Governments / Society	
		Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment
		practices, leading to variations in the time and effort required from AEs.						practices, leading to variations in the time and effort required from national authorities.	
impact on rightsholders	Recurrent	N/A	N/A	N/A	N/A	Annual compensation amounts can vary widely, ranging from low (EUR 27 000 in Germany) to mid-level (EUR 159 000 in Finland) and high (approx. EUR 1 million in Sweden and an estimated EUR 1.7 million in Denmark).	Where there are no compensation schemes in place, creators and copyright holders do not receive any payment for the use of their copyrighted work. The cost involve is the forgone income that creators would have earned from the use of their work, had there been a mechanism in place to compensate them for its use.	N/A	N/A

Source: compiled by the authors of the Study.

Note: 'N/A' – not applicable.

Table 8. Overview of benefits across the main stakeholder groups

Type	One-off or recurrent	AEs		Beneficiaries		Rightsholders		Governments / Society	
		Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment
Increased legal certainty		This benefit is non-monetary in nature. Quantifying it is challenging, because it involves diverse needs, complex outcomes, interconnected factors, individual variation and subjective elements that are difficult to measure objectively.	AEs benefit from increased legal certainty due to the harmonisation of the mandatory exception and a universal definition of 'beneficiary'.	This benefit is non-monetary in nature. Quantifying it is challenging because it involves diverse needs, complex outcomes, interconnected factors, individual variation and subjective elements that are difficult to measure objectively.	Beneficiaries benefit from clearer rules regarding how to access works (whether by contacting AEs in their own country, or through AEs in any other countries party to the Marrakesh Treaty, or by producing an accessible format copy themselves).	N/A	N/A	N/A	N/A
efficiency improvements	Recurrent	By avoiding duplication through cross-border exchanges, savings could amount to around EUR 1 000 per DAISY book or EUR 2 000 per Braille book. These are hypothetical scenarios, and actual savings would depend on the scale and frequency of cross-border exchanges.	Cost savings can occur as a result of reducing the unnecessary duplication of works across borders, as cross-border exchanges facilitate the sharing of accessible content, thereby conserving resources, time and effort.	The availability of accessible format copies and the importance of cross-border exchanges can vary greatly across Member States.	The expanded availability of works in accessible formats ensures that individuals with disabilities can access a broader range of content, thereby fostering inclusivity, and enriching educational and cultural experiences.	N/A	N/A	N/A	N/A
increased inclusion of the print disabled	Recurrent	N/A	N/A	The benefits are non-monetary in nature. Quantifying	The intervention facilitates the inclusion in society	N/A	N/A	The benefits are non-monetary in nature. Quantifying	The intervention promotes equality and diversity,

Type	One-off or recurrent	AEs		Beneficiaries		Rightsholders		Governments / Society	
		Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment
				these benefits is challenging, because they involve diverse needs, complex outcomes, interconnected factors, individual variation and subjective elements that are difficult to measure objectively.	of individuals with print disabilities, such as the visually impaired. Access to printed materials enables individuals with print disabilities to participate actively in education, employment and community life.			these benefits is challenging because their impact is multifaceted and involves various societal factors, while the outcomes may vary between individuals and over time.	aligning with many governments' goals for a more inclusive and equitable society.
spill-over effects	Recurrent	N/A	N/A	N/A	N/A	The benefits are non-monetary in nature. Quantifying these benefits is challenging, because their impact is multifaced, and because it is difficult to measure the direct influence of AEs on improvements in cooperation and accessibility, while the outcomes may vary depending on specific projects.	Cooperation with AEs to prepare for the EAA offers the benefit of leveraging their expertise in accessibility standards and technologies, ensuring compliance, identifying areas for improvement, and implementing accessible solutions associated with the EAA.	The benefits are non-monetary in nature. Quantifying their benefits is challenging, due to diverse influencing factors, the lack of a clear baseline, and subjective evaluation.	Potentially better implementation of the EAA, due to increased cooperation between rightsholders and AEs.

Source: compiled by the authors of the Study.

Note: 'N/A' – not applicable.

ANNEX V. STAKEHOLDERS CONSULTATION - SYNOPSIS REPORT ([198])

Consultation activities

Consultation activities carried out within the context of this study (comprising a targeted consultation, a consultation with Member States, in-depth interviews, and a call for evidence) have aimed to collect the views of relevant stakeholders involved in the creation and making available, as well as the use, exchange and any other relevant activities related to accessible formats of printed works. By doing so, this study provides input into and assists the Commission in the evaluation of the Marrakesh Directive and Regulation, including the impact of compensation schemes on the availability and cross-border exchanges of accessible format copies. The consultation activities have provided qualitative and quantitative data to allow the Commission to reach solid and reasoned conclusions as to the extent to which the Directive and Regulation have achieved their objectives.

Targeted Consultation

Objectives

The targeted consultation focused on consulting stakeholders identified in Article 10(1) of the Marrakesh Directive, namely authorised entities (AEs); relevant civil society actors and non-governmental organisations, including organisations representing people with disabilities and those representing older people; as well as rightsholders.

The consultation addressed the following topics:

- The extent to which the copyright exception introduced by the Marrakesh Directive has improved the availability of accessible format copies within the EU;
- The extent to which the Marrakesh Directive and Regulation have facilitated cross-border exchanges within the EU and with third countries that are parties to the Marrakesh Treaty, as well as the impact of such exchanges on the availability of accessible format copies;
- The extent, if any, of the impact the Marrakesh Directive and Regulation has had on the commercial availability of works and other subject matter covered by those instruments that are protected by copyright and related rights; and

([198]) This Annex was developed as part of the study supporting the evaluation and corresponds to Annex IX from the study, p 180-197.

- The possible impact of the compensation schemes that exist in certain Member States on the availability and cross-border exchange of accessible format copies covered by the Marrakesh Directive and Regulation.

Process

The targeted consultation ran from 22 June 2023 until 11 August 2023. In agreement with the Commission, the survey was extended twice at the request of stakeholders, due to their unavailability to respond during the summer holiday period.

In total, four blocks of questions were developed and presented to different stakeholder groups:

- Introductory and closing questions were presented to all stakeholder groups.
- Questions on the availability of printed works in accessible formats were presented to beneficiaries and their representatives, as well as to cultural heritage institutions, educational institutions and other respondents.
- Questions on the production and exchange of accessible format copies were presented to AEs.
- Questions on the commercial availability of works in accessible formats were presented to rightsholders and their representatives.

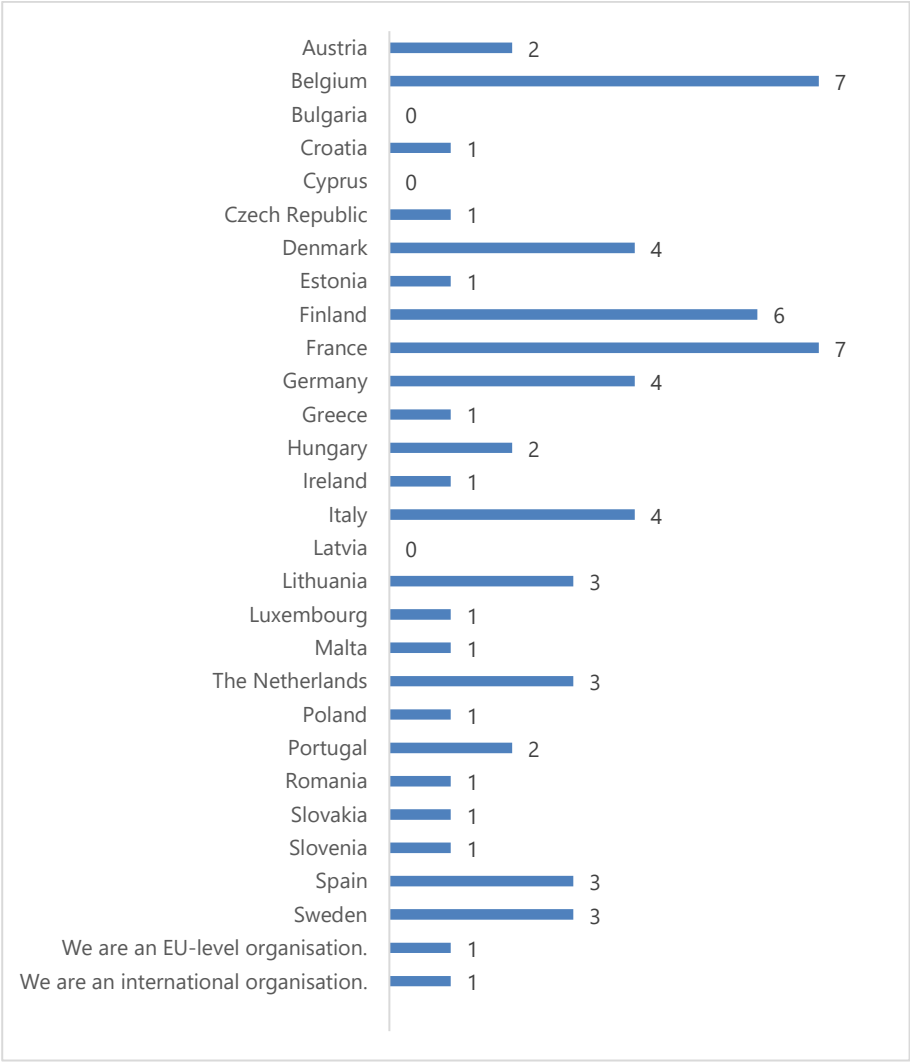
The consultation was carried out via the European Commission's consultation application ('EU Survey'). The consultation and its content were rendered accessible to people with disabilities by following the relevant requirements under European Standard EN 301 549 v3.2.1 (2021-03) 'Accessibility requirements for ICT products and services', and by providing an easy-to-read version.

The consultation was conducted in accordance with the five minimum standards outlined in the Better Regulation Guidelines (*clarity, targeting, outreach, sufficient time for participation, and the publication of contributions and results*). To meet these standards, the questionnaires were clear, concise (requiring no more than 15 minutes to respond) and targeted each of the stakeholder categories concerned. Outreach was improved by sending out individual invitations and making follow-up calls to non-responding stakeholders. Specifically, invitations and two reminders (sent on 4 July 2023, and 7 August 2023) were dispatched through EU Survey. Participation was also encouraged through personalised emails and calls from the study team to non-responsive stakeholders. In addition, the collection period for responses was extended twice, as requested by the respondents.

Participant statistics

530 respondents were invited to participate in the targeted consultation. A total of 63 responses were received. The largest numbers of responses were received from Belgium (7), Finland (6) and France (7). Almost all Member States were represented by at least one response, with the exception of Bulgaria, Cyprus and Latvia. A more detailed picture of the geographical distribution of responses is presented in *figure 1* below.

Figure 1. Geographical distribution of responses

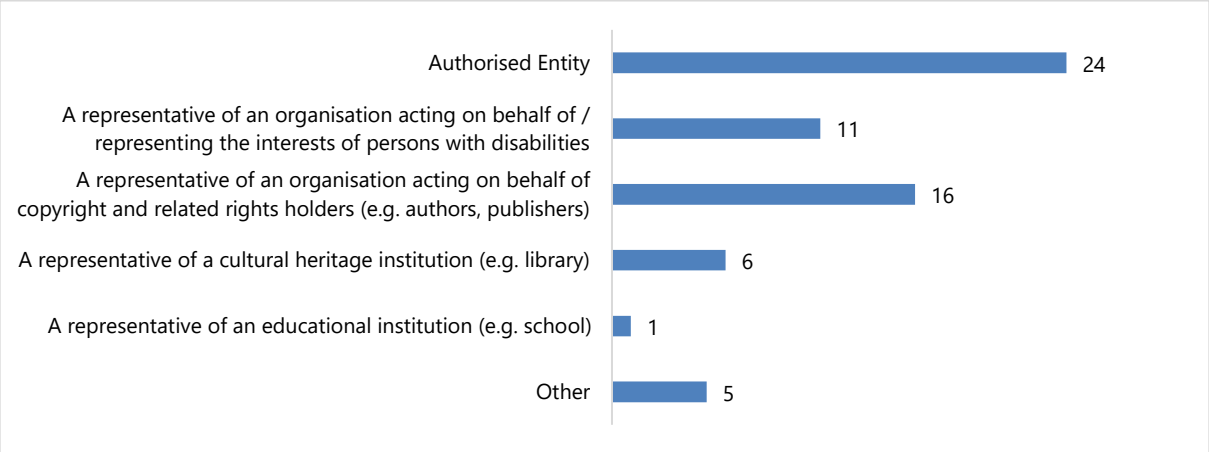


Source: The Study.

In terms of the coverage of stakeholders by group, the responses were fairly balanced. Approximately one third of respondents represented an AE, while the remaining two thirds consisted of beneficiaries' representatives, rightsholders, representatives of cultural heritage institutions, and others. The invitation to participate in the targeted consultation was also disseminated to organisations representing older people; however, only one such

organisation responded (CD&V Senioren, Belgium) ([199]). A more detailed distribution of responses by stakeholder groups is presented in *figure 2* below.

Figure 2. Distribution of responses, by stakeholder group



Source: The Study, based on the results of the targeted consultation.

Note: AEs also had the opportunity to respond to an additional set of questions from the perspective of an organisation acting on behalf of / representing the interests of people with disabilities – 18 of the 24 AEs took this opportunity (this is not reflected in the figures on the chart).

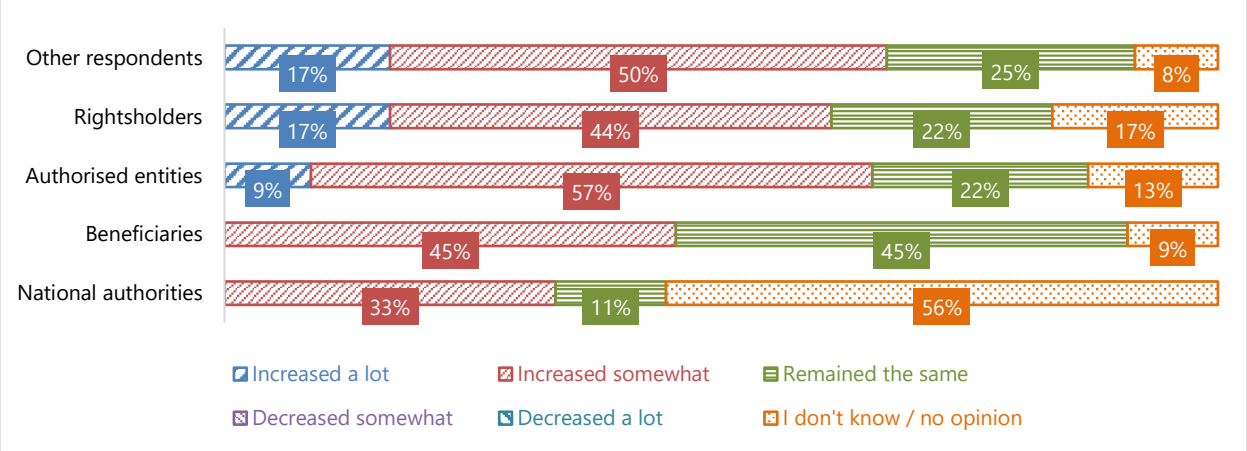
Results

Relevance

In relation to the criterion of relevance, the targeted consultation primarily addressed the evolving market conditions, and whether the market failure that the framework seeks to address still persists. Significant changes in market incentives for the production of born accessible works have not been observed, and rightsholders explained that the primary barriers to the growth of the accessible market continue to be the high costs associated with producing born accessible works, and the limited demand for such materials. However, all stakeholder groups acknowledged the expansion of the audiobook and e-book market across the EU in recent years, as shown in *Figure 3* below.

([199]) CD&V Senioren responded in the capacity of 'other' respondent (rather than as a representative of beneficiaries), and clarified they are a 'political organisation for older persons'.

Figure 3. Perceived change in the availability of born accessible works between 2018 and 2023 (n=82)

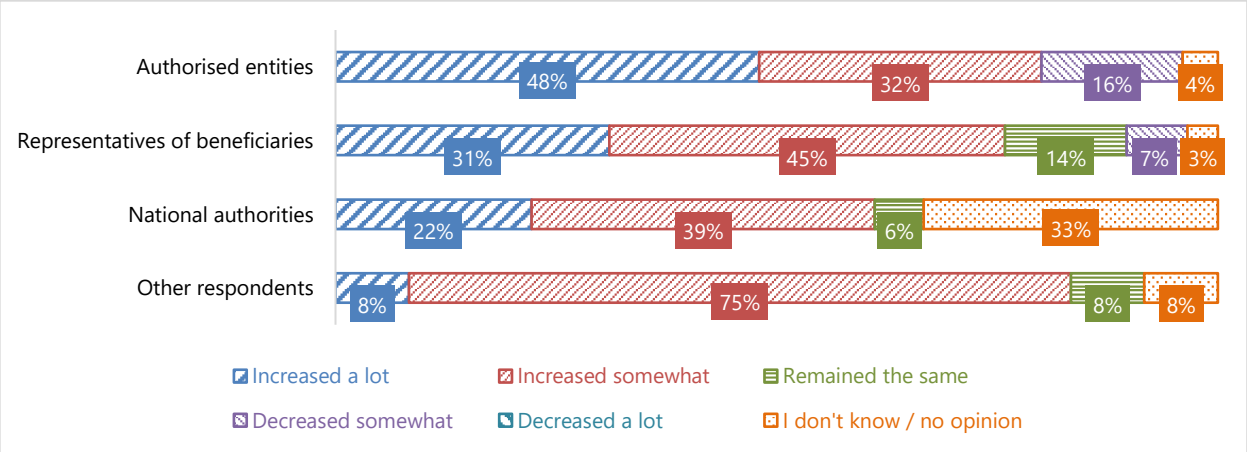


Source: The Study, based on the results of the Targeted Consultation and the Consultation with Member States. Note: the category 'other respondents' includes educational institutions, cultural heritage institutions and respondents that did not indicate themselves as belonging to any major stakeholder group.

Effectiveness

When assessing the availability of accessible format copies, the majority of respondents perceived that the availability of accessible format copies has improved significantly or moderately, as presented in *Figure 4* below.

Figure 4. Perceived change in the availability of accessible format copies between 2018 and 2023 (n=84)



Source: The Study, based on the results of the Targeted Consultation and the Consultation with Member States.

However, when considering the direct impact of the framework on the increased availability of accessible format copies (whether substantial or moderate), AEs gave an average score of 4.8 for the perceived impact of the framework on the availability of

accessible format copies (where 0 indicates no impact of the framework, and 10 indicates that all of the increase is attributable to the framework). However, those beneficiaries and other groups of respondents to the targeted consultation that indicated that the increase in availability was substantial or moderate, were more likely to attribute it to the impact of the Marrakesh framework, and gave average scores of 5.71 (beneficiaries) and 6.67 (other) out of 10.

Moreover, most respondents from all stakeholder groups gave average scores of 5 and above for the impact of the framework on the perceived increase in exchanges of accessible format copies (where 0 indicates no impact of the framework on the increase, and 10 indicates that all of the increase is attributable to the framework). Nonetheless, based on submissions from AEs, it appears they attribute a larger portion of the increase in the availability of accessible format copies to increased production rather than to international exchanges. It is worth noting that AEs were more inclined to assess the impact as closer to a 50/50 distribution between production and international exchanges than national authorities. When asked about the primary obstacles to providing more accessible format copies, most AEs highlighted insufficient funding for their organisations and a lack of other necessary resources as 'important' or 'very important' factors. Limited awareness or access to information about AE services on the part of beneficiaries was another important obstacle identified by respondents.

Lastly, the majority of stakeholders did not recognise the Marrakesh framework as having a direct influence on the market incentives for publishers, nor did they clearly indicate that the framework had the potential to substantially increase or reduce the availability of born accessible works. However, it is noteworthy that nearly one in five representatives of rightsholders that participated in the targeted consultation suggested that the framework may have diminished market incentives.

Efficiency

Respondents were asked to identify the main costs and benefits for their institutions resulting from the provisions of the Marrakesh framework. Ten authorised entities (AEs) reported that they had incurred no costs. Seven AEs indicated that they had incurred expenses associated with the human resources required to establish and oversee the necessary information systems. This encompasses tasks such as preparing metadata to meet the mandatory requirements, downloading copies and incorporating new entries into the catalogue. In addition, two AEs reported increased costs due to compensation schemes. Furthermore, one AE reported incurring expenses for legal consultations aimed at assisting them in obtaining the status of an authorised entity. However, in response to the open questions on benefits in the targeted consultation – namely, 'What benefits (if any) have the provisions of the Marrakesh framework produced for you or the stakeholders you represent?' – AEs did not provide any responses.

Most of the rightsholders did not provide examples of costs they had incurred, with the exception of one rightsholders' organisation in one Member State that mentioned costs related to legal disputes, and one rightsholders' organisation in another Member State that indicated it had incurred costs in relation to processing requests to provide digital files to the dedicated platform of the national library. However, rightsholders did identify the codification of existing practices, such as cross-border exchanges of adapted works through the WIPO ABC Global Book Service, and clear rules as the main benefits together with the compensation schemes (where applicable).

In response to the open questions on costs and benefits in the targeted consultation – namely, 'What benefits (if any) have the provisions of the Marrakesh framework produced for you or the stakeholders you represent?', and 'What types of costs have the provisions of the Marrakesh framework produced for your institution?' – representatives of beneficiaries did not provide any responses.

Consultation with Member States

Objectives

The consultation with Member States gathered information from Member States, in accordance with Article 10(2) of the Marrakesh Directive and Article 7 of the Regulation. Specifically, it sought information from the national authorities that were involved in the transposition and implementation of the Marrakesh framework. The aim of this consultation activity was to assess how the framework has impacted the availability of accessible formats and has helped to facilitate the cross-border exchange of accessible format copies. It included an assessment of the impact on such availability and exchanges of the compensation schemes that exist in certain Member States. The consultation also considered the possible impact of the framework on the commercial availability of certain works or other subject matter in accessible formats for beneficiaries.

Process

The consultation with Member States ran from 19 June 2023 until 6 October 2023. In agreement with the Commission, the survey period was extended due to a low response rate and the unavailability of stakeholders during the summer holiday period. The consultation targeted the national authorities responsible for the transposition of the Directive and the implementation of corresponding laws. The results of the consultation fed into the mapping of the implementation of the framework (the systems and procedures in place in Member States), as well as contributing to answering the evaluation questions related to relevance, effectiveness and efficiency. A total of 28 responses were received (however, not all responses were from national authorities – see the next subsection for an overview).

The questionnaire used for the consultation with Member States included a greater number of open questions compared with that for the targeted consultation, due to the nature of the information sought in this context. However, this consultation activity also included several of the same questions on the impact of the Marrakesh framework from the targeted consultation, in order to facilitate the triangulation of responses and ensure multiple and comparable perspectives from different stakeholder groups.

The consultation was carried out via the European Commission's consultation application ('EU Survey'). The consultation and its content were rendered accessible to people with disabilities by following the relevant requirements under European Standard EN 301 549 v3.2.1 (2021-03) 'Accessibility requirements for ICT products and services', and by providing an easy-to-read version.

The consultation was conducted in accordance with the five minimum standards outlined in the Better Regulation Guidelines (*clarity, targeting, outreach, sufficient time for participation, and the publication of contributions and results*). To meet these standards,

the questionnaires were clear, concise (requiring no more than 15 minutes to respond) and targeted national authorities. Outreach was improved by updating the Commission on the progress of the survey and indicating which Member States had not yet submitted a response, with the Commission managing follow-ups with the national authorities concerned. In addition, the collection period for responses was extended twice, as requested by the consultation target group.

Participant statistics

All 27 Member States were invited to participate in the consultation with Member States. The survey link was disseminated by the European Commission to national authorities. The consultation resulted in the following coverage:

- 22 national authorities provided responses via the EU Survey platform: Ireland, Croatia, Hungary, Finland, Poland, Czechia, Netherlands, Spain, Slovakia, Belgium, Latvia, Germany, Sweden, Denmark, Lithuania, Luxembourg, Romania, Slovenia, Greece, Bulgaria, Italy and Estonia.
- One response from Portugal was submitted via the EU Survey platform by the National Library of Portugal (BNP) on behalf of the national competent authority. As an exceptional case, the National Library's submission was taken into account as a submission on behalf of a Member State.
- Four national authorities did not provide a response: those of Austria ([200]), Cyprus, France and Malta.

Within the context of the consultation with Member States, three responses were received from AEs (from Lithuania, Sweden and Estonia) and four responses were received from rightsholders' representatives (two from Finland, one from Greece and one from Austria), as the questionnaire was forwarded to them by the national authorities. To mitigate potential biases, these responses (which were not explicitly identified by national authorities as being submitted on their behalf) were excluded from the analysis of the responses to the consultation with Member States. However, responses to those questions that overlapped with the targeted consultation questionnaire were extracted and merged with the dataset for the targeted consultation to ensure the incorporation of all relevant information into the analysis.

Results

The consultation contributed to the analysis in relation to three of the evaluation criteria, focusing specifically on relevance, effectiveness and efficiency. In addition, it provided

([200]) An Austrian CMO submitted a response directly to the Commission; however, the CMO's position does not replace or is accepted as a submission on behalf of the national authority.

insights into the state of play of the implementation of the framework. The main findings from the consultation are summarised below.

Implementation

National authorities provided insights into how the implementation of the framework had unfolded on the ground. This included information about which institutions or organisations are responsible for monitoring and for promoting the exchange of information, as well as mechanisms for managing financial flows within compensation schemes (where applicable). The responses received have been incorporated into the implementation mapping fiches and compensation scheme mapping fiches of the study.

Relevance

With regard to questions relating to the relevance of the framework, national authorities acknowledged a noticeable (moderate) rise in the availability of born accessible works over the past 5 years. National authorities tended to credit a large portion of the works available in accessible formats to the efforts of AEs rather than to the commercial market.

Effectiveness

When assessing the availability of accessible format copies, the majority of respondents perceived that the availability of accessible format copies had either increased a lot, or at least somewhat (see *Figure 4* above).

However, when considering the direct impact of the framework on the increased availability of accessible format copies (whether substantial or moderate), national authorities were more sceptical than other respondents, assigning an average score of 2.71 out of 10 for the perceived impact of the framework on the availability of accessible format copies (where 0 indicates no impact of the framework, and 10 indicates that all of the increase is attributable to the framework). Respondents also observed that exchanges between AEs – whether domestic, within the EU, or in third countries – have increased since the adoption of the framework.

Efficiency

In terms of the efficiency of the Marrakesh framework, the questionnaire focused on gathering information about the procedures and systems in place for the design and implementation of compensation schemes, as well as practices aimed at preventing the unauthorised use of works and record-keeping, as well as the systems and procedures used to monitor the obligations of AEs. The responses provided insights into the various approaches employed at national level. The data have been incorporated directly into the mappings of implementation and of compensation schemes published in the study.

When asked about the rationale for introducing a compensation scheme into their national context, two respondents explained that it was viewed as a means to address the imbalance between the benefits accrued by beneficiaries who use library services and the disadvantages faced by rightsholders (i.e. lack of renumeration). Conversely, when asked why such a system had not been implemented, seven other Member States noted that they did not perceive any significant harm being done to rightsholders.

In-depth interviews

Objectives

In-depth interviews with key stakeholders were conducted at two levels, each with specific objectives:

- Interviews with key EU and international stakeholders, as well as academic and legal experts were conducted in two strands:
  - Exploratory interviews (n=6): these interviews were undertaken at the beginning of the study to reveal key trends, themes and challenges. The aim was for the insights gained from these interviews to inform the design of the core data collection tools.
  - In-depth follow-up interviews (n=4): these interviews were conducted towards the end of the study to cross-check the preliminary research results and fill in any information gaps identified during the earlier stages of the research.
- Interviews with national stakeholders (accompanied by written communication, including clarifications, supplying additional data, etc.), including authorised entities and representatives of beneficiaries and rightsholders (n=20), were conducted in the context of the case studies to collect in-depth information essential for a thorough case study analysis focusing on exploring the impacts of the Marrakesh framework.

Process

In-depth interviews were carried out between April and November 2023. These began with exploratory interviews, followed by in-depth interviews with national-level stakeholders, and concluded with in-depth follow-up interviews. In agreement with the Commission, the interview period was extended to accommodate stakeholders' unavailability during the summer holiday season.

The exploratory interviews followed a generally unstructured format, wherein interviewees were encouraged to raise the points that were most relevant to them and the stakeholders they represent. During the in-depth follow-up interviews, participants were

provided with a summary of the key (draft) conclusions, lessons learned and recommendations from the study in advance, allowing them to familiarise themselves with the main points. Throughout the interview, interviewees were then prompted to provide feedback on these key points, indicating any consistencies or inconsistencies with their knowledge and experience. In-depth interviews with national-level stakeholders were semi-structured, designed to facilitate a deeper exploration of selected themes across various EU Member States and to analyse the impact of the framework under different implementation approaches.

The in-depth interviews were conducted in accordance with the five minimum standards outlined in the Better Regulation Guidelines (*clarity, targeting, outreach, sufficient time for participation, and the publication of contributions and results*). To meet these standards, the questions were designed to be clear and concise, targeting each of the relevant stakeholder categories. Outreach was enhanced through follow-up calls to non-responding stakeholders. The interview period was extended to accommodate the needs and schedules of the interviewees.

Participant statistics

Participants in the exploratory interviews included stakeholders at EU and international levels, encompassing representatives from beneficiaries, rightsholders and libraries. The in-depth follow-up interviews featured EU and international stakeholders, along with legal and academic experts with extensive knowledge of the framework and related topics such as accessible publishing, inclusion policies and copyright.

National stakeholders were identified for in-depth interviews following the selection of cases and case study countries (Belgium, Denmark, Croatia, Finland, France, Germany, Lithuania and Spain). For each of these Member States, two or three interviews were conducted to ensure a broad range of opinions, with interviews targeting various stakeholders such as AEs, beneficiaries' representatives and rightsholders. Please see below for an overview of the interviews and topics in focus.

Table 9. Focus of in-depth interviews

Member State	Impact of Framework with/without a compensation scheme	Impact of Framework on cross-border exchanges	Impact of Framework in small markets	Coordination between stakeholders
Belgium		Yes		Yes
Croatia	Yes	Yes	Yes	Yes
Denmark	Yes	Yes	Yes	
Finland	Yes		Yes	
France	Yes	Yes		Yes
Germany	Yes	Yes		Yes
Lithuania	Yes	Yes	Yes	
Spain	Yes	Yes		Yes

Source: The Study.

Results

The information gathered from interviewees was integrated into the main report and served as the foundation for the case studies. This information was summarised and assembled into four overarching thematic topics that were discussed in all types of in-depth interviews: the impact of the Marrakesh framework with/without a compensation scheme; the impact of the Marrakesh framework on cross-border exchanges within the EU/with third countries; the impact of the Marrakesh framework in small markets; and coordination between stakeholders.

Impact of the Marrakesh Framework with/without a compensation scheme

The information collected during the consultation focused on assessing the impact of the Marrakesh framework on the availability of accessible format copies, taking into account the presence or absence of a compensation scheme in each Member State. Considering the overall impact of the Marrakesh framework in those Member States with a compensation scheme, the Finnish system was not reported to create additional administrative burdens following the transposition of the Marrakesh Directive. In contrast, most interviewees concerned emphasised that while the transposition in Germany had not brought about substantial changes to the existing system, the accompanying compensation scheme had introduced additional administrative burdens. The Danish AE and rightsholders agreed that negotiations over the compensation scheme

between rightsholders and AEs had led to a prolonged legal dispute, necessitating efforts to address various related administrative and legal issues.

With regard to the impact of the compensation scheme on the production of accessible format copies, AEs and beneficiaries' representatives in Finland agreed that its impact had been minimal. Meanwhile, one German AE argued that the size and scope of the CS, coupled with the absence of government funding, placed a strain on donor-seeking AEs and had a negative impact on production. AEs and rightsholders in Denmark shared the view that negotiations between the two parties regarding the design of the CS had significantly and negatively affected AEs' production capacities in the short term.

In connection with the impact of compensation schemes on the exchange of accessible format copies, in an in-depth follow-up interview, one anonymous interviewee suggested that AEs in Member States with such schemes might engage less in cross-border exchanges, including those carried out via the ABC. Such reluctance stems from two main factors: (1) legal uncertainty surrounding the application of compensation schemes to cross-border dissemination, along with procedural challenges in tracking exported copies to enable the accurate calculation of compensation; and (2) the obligation to pay compensation for exported works potentially reduced the incentives for AEs to share copies. Notably, in-depth follow-up interviews revealed that the German compensation scheme has introduced legal uncertainties within the EU. During in-depth interviews at national level, AEs outside these agreements argued that the obligations regarding payment to the German compensation scheme when importing works are unclear, thus significantly limiting their opportunities to import German-language works.

For Member States without a compensation scheme, national-level interviewees generally reported that the transposition of the Marrakesh Directive had not brought significant changes to the existing system. An exception to this can be observed in France, where French AEs and rightsholders mentioned that the transposition of the Marrakesh framework resulted in the creation of a government-run platform for cooperation between publishers and AEs.

National-level interviewees in Member States without compensation schemes, such as the AE in Lithuania, the AE in Spain and French AEs, disagreed with the introduction of a CS and argued that their current systems without a CS are the most beneficial. Spanish rightsholders, on the other hands, indicated that they would be in favour of introducing a compensation scheme in the country. In all of the Member States studied – France, Lithuania, Spain, Finland, Denmark and Germany – all stakeholders interviewed concurred that the implementation of a CS (or lack of one, in countries where there no CS is in place) has not had a substantial influence on the development of the commercial market for accessible publishing.

Impact of the Marrakesh Framework on cross-border exchanges within the EU and with third countries

In-depth interviews of all types revealed that the framework has exerted a more pronounced positive influence on the exchange of accessible format copies, while its impact on production has been less significant in comparison. According to interviewees, the framework has played an important role in establishing clear rules for the cross-border exchange of copies – an aspect that had previously lacked international harmonisation. Furthermore, the framework grants EU-based authorised entities access to international exchange platforms such as the ABC, which are exclusively accessible to organisations in countries that are parties to the Marrakesh Treaty.

All national stakeholders interviewed in Germany, Denmark and France, which that had established bilateral or multilateral partnerships for cross-border exchanges prior to the Marrakesh framework, did not perceive the impact of the framework as being transformative. In these cases, the framework reinforced existing partnerships. However, AEs in Belgium, as well as the AE and representatives of beneficiaries' in Lithuania, agreed that the framework had achieved a significant impact on cross-border exchange with third countries, by fostering increased coordination between countries, facilitating partnerships and streamlining the exchange process, resulting in enriched national collections. In Denmark, rightsholders and AEs agreed that the legal dispute over the compensation scheme had led to limited cross-border exchanges, with the uncertainty surrounding the scheme's operational procedures hindering AEs' participation in cross-border exchanges.

All of the AEs interviewed in France, Belgium, Lithuania and Spain agreed that cross-border exchanges have led to a broader selection of titles in both national and foreign languages within countries, thereby benefiting users. They also agreed that cross-border exchanges have reduced costs by avoiding redundant cooperation and production efforts. The Marrakesh framework's capacity to enhance the availability of accessible format copies by facilitating exchanges was also identified as an important factor in both exploratory and in-depth follow-up interviews.

In terms of the processes used to organise such exchanges, various methods have been reported. These are summarised in case study 3, and case study 4 in *Annex X* to the study. During the in-depth follow-up interviews, it was reported that the ABC platform, led by WIPO, plays a significant role in exchanging information and works among AEs within the EU as well as with third countries. Interviewees in all types of in-depth interviews argued that the ABC facilitates both business-to-business (B2B) and business-to-consumer (B2C) interactions. In addition to the ABC, national-level interviewees noted the existence of regional networks such as Medibus and NetBiblio, while some AEs still arrange exchanges on a case-by-case basis, such as when receiving international requests from individuals via email.

Impact of the Marrakesh Framework in small markets

Representatives of beneficiaries in Denmark, rightsholders in Finland, and the Finnish and Lithuanian AEs all highlighted the challenges faced by small language markets with respect to cross-border exchanges, mainly due to the limited demand for works in their language. The Lithuanian AE also emphasised their need to use human narrators for 99% of their production, which increases costs, especially for those in smaller markets that may lack access to high quality synthetic voices. The Lithuanian AE reported seeing little incentive for the development of commercial accessible publishing in a small market with an insufficient number of potential buyers, making it a challenge to cover production costs. However, both the Finnish and Lithuanian AEs agreed that smaller markets offer the advantage making it easier to engage in personal contacts with publishers to avoid the duplication of efforts.

Coordination between stakeholders

The AE and rightsholders in Spain reported that the country has a centralised system with a single AE, thus eliminating the need for coordination with other entities. Belgian AEs reported limited exchange or cooperation between stakeholders in different regions due to linguistic differences, as there is little demand for the foreign language titles. AEs in France and Germany reported relatively deep cooperation among their national AEs, utilising the countries' respective platforms for the exchange of copies (Platon in France and Medibus in Germany).

Access by beneficiaries to accessible format copies varied from direct online access to AEs' catalogues, to reliance on intermediaries such as libraries in order to access copies. In some Member States, beneficiaries are allowed direct access to online catalogues to view and download accessible copies. Various communication methods are used to provide information about available copies and services for beneficiaries, including email, newsletters, phone communication and social media.

Cooperation between AEs and publishers also varies, from case-by-case agreements as reported by AES in Lithuania, Belgium and Spain, to more systematic, government-led approaches, as reported by AEs in France.

Call for evidence

Objectives

The call for evidence was open to the public, and aimed to gather feedback from a broad range of stakeholders on any issues related to the implementation of the framework (with no pre-defined questions).

Process

The feedback period ran from 13 April to 11 May 2023, and stakeholders were invited to submit their written responses and/or position papers through the Commission's 'Have Your Say' portal ([201]).

Participant statistics

34 responses were received. According to the 'Have Your Say' portal, the following types of respondents submitted their feedback:

- NGOs (n=12)
- Citizens (n=6)
- Business associations (n=4)
- Public authorities (n=3)
- Academic/research institutions (n=1)
- Other (n=8)

Respondents came from the following countries: Belgium, including some EU-level or international organisations (n=7); Croatia (n=5); France, Finland and Denmark (three responses from each); Sweden, Spain and Czechia (two each); Portugal, Norway, Lithuania, Italy, Germany, Switzerland and Austria (one response from each).

Results

As there were no pre-defined questions, and respondents were invited to share any feedback they deemed most relevant, the topics covered were very wide. Nevertheless, some recurring themes can be identified. These include:

- Compensation schemes (or lack thereof) and their impact on the balance of rights between rightsholders on the one hand, and beneficiaries and AEs on the other;
- Practices related to the verification of commercial availability (or lack thereof) and their impact on the potential duplication of efforts between the commercial and non-profit sector;
- Practices related to the monitoring of the implementation of the framework, including the obligation in some Member States for AEs to be registered, the prevention of unauthorised dissemination, and the sharing of data; and

([201]) See: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13615-EU-copyright-law-for-blind-and-visually-impaired-people-evaluation-of-the-Marrakesh-Directive-and-Regulation_en.

- The European Accessibility Act and its coherence and complementarities with the Marrakesh framework.

Use of the responses

The consultation activities and their results have been fully taken into consideration as evidence for the evaluation study, in order to address the evaluation criteria, inform the mapping of the framework's implementation and of compensation schemes, and to serve as the foundation for the case studies. This integration considered the positions of all stakeholders.