



# Accessibility of audiovisual content for persons with disabilities

**IRIS *Plus***

A publication  
of the European Audiovisual Observatory



**IRIS Plus 2023-1**

Accessibility of audiovisual content for persons with disabilities  
European Audiovisual Observatory, Strasbourg, 2023  
ISSN 2079-1062

**Director of publication** – Susanne Nikoltchev, Executive Director

**Editorial supervision** – Maja Cappello, Head of Department for Legal Information

**Editorial team** – Francisco Javier Cabrera Blázquez and Sophie Valais, Legal Analysts, and Amélie Lacourt, Eric Munch, Justine Radel-Cormann, Junior Analysts

European Audiovisual Observatory

**Authors (in alphabetical order)**

Francisco Javier Cabrera Blázquez, Maja Cappello, Amélie Lacourt, Eric Munch, Justine Radel-Cormann, Sophie Valais

**Translation**

Marco Polo Sarl, Stefan Pooth

**Proofreading**

Anthony Mills, Aurélie Courtinat, Barbara Grokenberger

**Editorial assistant** – Sabine Bouajaja

**Press and Public Relations** – Alison Hindhaugh, [alison.hindhaugh@coe.int](mailto:alison.hindhaugh@coe.int)  
European Audiovisual Observatory

**Publisher**

European Audiovisual Observatory  
76, allée de la Robertsau, 67000 Strasbourg, France  
Tel.: +33 (0)3 90 21 60 00  
Fax: +33 (0)3 90 21 60 19  
[iris.obs@coe.int](mailto:iris.obs@coe.int)  
[www.obs.coe.int](http://www.obs.coe.int)

**Cover layout** – ALTRAN, France

Please quote this publication as

Cabrera Blázquez F.J., Cappello M., Larcourt A., Munch E., Radel-Cormann J., Valais S., *Accessibility of audiovisual content for persons with disabilities*, IRIS Plus, European Audiovisual Observatory, Strasbourg, April 2023  
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# Accessibility of audiovisual content for persons with disabilities

Francisco Javier Cabrera Blázquez, Maja Cappello, Amélie Lacourt, Eric Munch, Justine Radel-Cormann, Sophie Valais





# Foreword

*I can't change the direction of the wind,  
but I can adjust my sails  
to always reach my destination.*

James Dean

Two years ago, we published an IRIS Plus on “Diversity and inclusion in the European audiovisual sector”, in which we discussed tools and mechanisms to promote equality and fight discrimination in the audiovisual sector. The publication dealt with how women, minorities, and disadvantaged groups were represented both on-screen and behind the cameras. In other words, the publication spoke about these groups being part of the audiovisual industry.

The present publication deals with one of these groups, people with disabilities, but focusing now on their specific needs as part of the audience. Which technical solutions can be used to facilitate access to audiovisual content for persons with disabilities? What is the legislator, at European or national level, doing in order to encourage and/or oblige broadcasters and VOD services to introduce such measures?

After a first chapter that provides a general introduction to the issues at stake and their importance, Chapter 2 offers an overview of the rules applicable at international and EU level. The next two chapters look at the national transposition of EU directives: Chapter 3 examines the implementation of Article 7 AVMSD, describing in detail the regulatory framework of eight countries considered particularly interesting for the purpose of this report, and Chapter 4 deals with the implementation of Article 5(3)(b) and (4) of the InfoSoc Directive and issues of public funding regarding accessibility. Chapter 5 presents accessibility measures developed by NRAs and the industry, and we round off this publication with a final chapter offering some insights into the transposition of Article 7 AVMSD and the role that artificial intelligence may play in the (very near) future.

Strasbourg, April 2023

Maja Cappello

IRIS Coordinator

Head of the Department for Legal Information

European Audiovisual Observatory

# Table of contents

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<b>1. Setting the scene .....</b>	<b>1</b>
1.1. Introduction .....	1
1.2. Typology of disabilities and related measures .....	2
1.2.1. Blindness and partial sight.....	2
1.2.2. Deafness and hearing loss.....	5
1.2.3. Deafblindness.....	7
1.2.4. Cognitive disabilities.....	7

---

<b>2. International.....</b>	<b>9</b>
2.1. United Nations framework.....	9
2.1.1. The UN Convention on the Rights of Persons with Disabilities.....	9
2.1.2. The UN Disability Inclusion Strategy .....	10
2.1.3. UNESCO's approach towards inclusive knowledge societies .....	11
2.1.4. The Marrakesh Treaty and access to published works for blind or visually impaired persons .....	12
2.2. European Union framework .....	13
2.2.1. Fundamental rights and non-discrimination .....	13
2.2.2. The European Disability Strategy .....	13
2.2.3. The European Accessibility Act.....	14
2.2.4. The Audiovisual Media Services Directive.....	16
2.2.5. Availability of certain copyright protected works for persons with disabilities.....	18

---

<b>3. Implementation of Article 7 of the AVMS Directive .....</b>	<b>21</b>
3.1. Comparative approach.....	21
3.1.1. Accessibility tools.....	21
3.1.2. Scope of application .....	22
3.1.3. Minimum level of accessible content.....	23
3.1.4. Gradual increase of accessible programmes .....	24
3.2. National case studies.....	25
3.2.1. AT - Austria .....	25
3.2.2. DE - Germany .....	28
3.2.3. FI - Finland.....	30
3.2.4. FR - France.....	32

3.2.5. LV - Latvia.....	34
3.2.6. LT - Lithuania.....	37
3.2.7. NL - Netherlands.....	39
3.2.8. PL - Poland.....	41

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## **4. Implementation of Article 5(3)(b) and (4) of the InfoSoc Directive..... 44**

4.1. National transposition.....	44
4.2. Stakeholders' perspectives on implementation.....	47
4.3. Public funding and accessibility.....	48

---

## **5. Accessibility measures developed by NRAs and the industry..... 52**

5.1. National implementation of accessibility measures.....	52
5.1.1. Setting the scene.....	52
5.1.2. Accessibility regulations adopted by NRAs.....	54
5.1.3. Accessibility measures developed by audiovisual media service providers.....	57
5.2. Industry examples.....	62
5.2.1. Broadcasters.....	62
5.2.2. Video-on-demand.....	63
5.3. Other initiatives.....	65
5.3.1. LEAD-ME.....	65
5.3.2. EBU expert group.....	66
5.3.3. EasyTV.....	66

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## **6. State of play ..... 67**

6.1. The accessibility reporting envisaged by the AVMSD.....	67
6.2. Artificial intelligence: The solution?.....	68
6.3. Concluding remarks.....	69

---

## **7. Annex ..... 71**

## Tables

Table 1.	Overview – Steps of process put in place by EU members to develop accessibility measures .....	53
Table 2.	Summary of national accessibility measures .....	71
Table 3.	Overview of exceptions or limitations to copyright rules at national level and additional provisions .....	76
Table 4.	Action plans (Article 7(3) AVMSD) .....	79

# 1. Setting the scene

## 1.1. Introduction

It is difficult to overstate the importance of media for society at large. For example, according to the Explanatory Memorandum to the European Commission's proposal for a European Media Freedom Act (EMFA):<sup>1</sup>

*[...] media services are not only an important and dynamic economic sector, they are also essential for a healthy civic sphere and for economic freedoms and fundamental rights, including equality. Independent media, and in particular news media, provide access to a plurality of views and are reliable sources of information to citizens and businesses alike. They contribute to shaping public opinion and help people and companies form views and make informed choices. They play a crucial role in preserving the integrity of the European information space and are essential for the functioning of our democratic societies and economies.*

Accordingly, it is paramount that audiovisual media services<sup>2</sup> are accessible for all, including people with disabilities of any kind. However, the dual nature (audio and visual) of these services requires both senses (vision and hearing) to fully take advantage of them. As such, people with auditive and visual disabilities can enjoy them only if appropriate tools (especially subtitles for the deaf and hard of hearing (SDH), sign language interpretation, audio description and spoken subtitles) are made available to them. The introduction of such tools, however, is not an easy feat, as recognised by the revised AVMSD,<sup>3</sup> which states that accessibility requirements “should be met through a progressive and continuous process, while taking into account the practical and unavoidable constraints that could prevent full accessibility, such as programmes or events broadcast in real time” (Recital 22 AVMSD 2018). It further clarifies that in some cases, “it might not be possible to provide emergency information in a manner that is accessible to persons with disabilities. However,

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<sup>1</sup> Proposal for a Regulation of the European Parliament and of the Council establishing a common framework for media services in the internal market (European Media Freedom Act) and amending Directive 2010/13/EU, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52022PC0457>.

<sup>2</sup> This publication focuses on accessibility of audiovisual media services and video-sharing platforms as defined by the EU's Audiovisual Media Services Directive (See Chapter 2 of this publication), excluding other web-based services, radio, and printed press.

<sup>3</sup> Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU 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) in view of changing market realities, <https://eur-lex.europa.eu/eli/dir/2018/1808/oj>.

such exceptional cases should not prevent emergency information from being made public through audiovisual media services” (Recital 24 AVMSD 2018).

This introductory chapter presents a typology of disabilities and their relation to the use of audiovisual media services. It further describes technical solutions that can be used for facilitating accessibility of audiovisual content for persons with disabilities. As shown in the next paragraphs, different conditions pose different problems and call for different solutions. This chapter also includes proposals from relevant organisations that represent the interests of people with disabilities at the European level.

## 1.2. Typology of disabilities and related measures

According to Article 1 of the UN Convention on the Rights of Persons with Disabilities,<sup>4</sup> these include “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”

According to the United Nations’ Department of Economic and Social Affairs,<sup>5</sup> 15% of the population worldwide or some 1 billion individuals have one or more disabling conditions. Moreover, disability is intimately connected to ageing. More than 46 percent of older persons (60 years and over) have disabilities and more than 250 million older people experience moderate to severe disability. The global trends in ageing populations and the higher risk of disability in older people are likely to lead to further increases in the population affected by disability.<sup>6</sup>

The disabilities concerned with audiovisual content are those related to sight, hearing, and cognition.

### 1.2.1. Blindness and partial sight

The term “visually impaired” is an umbrella term used to indicate blind plus partially sighted persons together.<sup>7</sup> According to the European Blind Union,<sup>8</sup> the main difference between these two main groups lies in the fact that partially sighted persons primarily use their (residual) sight, whereas blind persons primarily rely on audible and tactile input, although

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<sup>4</sup> Convention on the Rights of Persons with Disabilities (CRPD), <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>.

<sup>5</sup> <https://www.un.org/en/desa>.

<sup>6</sup> See <https://www.un.org/development/desa/disabilities/disability-and-ageing.html>.

<sup>7</sup> The International Classification of Diseases 11 (2018) classifies vision impairment into two groups, distance vision impairment (from mild to blindness) and near vision impairment, see <https://www.who.int/en/news-room/fact-sheets/detail/blindness-and-visual-impairment>.

<sup>8</sup> <https://www.euroblind.org/>.

they may also have a certain amount of visual perception. Therefore, the European Blind Union has the following recommendations:<sup>9</sup>

- Include clear definitions of the terms “visually impaired”, “partially sighted” and “blind” in any document on accessibility requirements.
- Whenever a required (design) measure is assigned to a specific user group, only indicate the one it is specifically essential for
- Only use the term “visually impaired” if something explicitly applies for both blind and partially sighted persons in the same way.

According to a European Blind Union estimate, there are over 30 million blind and partially sighted persons in geographical Europe, meaning that an average one in 30 Europeans experiences sight loss. Also, sight loss is closely related to old age. One in three senior citizens over 65 faces sight loss, and 90 percent of visually impaired persons are over the age of 65. It is worth mentioning that there are four times as many partially sighted persons as blind persons.<sup>10</sup>

Visually impaired people can enjoy audiovisual content through two tools:

- Audio description describes visual content by inserting spoken information between the dialogue and other audio parts of the soundtrack.
- Audio subtitling, that is, the reading aloud of subtitles, complements audio description especially in the case of subtitled foreign-language content.

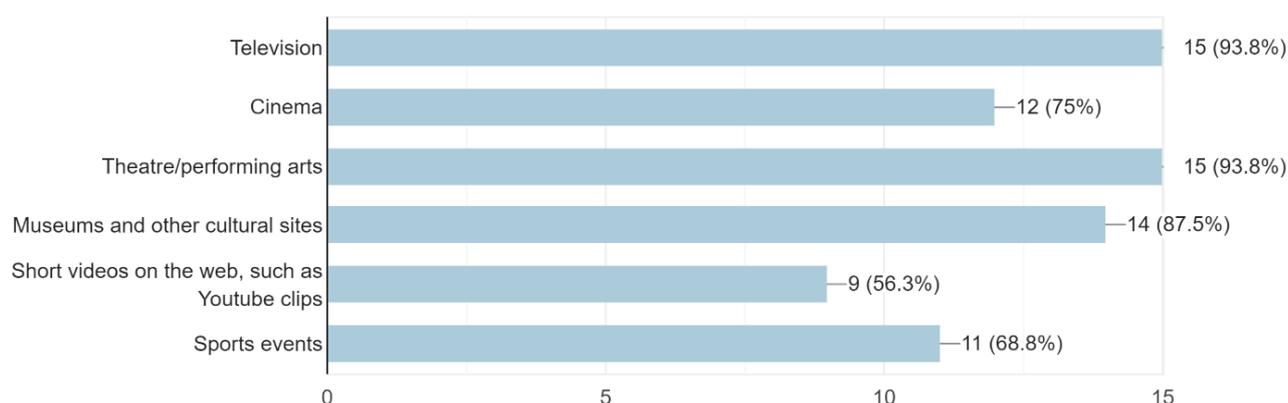
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<sup>9</sup> See European Blind Union, Statement on the need to use the right definitions and terminology in standardisation work, 24 June 2018, [https://www.euroblind.org/sites/default/files/documents/the\\_need\\_to\\_use\\_the\\_right\\_definitions\\_and\\_terminology.docx](https://www.euroblind.org/sites/default/files/documents/the_need_to_use_the_right_definitions_and_terminology.docx).

<sup>10</sup> See <https://www.euroblind.org/about-blindness-and-partial-sight/facts-and-figures>.

A 2021 survey<sup>11</sup> shows that audio description on TV and in theatres, museums, sport events and arts exists in some form in almost all European countries included in the survey,<sup>12</sup> whereas there is still work to be done in cinema, short videos, and social media.

If yes, in which of the following areas is there audio description? (More than one option possible)  
16 responses



Source: Results of the survey about audio description in EBU countries conducted in 2021 as part of the PARVIS project.

However, according to the European Blind Union, only a fraction of television or cinema content is produced in an accessible version in the first place. This is because too few production companies are aware of the access needs of blind or partially sighted persons and there are no incentives for them to invest in audio description and audio subtitling of their content. Therefore, public funding and in particular MEDIA funding to the film industry<sup>13</sup> should be, in the European Blind Union's view, granted only to projects that will create a version with audio description and audio subtitling. As an intermediate realistic step, the Creative Europe Programme and annual work programmes for the period 2021-2027 should include audio description and audio subtitling among the selection and award criteria for MEDIA funding, and at least 25% of films that receive MEDIA production or distribution funding should have an audio description and audio subtitling in the languages of the production.<sup>14</sup>

<sup>11</sup> Results of the survey about audio description in EBU countries conducted in 2021 as part of the PARVIS project, [https://www.euroblind.org/sites/default/files/documents/EBU\\_Access\\_to\\_Art\\_and\\_culture\\_Results\\_of\\_PARVIS\\_2021\\_survey\\_on\\_AD.pdf](https://www.euroblind.org/sites/default/files/documents/EBU_Access_to_Art_and_culture_Results_of_PARVIS_2021_survey_on_AD.pdf).

<sup>12</sup> The survey was shared with all European Blind Union member organisations via a mailing list.

<sup>13</sup> See <https://culture.ec.europa.eu/creative-europe/creative-europe-media-strand>.

<sup>14</sup> See <https://www.euroblind.org/campaigns-and-activities/current-campaigns/media-funding-film-industry>.

## 1.2.2. Deafness and hearing loss

According to the World Health Organization,<sup>15</sup> hearing loss is the inability to hear, as well as someone with normal hearing (hearing thresholds of 20 dB or better in both ears). It can be mild, moderate, severe, or profound, affect one ear or both ears, and lead to difficulty in hearing conversational speech or loud sounds.<sup>16</sup> There are two levels of hearing loss:

- 'Hard of hearing': They suffer from hearing loss ranging from mild to severe. People who are hard of hearing usually communicate through spoken language and can benefit from hearing aids, cochlear implants,<sup>17</sup> and other assistive devices as well as captioning.
- 'Deaf' people: This implies profound hearing loss, which in turn implies very, little or no hearing. They often use sign language for communication.

According to the European Federation of Hard of Hearing People (EFHOH),<sup>18</sup> it is difficult to determine the precise numbers of people experience hearing loss across Europe, and figures vary depending on the source. Their 2015 estimate was that there are 51 million hard-of-hearing people in the European Union, that is, around 9% of the population of the EU, whereas, for example, the website hear-it.org estimates that the number of Europeans (not only EU) "with a hearing impairment great enough to adversely affect their daily lives" is 16%.<sup>19</sup> In a question for a written answer to the Commission, MEP Alex Agius Saliba mentions that partial or complete loss of hearing is a condition that affects more than 83 million people in the EU.<sup>20</sup>

There are different access services that convey audiovisual content to people with hearing impairments:

- Subtitles for the deaf and hard of hearing (SDH, also called closed captions in the US)<sup>21</sup> are a text version of the speech and non-speech audio information needed to understand the content. SDH in certain countries have specific standards - for example, different colour coding to distinguish different speakers, different labels in brackets, different positioning on screen to mark who's speaking. There is a

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<sup>15</sup> <https://www.who.int/>.

<sup>16</sup> See <https://www.who.int/news-room/fact-sheets/detail/deafness-and-hearing-loss>.

<sup>17</sup> A cochlear implant is a small, complex electronic device that can help to provide a sense of sound to a person who is profoundly deaf or severely hard of hearing. The implant consists of an external portion that sits behind the ear and a second portion that is surgically placed under the skin.

See <https://www.nidcd.nih.gov/health/cochlear-implants>.

<sup>18</sup> <https://efhoh.org/>.

<sup>19</sup> See "Hearing Loss: The Statistics", 2015,

<https://efhoh.org/wp-content/uploads/2017/04/Hearing-Loss-Statistics-AGM-2015.pdf>.

<sup>20</sup> See [https://www.europarl.europa.eu/doceo/document/E-9-2020-000073\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2020-000073_EN.html).

<sup>21</sup> <https://www.fcc.gov/consumers/guides/closed-captioning-television#:~:text=Closed%20captioning%20displays%20the%20audio,or%20hard%2Dof%2Dhearing>.

Closed captions or closed SDH are not visible until activated by the viewer, usually via the remote control or menu option. They can be personalised, and they are particularly useful for deafblind users. Open captions or open SDH, on the other hand, are 'burned-into' or 'hard-coded' onto the video and are visible to all users. They cannot be personalised. See European Disability Forum, "Toolkit for transposition – Audiovisual Media Services Directive", 02 November 2019, <https://www.edf-feph.org/publications/accessibility-of-audiovisual-media/>.



wide variety of techniques for SDH.. The subtitles are displayed within the media player and are synchronized with the audio.<sup>22</sup>

- Sign language (SL) interpretation is the image of a signing interpreter that is overlaid over a portion of the image, signing the dialogue; and, if appropriate, other background sounds.<sup>23</sup> Sign languages are not modelled on spoken languages but are rather languages in their own right. There is no universal SL, and the EU has a large variety of SLs. Nevertheless, there is an international system called the International Sign, a sort of lingua franca used at international conferences and meetings, where participants do not share a common SL.<sup>24</sup>
- Clean audio: Enhanced audio signal by means of signal processing, with improved intelligibility of the speech. Ambient noise, music and sound effects are still present, but are dimmed so that the speech can be better understood.<sup>25</sup>

The European Union of the Deaf<sup>26</sup> advocates for full accessibility of audiovisual content and information, that is, deaf users must be able to choose to use accessible formats and/or sign language interpretation.<sup>27</sup> For example:

- Deaf users must be able to choose sign language interpretation, subtitling or captioning, or a combination of both in their preferred language. This must apply to all online and offline programmes, including archived materials.
- All playback devices/software for audiovisual content should offer options to display captions, if they exist in the media, and provide controls to enable the user to set the speed, colour and placement of captions or the placement of the window for the in-vision translator.
- Videos embedded in websites should contain sign language interpretation and/or captioning.
- Accessibility icons, which indicate the availability of sign language interpretation, subtitles and captions as well as other access services, should be displayed alone or in combination in order to increase users' awareness about the availability of accessible content and allow them to choose programmes with the access services of their choice.

According to EUD, captions must be:

- accurate, which means that the content must be rendered without errors

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<sup>22</sup> See <https://www.w3.org/WAI/media/av/captions/>.

<sup>23</sup> EBU Guidelines for Delivering Accessibility Services Using HbbTV, November 2021, see page 10, <https://tech.ebu.ch/publications/tr065>.

<sup>24</sup> EPRS, Sign languages in the EU, September 2018, [https://www.europarl.europa.eu/RegData/etudes/ATAG/2018/625196/EPRS\\_ATA\(2018\)625196\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2018/625196/EPRS_ATA(2018)625196_EN.pdf).

<sup>25</sup> See [https://webs.uab.cat/hbb4all/wp-content/uploads/sites/124/2017/06/clean\\_audio\\_for\\_improved\\_speech\\_intelligibility.pdf](https://webs.uab.cat/hbb4all/wp-content/uploads/sites/124/2017/06/clean_audio_for_improved_speech_intelligibility.pdf).

<sup>26</sup> <https://www.eud.eu/>.

<sup>27</sup> EUD position paper, "Accessibility of Information and Communication", 14 November 2021, <https://www.eud.eu/wp-content/uploads/2022/03/EUD-Position-Paper-Accessibility-of-Information-and-Communication.pdf>.

- consistent with regards to style and presentation of all captioning features to ensure viewer understanding
- clear and contain a complete textual representation of the audio, including speaker identification and non-speech information, to provide clarity for the viewer
- readable, meaning that they are displayed long enough to be read completely, are in synchronisation with the audio, and are not obscured by (nor do they obscure) the visual content
- able to ensure equal access, by completely preserving the meaning and intention of the material

### 1.2.3. Deafblindness

According to the World Federation of the Deafblind,<sup>28</sup> deafblindness is a distinct disability made up of “a combined vision and hearing impairment of such severity that it is hard for the impaired senses to compensate for each other”.<sup>29</sup> A total of 2% of the world population (around 155 million people) experience combined hearing and vision impairments. The number rises to 6% (467 million) if we add dual sensory impairment due to aging.<sup>30</sup>

On top of the measures described above with regards to both visual and auditive disabilities, providing transcripts and/or audio description for videos can be useful, and captions should be as clear and large as possible.<sup>31</sup>

### 1.2.4. Cognitive disabilities

Cognitive disability covers a wide spectrum of conditions including intellectual disability, autism spectrum disorders, severe, persistent mental illness, brain injury, stroke, and Alzheimer’s disease and other dementias.<sup>32</sup> These disabilities include long-term, short-term, and permanent difficulties relating to cognitive functions, such as:

- learning, communication, reading, writing, or math
- the ability to understand or process new or complex information and learn new skills, with a reduced ability to cope independently, and / or
- memory and attention or visual, language, or numerical thinking

These disabilities are difficult to diagnose and categorise, with individuals less likely to have a formal diagnosis of a disability than those with physical and sensory difficulties. The terminology and definitions used for cognitive and learning disabilities varies between

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<sup>28</sup> <https://wfdb.eu/>.

<sup>29</sup> See <https://wfdb.eu/what-is-deafblindness/>.

<sup>30</sup> See <https://www.internationaldisabilityalliance.org/covid-deafblind>.

<sup>31</sup> See <https://www.ai-media.tv/ai-media-blog/how-to-improve-accessibility-for-deafblind-people/>

<sup>32</sup> See <https://www.fcc.gov/cognitive-disabilities>.

countries.<sup>33</sup> Furthermore, as definitions and diagnostic criteria have shifted over time, it appears preferable to speak of concrete user needs rather than diagnoses.<sup>34</sup>

Given that the digital transformation of society is making digital services and solutions increasingly unavoidable, persons with a higher need for cognitive accessibility appear to use the web to the same extent as the population at large. In some cases, digital solutions may enhance quality of life for persons with higher cognitive accessibility needs. However, inaccessible digital solutions may exclude these groups from society.<sup>35</sup>

Accessibility measures for people with cognitive disabilities include easy-to-understand language, accessible user interfaces, providing users enough time to read content, etc. An example of a cognitive accessibility measure is extended video description, that is, the audiovisual content is paused at key moments and a longer description of the situation or scene is provided, allowing viewers to process content in a more accessible manner.<sup>36</sup>

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<sup>33</sup> W3C - Making Content Usable for People with Cognitive and Learning Disabilities - W3C Working Group Note 29 April 2021, Paragraph 2.2, <https://www.w3.org/TR/coga-usable/>.

<sup>34</sup> Kjellstrand S., Laurin S., Mohamed S., Chowdhury N., "Pilot Project Study: Inclusive Web-Accessibility for Persons with Cognitive Disabilities - Final Report", February 2022, <https://digital-strategy.ec.europa.eu/en/library/commission-publishes-study-inclusive-web-accessibility-persons-cognitive-disabilities>.

<sup>35</sup> Pilot Project Study: Inclusive Web-Accessibility for Persons with Cognitive Disabilities, <https://digital-strategy.ec.europa.eu/en/library/commission-publishes-study-inclusive-web-accessibility-persons-cognitive-disabilities>.

<sup>36</sup> European Disability Forum, Audiovisual Media Services Directive - Toolkit for transposition, November 2019, [https://www.edf-feph.org/content/uploads/2020/12/final\\_edf\\_avmsd\\_toolkit\\_november\\_2019\\_0.pdf](https://www.edf-feph.org/content/uploads/2020/12/final_edf_avmsd_toolkit_november_2019_0.pdf).

## 2. International

### 2.1. United Nations framework

#### 2.1.1. The UN Convention on the Rights of Persons with Disabilities

The United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol (UN CRPD)<sup>37</sup> was adopted by the UN General Assembly by its resolution 61/106 of 13 December 2006. This legally binding instrument, which came into force on 3 May 2008 and was ratified by 180 member states,<sup>38</sup> aims to protect and promote the rights and dignity of persons with disabilities.

The UN CRPD is a benchmark document that contains a comprehensive catalogue of rights for persons with disabilities in order to ensure that they can enjoy their fundamental rights and freedoms on an equal basis with others. The Convention marks a shift of paradigm, by putting the focus on disabled people's autonomy and their right to full inclusion in society. Together with other international human rights and development instruments, the UN CRPD aims to guide national policy-making and legislation, strategies, policies and programmes that promote equality, inclusion and empowerment of persons with disabilities in society and development.

In particular, the UN CRPD sets out minimum standards for protecting and safeguarding a full range of civil, political, social, economic and cultural rights for persons with disabilities.<sup>39</sup> Some articles of this Convention are particularly relevant to the access of persons with disabilities to audiovisual services. This is the case with Article 5 of the Convention, which provides for a principle of equality and non-discrimination towards persons with disabilities. In addition, the Convention provides that states parties shall take appropriate measures to ensure to persons with disabilities, access, on an equal basis with others, to the physical environment, including information and communications technologies and systems (Article 9).

Furthermore, states parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, on an equal basis with others and through all forms of communication of their choice, including

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<sup>37</sup> UN Convention on the Rights of Persons with Disabilities (UN CRPD), <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html#Fulltext>.

<sup>38</sup> The UN CRPD counts 164 signatories (including countries or regional integration organisations that have signed the Convention and its Optional Protocol) and 185 ratifications/accessions.

<sup>39</sup> The Convention refrains from defining the term “disability”, because it considers disability to be an “evolving concept”. UN CRPD Preamble subparagraph (e).

by encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities (Article 21(d)).

Finally, states parties shall recognise the right of persons with disabilities to take part on an equal basis with others in cultural life. They shall take all appropriate measures to ensure that persons with disabilities enjoy access to cultural material, television programmes, films, theatre and other cultural activities, in accessible formats (Article 30 (1) a) and b)).

The EU became a party to the UN CRPD in 2010 after formally ratifying it in January 2011. Since then, the Convention's provisions have become an integral part of the EU's legal order. Accordingly, all EU legislation, policies and programmes must comply with the UN CRPD's established obligations. It also requires the EU to protect the rights of persons with disabilities within its jurisdiction, and particularly within EU public administrations.

Implementing the UN CRPD is not a straightforward process, as compliance with the core principles of the Convention implies mainstreaming the rights of persons with disabilities into all policies and institutions. To this end, the implementation requirements (Article 33) provide for the establishment of a UN Committee on the Rights of Persons with Disabilities.<sup>40</sup> This Committee monitors the implementation of the UN CRPD by the states parties and makes recommendations to strengthen the implementation of the Convention in the states.

## 2.1.2. The UN Disability Inclusion Strategy

In June 2019, the UN Secretary-General officially launched the UN Disability Inclusion Strategy (UNDIS)<sup>41</sup> to improve the performance of the UN system with regard to disability inclusion<sup>42</sup> and achieve the 2030 Agenda for Sustainable Development while leaving no one behind across all UN pillars.

The UNDIS, through its policy and accountability framework, is a comprehensive strategy for ensuring that the UN system is fit for purpose in relation to disability inclusion. It provides a foundation for sustainable and transformative change towards disability inclusion throughout all pillars of the Organization's work. The current UNDIS will have an implementation period of five years, after which it will be reviewed and updated as necessary.

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<sup>40</sup> See also e.g. <https://www.edf-feph.org/un-crpd/>.

<sup>41</sup> <https://www.un.org/en/content/disabilitystrategy/>.  
[https://www.un.org/en/content/disabilitystrategy/assets/documentation/UN\\_Disability\\_Inclusion\\_Strategy\\_english.pdf](https://www.un.org/en/content/disabilitystrategy/assets/documentation/UN_Disability_Inclusion_Strategy_english.pdf)

<sup>42</sup> According to the United Nations system, the term "disability inclusion" refers to the meaningful participation of persons with disabilities in all their diversity, the promotion and mainstreaming of their rights into the work of the Organization, the development of disability-specific programmes and the consideration of disability-related perspectives, in compliance with the Convention on the Rights of Persons with Disabilities. This requires the development and implementation of a consistent and systematic approach to disability inclusion in all areas of operations and programming, internally and externally.



The UNDIS is based on three overarching approaches to achieving disability inclusion: (i) a twin-track approach based on addressing disability as a cross-cutting issue that should be considered in all UN work and targeted programming; (ii) intersectionality, by taking into account factors such as gender, age and location; (iii) a coherent and coordinated approach. It is articulated around four core areas of responsibility:

- Core area 1: Taking into account disability inclusion in leadership, strategic planning and management.
- Core area 2: Inclusiveness, by consulting and actively involving persons with disabilities and their representative organisations in every activity, and by ensuring full accessibility for all.
- Core area 3: Programming (supporting disability-inclusive programming through practical guidance, by developing joint initiatives and undertaking evaluations).
- Core area 4: Organisational culture in the UN system (communication and awareness within UN staff workforce).

### 2.1.3. UNESCO's approach towards inclusive knowledge societies

UNESCO, as the UN agency working to build inclusive knowledge societies, provides technical support to its member states to help them comply with international norms and standards, such as the UN CRPD, or contribute towards the UN Disability Inclusion Strategy.<sup>43</sup> The actions of UNESCO in this field include: providing guidance to member states to promote the use of specialised software and custom electronic devices to remove online barriers and allow for more accessibility in documentary heritage;<sup>44</sup> leveraging partnerships and facilitating knowledge-sharing and international cooperation.<sup>45</sup>

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<sup>43</sup> <https://en.unesco.org/themes/access-persons-disabilities>; <https://www.unesco.org/en/ifap/information-accessibility>.

<sup>44</sup> See for example, "Learning for All: Guidelines on the Inclusion of Learners with Disabilities in Open and Distance Learning", <https://unesdoc.unesco.org/ark:/48223/pf0000244355>; "Accessible Digital Documentary Heritage: Guidelines for the preparation of documentary heritage in accessible formats for persons with disabilities", <https://unesdoc.unesco.org/ark:/48223/pf0000374995>.

<sup>45</sup> See for example, UNESCO prize for Digital Empowerment of Persons with Disabilities, <https://africaaction.org/unesco-prize-for-digital-empowerment-of-persons-with-disabilities/#:~:text=The%20UNESCO%2FEmir%20Jaber%20Al%20Ahmad%20Al%20Jaber%20Al,the%20application%20of%20digital%20solutions%2C%20resources%2C%20and%20technologies>. See also, the Nippon Foundation and UNESCO project "Story for Development", which celebrates human capacities, particularly those of exceptional persons with disabilities, who are making significant contributions in their respective fields of expertise, through a dedicated platform, <https://story4development.org/>.

## 2.1.4. The Marrakesh Treaty and access to published works for blind or visually impaired persons

The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (Marrakesh Treaty)<sup>46</sup> is an international legal instrument which was adopted on 27 June 2013 under the aegis of the World Intellectual Property Office (WIPO) and entered into force on 30 June 2016.

The Marrakesh Treaty aims at making it easier for the blind, visually impaired and otherwise print disabled (VIPs)<sup>47</sup> to access printed works protected by copyright, whether published or otherwise made publicly available in any media.<sup>48</sup> Audiovisual works such as films are not covered, although textual works embedded in audiovisual works, such as an educational multimedia DVD, are included. The Treaty does so by harmonising copyright exceptions (acts that do not need the permission of the copyright owner) for VIPs so that accessible versions of copyrighted works can be legally produced under certain conditions without infringing copyright. The Treaty also provides, in certain circumstances, for the import and export of accessible copies made under such exceptions between states parties.

The key Treaty provisions are that:

- All Contracting Parties must make an exception to copyright in their domestic law to ensure that, under certain circumstances, accessible versions of copyrighted works can be made for VIPs without the need for permission from the copyright owner (Article 4).
- Organisations working on behalf of visually impaired people are able to export accessible versions of works, made under their national exceptions, to similar organisations or individuals in another country (Article 5).
- All Contracting Parties must allow the import of qualifying accessible copies of copyrighted works, where the domestic law of the exporting country permits the making of such accessible copies (Article 6).

The Treaty includes a number of safeguards to ensure that copyright owners continue to receive adequate protection for their works and incentives to create new works. In particular, it reaffirms existing commitments to the “three-step-test” – a provision in international copyright law which operates to ensure that exceptions to copyright do not

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<sup>46</sup> The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, WIPO, 27 June 2013, <http://www.wipo.int/treaties/en/ip/marrakesh/>.

<sup>47</sup> The Marrakesh Treaty defines a beneficiary person as “a person who is blind; has a visual impairment or a perceptual or reading disability which cannot be improved to give visual function substantially equivalent to that of a person who has no such impairment or disability and so is unable to read printed works to substantially the same degree as a person without an impairment or disability; or is otherwise unable, through physical disability, to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading; regardless of any other disabilities.” (Art. 3)

<sup>48</sup> The definition of works included within the scope of the Treaty is broad as it covers all works “in the form of text, notation and/or related illustrations, whether published or otherwise made publicly available in any media”. This includes, for example, books, e-books, audiobooks, newspapers, journals and musical scores.

unreasonably harm copyright owners' interests or undermine markets for copyrighted works.

## 2.2. European Union framework

### 2.2.1. Fundamental rights and non-discrimination

The EU is bound by the Charter of Fundamental Rights of the European Union,<sup>49</sup> ratified in 2000, which provides in its Articles 21 and 26 for the principle of non-discrimination and integration of persons with disabilities respectively. In addition, the Treaty on the Functioning of the European Union<sup>50</sup> includes Articles 10 and 19 on combating discrimination on the basis of disability.

Non-discrimination towards people with disabilities is also part of the European Pillar of Social Rights,<sup>51</sup> which was proclaimed by the European Parliament, the Council and the Commission in 2017 at the Gothenburg Summit. The European Pillar of Social Rights includes 20 key principles that guide the EU towards a strong social Europe that is fair, inclusive and full of opportunities in the 21<sup>st</sup> century. It is accompanied by an Action Plan,<sup>52</sup> which sets out concrete actions to turn the 20 principles of the Pillar into reality. These actions require a joint effort by member states and the EU, with active involvement of social partners and civil society.

### 2.2.2. The European Disability Strategy

At EU level, the UN CRPD is implemented via the European Disability Strategy (EDS). The first EDS covering the period 2010-2020<sup>53</sup> was adopted in November 2010, ahead of the EU's accession to the UN CRPD, as an overall framework to promote the rights of people with disabilities, and to anticipate the Convention's effective implementation. Its objectives are pursued through measures in eight key areas for action, including accessibility and participation. It is underpinned by four general instruments for implementation, mirroring

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<sup>49</sup> Charter of Fundamental Rights of the European Union, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>.

<sup>50</sup> Consolidated version of the Treaty on the Functioning of the European Union, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>.

<sup>51</sup> [https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/economy-works-people/jobs-growth-and-investment/european-pillar-social-rights/european-pillar-social-rights-20-principles\\_en](https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/economy-works-people/jobs-growth-and-investment/european-pillar-social-rights/european-pillar-social-rights-20-principles_en).

<sup>52</sup> [https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/economy-works-people/jobs-growth-and-investment/european-pillar-social-rights/european-pillar-social-rights-action-plan\\_en](https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/economy-works-people/jobs-growth-and-investment/european-pillar-social-rights/european-pillar-social-rights-action-plan_en).

<sup>53</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee of the Regions, European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM%3A2010%3A0636%3AFIN%3Aen%3APDF>.

the provisions of the UN CPRD, namely: awareness-raising; financial support; statistics and data collection and monitoring; mechanisms required by the UN Convention.

Building on the results of the EDS 2010-2020, in March 2021 the European Commission adopted the second EDS for the period 2021-2030.<sup>54</sup> This new and strengthened strategy takes account of the diversity of disability comprising long-term physical, mental, intellectual or sensory impairments, which are often invisible. It also promotes an intersectional perspective in line with the UN 2030 Agenda for Sustainable Development and Sustainable Development Goals. Accessibility is at the core of this strategy as it is impossible to participate in society on an equal basis with others when the environment – physical or virtual– is not accessible. For this reason, the Commission announced the launch in 2022 of a European resources centre, “AccessibleEU”,<sup>55</sup> to build a knowledge base of information and good practices on accessibility across sectors.<sup>56</sup>

### 2.2.3. The European Accessibility Act

The Directive (EU) 2019/882 on the accessibility requirements for products and services (the European Accessibility Act or EAA)<sup>57</sup> follows a commitment on accessibility made by the EU and all member states upon ratifying the UN CRPD. The EAA aims to improve the functioning of the internal market for accessible products and services, by removing barriers created by divergent rules in member states (Art. 1).

The EAA covers products and services that have been identified as being most important for persons with disabilities while being most likely to have diverging accessibility requirements across the EU countries. Access to audiovisual media services is included in the scope of the EAA (Art. 2(2)b). In particular, the EAA stresses the need for concerted action to ensure that electronic content, electronic communications services and access to audiovisual media services are fully available to persons with disabilities. It thus points out the need to harmonise accessibility requirements across the digital single market and to ensure that all Union citizens, regardless of their abilities, can enjoy its benefits (Rec. 11).

Services providing access to audiovisual media services could include websites, online applications, set-top box-based applications, downloadable applications, mobile device-based services including mobile applications and related media players as well as connected television services (Rec. 31). Electronic programme guides (EPG) are also

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<sup>54</sup> Strategy for the rights of persons with disabilities 2021-2030, <https://ec.europa.eu/social/main.jsp?catId=1484&langId=en>.

<sup>55</sup> For further details, please see at: Report (2022/2013/INI) on AccessibleEU Cente in support of accessibility policies in the EU internal market, Committee on the Internal Market and Consumer protection, European Parliament, 19 July 2022, [https://www.europarl.europa.eu/doceo/document/A-9-2022-0209\\_EN.html#\\_section1](https://www.europarl.europa.eu/doceo/document/A-9-2022-0209_EN.html#_section1).

<sup>56</sup> <http://www.accessible-eu.org/index.php/objectives.html>.

<sup>57</sup> Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32019L0882>.



included in the definition of services providing access to audiovisual media services covered by the Act (Rec. 31 and Art. 3(6)). Furthermore, “consumer terminal equipment with interactive computing capability, used for accessing audiovisual media services” means any equipment the main purpose of which is to provide access to audiovisual media services (Art. 3(7)). In practical terms, it covers all services transmitted by electronic communications networks which are used to identify, select, receive information on, and view audiovisual media services and any provided feature, such as subtitles for the deaf and hard of hearing, audio description, spoken subtitles and sign language interpretation.

Under Article 4 of the 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.

Annex I to the EAA provides for the general and specific accessibility requirements for products and services included in the scope. For example, they must be designed and produced in such a way as to maximise their foreseeable use by persons with disabilities and they must be accompanied where possible in or on the product by accessible information on their functioning and on their accessibility features. In relation to specific services such as services providing access to an audiovisual media service, accessibility requirements must be achieved by “*providing EPGs which are perceivable, operable, understandable and robust and provide information about the availability of accessibility*” (Annex I, Section IV, (b) (i)); and “*ensuring that the accessibility components (access services) of the audiovisual media services, such as subtitles for the deaf and hard of hearing, audio description, spoken subtitles and sign language interpretation, are fully transmitted with adequate quality for accurate display, and synchronised with sound and video, while allowing for user control of their display and use.*” (Annex I, Section IV, (b) (ii)).

Examples included in Annex II of the EAA include services that provide that a blind person can select programmes on the television, or supporting the possibility to select, personalise, and display access services such as subtitles for deaf persons or persons who are hard of hearing, audio description, spoken subtitles and sign language interpretation, by providing means for effective wireless coupling to hearing technologies or by providing user controls to activate access services for audiovisual media services at the same level of prominence as the primary media controls.

Member states had to transpose the EAA by 28 June 2022 and the measures will apply from 28 June 2025 (Art. 31).

## 2.2.4. The Audiovisual Media Services Directive

### 2.2.4.1. Encouraging accessibility under the AVMSD 2010

As of 2010, the Directive 2010/13/EU on audiovisual media services (AVMSD 2010)<sup>58</sup> stressed that the right of persons with a disability and of the elderly to participate and be integrated in the social and cultural life of the Union is inextricably linked to the provision of accessible audiovisual media services.

The means to achieve accessibility should include, but need not be limited to, sign language, subtitling, audio description and easily understandable menu navigation (Rec. 46). The Directive also highlighted that the Union may adopt measures in this regard, in accordance with the principle of subsidiarity, but also within the limits of the principle of proportionality (Rec. 104). Along these lines, Article 7 of the AVMSD 2010 obliged all member states to encourage media service providers of both linear and non-linear audiovisual media services to ensure that their services were gradually made accessible to people with a visual or hearing disability.

### 2.2.4.2. Increased obligations under the AVMSD 2018

Article 7(1) of the AVMSD 2018<sup>59</sup> goes beyond Article 7 of the AVMSD 2010. Whereas previously, member states were only obliged to encourage media service providers to make their services accessible, all member states must now ensure, without undue delay, that services provided by media service providers under their jurisdiction are made continuously and progressively more accessible to persons with disabilities through proportionate measures.

Recital 22 of the AVMSD 2018 states the following: “*Ensuring the accessibility of audiovisual content is an essential requirement in the context of the commitments taken under the [UN CRPD]. In the context of [the AVMSD], the term ‘persons with disabilities’ should be interpreted in light of the nature of the services covered by [the AVMSD], which are audiovisual media services. The right of persons with an impairment and of the elderly to participate and be integrated in the social and cultural life of the Union is linked to the provision of accessible audiovisual media services. Therefore, Member States should, without undue delay, ensure that media service providers under their jurisdiction actively seek to make content accessible to persons with disabilities, in particular with a visual or hearing impairment. Accessibility requirements should be met through a progressive and continuous process, while taking into*

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<sup>58</sup> 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, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32010L0013>.

<sup>59</sup> Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU 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) in view of changing market realities, <https://eur-lex.europa.eu/eli/dir/2018/1808/oj>.



*account the practical and unavoidable constraints that could prevent full accessibility, such as programmes or events broadcast in real time.[...]*”

Recital 23 of the AVMSD 2018 states that “[t]he means to achieve the accessibility of audiovisual media services [under the AVMSD] should include, but need not be limited to, sign language, subtitling for the deaf and hard of hearing, spoken subtitles, and audio description. However, [the AVMSD] does not cover features or services providing access to audiovisual media services, nor does it cover accessibility features of electronic programme guides (EPGs). Therefore, [the AVMSD] is without prejudice to Union law aiming to harmonise the accessibility of services providing access to audiovisual media services, such as websites, online applications and EPGs, or the provision of information on accessibility and in accessible formats.”

In order to measure the progress that media service providers have made in making their services progressively accessible to people with disabilities, member states have to require media service providers established on their territory to report to them on a regular basis, to the national regulatory authority (NRA), or to relevant bodies created for the purpose of implementing such measures (Art. 7(2)). They must also encourage media service providers to develop accessibility action plans in respect of continuously and progressively making their services more accessible to persons with disabilities and communicate any such action plans to the NRA or relevant body (Art 7(3)). The Directive also requires member states to designate a single easily accessible, including by persons with disabilities, and publicly available online point of contact for providing information and receiving complaints regarding any related accessibility issues (Art 7(5)). Moreover, they must ensure that emergency information, including communication and announcements in natural disaster situations, which is made available to the public through audiovisual media services, is provided in a manner which is accessible to persons with disabilities (Art. 7(5)).

### 2.2.4.3. Interpretative issues

In a report issued in 2019 on the “Implementation of the revised AVMS Directive”<sup>60</sup> the European Regulators Group for Audiovisual Media Services (ERGA) identified potential challenges related to, *inter alia*, Article 7(1) of the AVMSD 2018. The fact that the structure of the national systems may vary depending on whether member states have introduced a regulatory, co-regulatory or self-regulatory system could, according to the findings of the report, present a challenge when it comes to a consistent implementation of the provisions.

In addition to these structural differences, one of the main challenges regarding consistent implementation identified in the report is the fact that Article 7 of the AVMSD 2018 does not state the percentage of content that should be made accessible to persons

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<sup>60</sup> ERGA Subgroup 3, “Implementation of the revised AVMS Directive”, Final report on implementation of the revised AVMS Directive, 2019, <https://www.bing.com/ck/a?!&&p=9a03ec91eead0c08JmltdHM9MTY3NDc3NzYwMCZpZ3VpZD0xYzIxMzU3NzU3MmM2IOLTY5ZTMtMzUzZi1jNzZj12OTY4MwImaW5zaW09NTE3Nw&ptn=3&hsh=3&fclid=1c31d575-f3b4-69e3-353f-c733f269681b&psq=Implementation+of+the+revised+AVMS+Directive+and+ERGA&u=a1aHR0cHM6Ly9lcmdhLW9ubGluZS5ldS93cC1jb250ZW50L3VwbG9hZHMvMjAyMC8wMS9FUkdBXzlwMTlfU0czX1JlcG9ydC0xLnBkZg&ntb=1>

with disabilities. Thus, the quantitative obligations may vary from one member state to another, depending on the national legislation regulating media services.

Furthermore, the AVMSD 2018 does not include its own definition of “persons with disabilities”, which could result in different interpretations and definitions in different member states. Member states may also have different rules regarding whether the same obligations should apply to all providers irrespective of their viewer time shares or costs, or if it should only apply to those providers or services that fulfil certain criteria. The obligations may also need to be different for different providers, as all types of techniques may not be available on all types of platforms and the providers of content may not always be able to decide how their content is made accessible. Member states may also need to consider different challenges met by their providers. Some NRAs and their providers may be confronted with challenges of a more financial nature (e.g. lack of funds), while others may face issues of a more technical nature (e.g. audience share measurement).<sup>61</sup>

## 2.2.5. Availability of certain copyright protected works for persons with disabilities

### 2.2.5.1. Mandatory exceptions under the Marrakesh Directive and its accompanying Regulation

The Marrakesh Treaty was implemented in 2017 in EU law, by Directive (EU) 2017/1564 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<sup>62</sup> (Marrakesh Directive) and its accompanying Regulation 2017/1563.<sup>63</sup>

The Marrakesh Directive introduced a mandatory exception to copyright and related rights for the benefit of persons with disabilities, with two main aims: first, to increase the availability of printed works<sup>64</sup> in accessible formats (such as Braille, large print, adapted e-

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<sup>61</sup> For further details, please see ERGA Report – New rules on accessibility (Art 7.1) – A common understanding of ‘proportionate measures’, <https://erga-online.eu/wp-content/uploads/2021/12/ERGA-SG1-2021-Report-Article-7-accessibility.pdf>.

<sup>62</sup> 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/legal-content/EN/TXT/PDF/?uri=CELEX:32017L1564&from=EN>.

<sup>63</sup> 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>.

<sup>64</sup> Article 2(1) defines “work or other subject matter” as 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.”

books, audio books and radio broadcast) for persons with print disabilities;<sup>65</sup> second, to improve the circulation of these “accessible format copies” within the internal market, as well as between the EU and third countries that are parties to the Treaty. All member states have turned the Directive into national law.

Under Article 6 of the Marrakesh Directive, the member states have an obligation to provide the Commission with the contact information they have received from authorised entities within the legal framework of the Marrakesh Directive. The term ‘authorised entity’ in the context of this legal instrument means an entity that is authorised or recognised by a member state to provide education, instructional training, adaptive reading or information access to beneficiary persons on a non-profit basis. It also includes a public institution or non-profit organisation that provides the same services to beneficiary persons as one of its primary activities, institutional obligations or as part of its public-interest missions.

### 2.2.5.2. Optional exceptions under the InfoSoc Directive

The relevant EU copyright rules applicable to works and other subject matter (e.g. films and audiovisual content, video games, and images) and disabilities not covered by the Marrakesh Directive are set out in Article 5(3)(b) and (4) of the Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society (InfoSoc Directive).<sup>66</sup>

These exceptions and limitations are optional for member states to implement. Article 5(3)(b) allows member states to introduce exceptions or limitations to the rights of reproduction, communication to the public and making available in case of uses for the benefit of persons with disabilities under certain conditions. Article 5(4) provides that where member states have introduced any of the exceptions or limitations to the right of reproduction in Article 5(3), they may also introduce a similar exception to the right of distribution. Member states must ensure that these exceptions or limitations are applied without prejudice to the more specific rules laid down in the Marrakesh Directive.<sup>67</sup>

Article 5(3) of the InfoSoc Directive is formulated in a general way and is not limited by the type of works, subject matter or disabilities covered. Article 5(3) only states that the permitted uses have to be related to the disability, have a non-commercial nature and they must not go beyond what is necessary for the specific disabilities. Article 5(4) confines any

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<sup>65</sup> According to Article 2(2), “beneficiary person” means, regardless of any other disabilities, a person who: (a) is blind; (b) has a visual impairment which cannot be improved so as to give the person visual function substantially equivalent to that of a person who has no such impairment, and who is, as a result, unable to read printed works to substantially the same degree as a person without such an impairment; (c) has a perceptual or reading disability and is, as a result, unable to read printed works to substantially the same degree as a person without such disability; or (d) is otherwise unable, due to a physical disability, to hold or manipulate a book or to focus or move their eyes to the extent that would be normally acceptable for reading.”

<sup>66</sup> 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, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02001L0029-20190606>.

<sup>67</sup> Article 5(3) of the InfoSoc Directive as amended by the Marrakesh Directive.

exception or limitation to the right of distribution to the extent justified by the purpose of the authorised act of reproduction.

### 2.2.5.3. Implementation issues

According to a report of 2022 by the European Commission on the availability of copyright-protected works in accessible formats for persons with disabilities,<sup>68</sup> all member states that replied to the survey of the Commission have used the possibility under Article 5(3) and/or Article 5(4) of the InfoSoc Directive to implement an exception or limitation to the benefit of persons with disabilities, covering works and subject matter and/or disabilities beyond those covered by the Marrakesh Directive.

However, the report suggests that there is a very diverse landscape as to the scope of national laws in this field. When it comes to the practical situation on the ground, audiovisual content is reported to be comparably more accessible than for example images or architectural works, but at the same time significant gaps remain according to the organisations representing persons with disabilities. Cross-border exchanges of audiovisual formats appear to be mostly happening between member states sharing the same language. Practical aspects such as costs and insufficient information are often mentioned as possible obstacles which make it difficult to users and content producers to have or to provide access to accessible formats. Some stakeholders, in particular libraries and organisations representing people with disabilities, also mention copyright-related issues which may create obstacles to access and availability of accessible formats.

However, the Commission considers that the impact of recent rules in this field (see the EAA and AVMSD 2018 mentioned above) should be taken into account in further discussions and no changes to the scope of the Marrakesh Directive were foreseen at the date of publication. As a next step, the Commission will carry out an evaluation of the Marrakesh Directive with a view to issuing a report by October 2023, as required by Article 10.<sup>69</sup>

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<sup>68</sup> See Commission Staff Working Document, Report on the availability of certain copyright protected works for persons with disabilities within the internal market, SWD (2022) 109 final, 7 April 2022, <https://digital-strategy.ec.europa.eu/en/library/report-availability-copyright-protected-works-persons-disabilities>.

<sup>69</sup> For more details, please refer to the European Commission report, op. cit.

## 3. Implementation of Article 7 of the AVMS Directive

The changes introduced by the revised 2018 AVMS Directive with regard to the accessibility of audiovisual media services for people with disabilities called for significant developments at national level. The implementation of the revised AVMSD has led to stronger obligations being imposed on audiovisual media service providers, thus matching regulatory measures with the technological progress achieved over the past years.

With a view to providing an overview of the current situation in the EU, this section will first set the scene with a comparative approach so as to highlight trends or patterns, as well as interpretative challenges.<sup>70</sup> A second section will examine in more detail the regulatory framework of eight countries considered particularly interesting for the purpose of this report.

### 3.1. Comparative approach

This section aims to provide a comprehensive overview of the state of play in the EU regarding the implementation of accessibility measures that allow people with disabilities to enjoy audiovisual media services. While all countries that are a part of this report have effectively transposed Article 7 of the AVMSD, the level of transposition varies greatly from one to another, ranging from literal transposition to more extensive measures.

#### 3.1.1. Accessibility tools

A wide majority of countries provide concrete measures to ensure accessibility of audiovisual media services for people with disabilities. The most recurring ones are:

- Subtitles
- Spoken subtitles
- Audio description
- Sign language

One or more of these tools are specifically envisaged in the national legislations of Austria, the French and Flemish communities of Belgium, Bulgaria, Cyprus, Czechia, Denmark, Estonia, Spain, Finland, Greece, Hungary, Ireland, Lithuania, Latvia, the Netherlands, Romania, Slovakia, Slovenia, and Sweden. Overall, subtitling prevails and is subject to higher requirements than audio description or sign language.

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<sup>70</sup> See Section 1.2.2.3. “Interpretative issues” under Chapter 2 of this publication.

In several cases, countries, such as Ireland, have introduced additional tools which also require the use of captions – on-screen text representing what is being said on the television screen. While similar to subtitling, it is not as sophisticated and entails a more basic representation of what is being said on screen.

Austria and Latvia follow a similar approach in making programmes accessible in a simple and basic way, specifically addressing people with mental or sensorial disabilities. To this end, the Austrian law<sup>71</sup> relates to “simple language” and the Latvian law<sup>72</sup> to “plain language messages”. The objective of both countries is thus to provide information that is easy to understand and comprehend, using simple words and short sentences, usually reading more slowly and emphasising the most important points.

The Croatian and Hungarian rules also cover people with developmental disabilities and mental or psychological conditions, but no dedicated measure has been put in place.

### 3.1.2. Scope of application

While Article 7 (1) of the AVMSD requires member states to ensure that services provided by media service providers under their jurisdiction are made accessible, the latter remain free as to the scope of application of these measures.

A large majority of countries cover both broadcasters and video-on-demand services, requiring both to provide accessible programmes/catalogues. Such rules are specifically envisaged in Austria, the French Community in Belgium, Croatia, Czechia, Denmark, Finland, France, Germany, Latvia, Poland, Portugal, Spain, Slovakia, and Sweden.

Other countries, such as Belgium (the German Community in Belgium and the Brussels Capital region), Bulgaria, Cyprus, Estonia, Greece, Hungary, Italy, Lithuania, Luxembourg, Malta, Romania and Slovenia, are broader in their terms and refer to audiovisual media services in general.

On the other hand, a small number of countries (the Flemish Community in Belgium, Ireland,<sup>73</sup> the Netherlands) have restricted the scope of application of accessibility obligations to linear services only.

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<sup>71</sup> Federal Act on the Austrian Broadcasting Corporation (ORF-G) - consolidated 1 January, 2021 - Art. § 5. 2., <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10000785>.

<sup>72</sup> Guidelines for the Electronic Media Law for the application of the guidelines for promoting access to electronic content media programmes and services - Art. 4.7, <https://www.neplp.lv/lv/media/1013/download>.

<sup>73</sup> The Broadcasting Authority of Ireland (BAI) access rules apply to television broadcasters based within the jurisdiction of the Republic of Ireland and specifically state that the Rules do not apply to non-broadcast content, including content offered via video-on-demand players provided by broadcasters and which are available online. The BAI however acknowledges that broadcasters do provide accessible programming on video-on-demand services and welcomes the continuation or further introduction of such provision online. See BAI Access Rules, January 2019, p.3-4, <https://www.bai.ie/en/download/133605/>.



### 3.1.3. Minimum level of accessible content

In order to satisfy the continuous accessibility requirement of Article 7(1) of the AVMSD, a number of countries have gone beyond the literal transposition of the Directive and introduced either specific time slots or programme quotas for accessible content. In other words, these measures consist of minimum levels of broadcasting services which should be made available to people with disabilities.

The establishment of time slots during which programmes should be made accessible, for example during peak viewing times, gives audiovisual media service providers greater flexibility. In Hungary, public service media and audiovisual media service providers with significant power of influence<sup>74</sup> must ensure that their programmes with the highest average annual audience share are accessible to visually impaired people between 18:30 and 21:30 with regard to Hungarian-made cinematographic works.<sup>75</sup> No particular quota must be reached in this case.

Legislations with time slot requirements can also be more stringent. Such is the case in Cyprus, where the Cyprus Broadcasting Corporation is obliged to broadcast a special news bulletin suitable for the deaf between the hours of 18:00 and 22:00 and lasting at least five minutes.<sup>76</sup>

On the other hand, several countries, including Estonia, Finland, Lithuania, the Netherlands, Poland, Romania, Spain, and Slovakia have imposed quota obligations.

In Slovakia, quotas are set both for public service providers and authorised broadcasters. All programmes broadcasted by public service media must be accompanied by subtitles for persons with hearing impairment or interpreted into or in Slovak sign language, and at least 50% of all programmes broadcast are accompanied by voice commentary for the blind.<sup>77</sup> Authorised broadcasters must ensure at least 25% of all programmes broadcast are subtitled for persons with hearing impairment or interpreted into or in Slovak sign language and 10% of all programmes broadcast are accompanied by a voiceover for the blind.<sup>78</sup>

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<sup>74</sup> According to Article 69 (1) of the Act CLXXXV of 2010 on Media Services and Mass Communication, consolidated on 23 June 2021, "A linear audiovisual media service provider with an average annual audience ratio of at least fifteen percent is considered a JBE media service provider [i.e. a significant power of influence provider], provided that the average annual audience ratio of at least one of its media services reaches three percent. With the exception of public service, community and thematic media providers, a linear radio media provider with an annual average audience share of at least twenty percent is also considered a JBE media provider, provided that the annual average audience share of at least one of its media services reaches five percent.", <https://net.jogtar.hu/jogszabaly?docid=a1000185.tv>.

<sup>75</sup> Act CLXXXV of 2010 on Media Services and Mass Communication, Consolidated 23 June, 2021, Article 39 § (2) and (2a), <https://net.jogtar.hu/jogszabaly?docid=a1000185.tv>.

<sup>76</sup> The Cyprus Broadcasting Corporation Act - Consolidated 9 December, 2021 - Art. 18C (2), <http://www.cylaw.org/nomoi/indexes/300A.html>

<sup>77</sup> The Law of June 22, 2022 on media services and on amendments to certain laws (Act on Media Services), Article 55 (1), [264/2022 Z.z. - Zákon o mediálnych službách a o zme... - SLOV-LEX](#)

<sup>78</sup> The Law of June 22, 2022 on media services and on amendments to certain laws (Act on Media Services), Article 55 (3), [264/2022 Z.z. - Zákon o mediálnych službách a o zme... - SLOV-LEX](#)



In Romania, Article 42, paragraph 1, (2) a) and (3) a) of the Audiovisual Act,<sup>79</sup> requires television programme services with national coverage to interpret into sign language and to show real-time subtitles for a scheduled period of at least 30 minutes a day news, analysis and debate programmes on current economic and/or political issues. Television programme services with local coverage may choose between sign language interpretation and real-time subtitles or apply both.

In addition, and as can be understood from both examples, countries can decide to apply quotas that apply to all programmes without restriction or to specific types of programmes, as is the case in Romania whose quotas apply to analysis and debate programmes on current economic and/or political issues. The French Community of Belgium similarly requires RTBF (*Radio-Télévision Belge de la Communauté Française*) to ensure access to specific programmes, in particular television news as well as general news and current affairs programmes specifically intended for children.<sup>80</sup>

### 3.1.4. Gradual increase of accessible programmes

Pursuant to Article 7(1) of the AVMSD, according to which the services provided by media service providers under their jurisdiction must be made progressively more accessible, several countries have implemented additional measures to fulfil this obligation, mainly by requiring gradual increases of the programmes made accessible to people with disabilities.

Among these countries: Austria, Cyprus, Poland, Sweden, and Ireland. The establishment of targets allows them to concretely envisage a progression in the number of programmes made accessible.

The Irish 2001 Broadcasting Act<sup>81</sup> provides in Section 19(11) that the Irish national regulatory authority, the Broadcasting Authority of Ireland (BAI), may establish obligations for broadcasters to ensure that a specified percentage of programmes employ specified means to promote their understanding and enjoyment by deaf or hard of hearing and blind or partially sighted people. Targets have thus been set in the BAI Access Rules<sup>82</sup> for the period 2019-2023 and are designed to increase year by year. They are specific both to the channel and to the nature of the accessibility tool. In essence, RTÉ 1 must strive to grow from a quota of 87% of subtitled programmes in 2019 to 92% in 2023, while TG4 (the National Irish Language Public Service Broadcaster) must increase from 57% to 59%. With regard to the provision of Irish sign language programmes, RTÉ 1 and 2 are expected to reach 5% in 2023, up from 3% in 2019. The same channels will also have to increase their quota of programmes with audio description from 5% to 10%.

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<sup>79</sup> Law No 504/2002 of 11 July 2002 (the Audiovisual Act) - Consolidated 3 July, 2022, <https://legislatie.just.ro/Public/DetaliiDocument/37503>

<sup>80</sup> Fifth RTBF Management Contract 2019-2022, Article 40.1 d), <http://www.ejustice.just.fgov.be/eli/decret/2021/02/04/2021020568/moniteur>

<sup>81</sup> Broadcasting Act, 2001, Section 19(11), <https://www.irishstatutebook.ie/eli/2001/act/4/enacted/en/html>

<sup>82</sup> BAI Access Rules, January 2019, <https://www.bai.ie/en/download/133605/>

Other countries have set rather general targets leaving more room for manoeuvre for broadcasters, as is the case in Cyprus with the Cyprus Broadcasting Corporation (Ραδιοφωνικού Ιδρύματος Κύπρου). The latter is required under Article 18C (3) of the Cyprus Broadcasting Corporation Act to submit a timeline to the Authority within a year of the entry into force of the 2010 Cyprus Broadcasting Corporation (Amending) Act, setting out how it will gradually increase by at least 5% the proportion of programmes, other than news bulletins, that will be made accessible to individuals with visual or hearing impairments.<sup>83</sup>

## 3.2. National case studies

This section sheds light on the implementation of Article 7 in eight countries: Austria, Finland, France, Germany, Latvia, Lithuania, Poland and the Netherlands, among others, have implemented measures at various levels.

In order to obtain a comprehensive overview of the national cases, the following country cases will be divided into three subsections and will examine the scope of the obligations (that is to say which audiovisual media services are concerned by the obligations), the measures undertaken (Article 7 (1) AVMSD), the accessibility strategy put in place in terms of reporting (Article 7 (2) AVMSD), contact points (Article 7 (4) AVMS Directive) and emergency information (Article 7 (5) AVMSD). The question of action plans (Article 7 (3) AVMSD) will be further developed in Chapter 4 of this publication.

### 3.2.1. AT - Austria

In Austria, accessibility rules are covered by the Federal Act on Audiovisual Media (AMD-G),<sup>84</sup> the Federal Act on the establishment of an Austrian Communication Authority (KOG),<sup>85</sup> and the Federal Act on the Austrian Broadcasting Corporation (ORF-G).<sup>86</sup>

The Austrian regulation provides for a number of accessibility measures, in particular subtitling, sign language interpreting, bilingual sound, audio description, and also simple language which is specifically directed to people with mental disabilities.

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<sup>83</sup> The Cyprus Broadcasting Corporation Act - Consolidated 9 December, 2021 - Art. 18C (3), <http://www.cylaw.org/nomoi/indexes/300A.html>

<sup>84</sup> Federal Act on Audiovisual Media Services (Audiovisuelle Mediendienste-Gesetz, AMD-G) – consolidated 1 January, 2021, <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20001412>

<sup>85</sup> Federal Act on the establishment of an Austrian Communication Authority (KommAustria Gesetz, KOG) - Consolidated version 2021, <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20001213>

<sup>86</sup> Federal Act on the Austrian Broadcasting Corporation (ORF-G) - consolidated 2021, <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10000785>

### 3.2.1.1. Scope of obligations

Making audiovisual media services accessible to people with disabilities is an obligation for all media service providers, whether public service media or private commercial audiovisual media services. Specific measures are envisaged for television information programmes, media service providers with a turnover exceeding EUR 500 000, and the Austrian Broadcasting Corporation and its online services.

Several circumstances may exempt services from the implementation of accessibility obligations:

- Objectively justified exceptions shall be made for live content in view of the extra cost of making such content accessible (Art. § 30b (1), AMD-G).
- The Austrian Broadcasting Corporation may also provide for objectively justified exceptions for live content in view of the higher cost it may require (Art. § 5(2) ORF-G).
- Media services with a turnover not exceeding EUR 500 000 in the previous year shall be exempted (Art. § 30b (1), AMD-G).
- Media service providers of purely local or regional television programmes are exempt from the obligation in respect of the audiovisual media services they provide (Art. § 30b (1), AMD-G).

### 3.2.1.2. Implementation of proportionate measures

The ORF-G provides for specific techniques applicable to television information programmes that must, in line with technological development and economic feasibility, be designed in such a way as to make them easier to follow for people with such disabilities. The Austrian Broadcasting Corporation must provide at least one news broadcast in simple language on one of its channels between 09:00 and 22:00. (Art. § 5(2) ORF-G)

In addition, gradually increasing quantitative and qualitative obligations are set on media service providers.

According to Art. § 30b (1) AMD-G: “Media service providers must increase the proportion of accessible broadcasts in all their programmes and catalogues as of 31 December 2020 continuously and progressively year by year, in line with economic capacity and taking account of subsidies from public funds.”

The Austrian Broadcasting Corporation is governed by a different set of rules (the ORF-G) but is subject to a similar increase obligation. Appropriate steps must thus be taken to ensure a continuous and gradual increase compared to the status as of 31 December 2020. Particular concern is given to people with visual and/or hearing disabilities and people with mental disabilities who rely on simple language (Art. § 5(2) ORF-G). Overall, “the Austrian Broadcasting Corporation shall strive to make all its programmes with language content accessible by 2030” (Art. § 5(2)a ORF-G).

Specific increase requirements are imposed on each programme category (Art. § 5(2) ORF-G). The position at the end of the previous calendar year must be increased annually

by 2.5% for the information, arts and culture, and education category, and at least by 4% for the entertainment category. Higher priority is given to:

- Early evening and prime time programmes (19:00 to 22:00) on all television channels
- Online services provided in accordance with § 4 (1) point 4 and licensed in accordance with § 4f (1) in conjunction with 6b
- In the information category, federal state broadcasts, press conferences, election coverage and election results programmes and, in the information and entertainment categories, children's programmes

### 3.2.1.3. Strategy

According to Art. § 5(2) ORF-G, the Austrian Broadcasting Corporation is expected to report on the measures set out in the action plan, and on the implementation and increase of the share, annually, by 31 March of the year following the reporting year. The annual report must also explain how the proportion of accessible content on the online services and channels of the Austrian Broadcasting Corporation has increased through the measures targeting the groups concerned (in particular subtitling, sign language interpreting, bilingual sound, audio description) (Art. § 5(2)a, ORF-G).

While the reporting therefore consists in providing information on the implementation of the action plan, it should also indicate why the plan was not completed if that is the case and the rate of increase not reached. In such a case, the measures planned regarding catch-up must be provided.

RTR-GmbH is the point of contact for providing information and receiving complaints regarding any accessibility issues. Art. § 20b (1) KOG provides that it shall:

- Support media service providers through the provision of information in making their content accessible for people with visual and/or hearing disabilities and people with mental disabilities who rely on simple language
- Provide information for the general public
- Act as a centre for complaints regarding inaccessibility of audiovisual media services content, providing a simple, direct and permanently accessible online contact point

*“The complaints centre shall seek the opinion of the media service provider concerned, mediate between conflicting viewpoints and communicate its view on the referred case. After consulting the regulatory body it shall establish guidelines for the conduct of the proceedings. The guidelines shall be based on the principles of § 6(2) and (6) point 1, § 7(1), § 8(1) points 1 and 2 and (2) of the Alternative Dispute Settlement Act,<sup>87</sup> and shall be published in appropriate form”.* (Art § 20b (2) KOG)

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<sup>87</sup> Alternative Dispute Settlement Act (AStG), BGBl. I no 105/2015, <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20009242>

Both private audiovisual media services and the Austrian Broadcasting Corporation are required to ensure that emergency information is provided in a manner which is accessible to persons with disabilities.

The AMD-G provides, in Art. § 30a, that information related to crisis and disaster and other important announcements to the general public and to private persons, as well as to dangers to the health and life of people, is to be fully accessible. “In the case of such appeals and announcements, the relevant authority or individual shall indemnify the media service provider for any additional costs incurred in making the information accessible.”

The Austrian broadcasting Corporation is subject to similar provisions under Art. § 5(6). ORF – G, which requires it to make such information accessible in a barrier-free and easily comprehensible manner and to disseminate it terrestrially.

## 3.2.2. DE - Germany

German rules on accessibility are governed by two major regulations: the Interstate Treaty on Broadcasting and Telemedia,<sup>88</sup> and the Act on the Broadcasting Corporation under Federal Law “Deutsche Welle”,<sup>89</sup> hereafter the “Deutsche Welle Act”.

### 3.2.2.1. Scope of obligations

As per the two German acts mentioned above, accessibility rules apply to Deutsche Welle (Article 7a (1) of the Deutsche Welle Act), the state broadcasting corporations which are members of the ARD, the ZDF, Deutschlandradio and all broadcasters of nationwide private broadcasting programmes (Article 7 (1) together with Article 3 of the Interstate Treaty), including television-like telemedia (Article 76 of the Interstate Treaty).

With regard to services providing access to audiovisual media services (e.g. EPGs) Art. 99a (1) and (2) of the Interstate Treaty on Broadcasting and Telemedia envisages exemptions from the obligation to ensure accessible content, to design accessible choices and to foster accessible use:

- Where such obligations impose a disproportionate burden on service providers, in accordance with Annex VI to Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on accessibility requirements for products and services<sup>90</sup> or where it requires a substantial modification of the

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<sup>88</sup> Interstate Treaty on Broadcasting and Telemedia - consolidated 30 June, 2022, [https://www.die-medienanstalten.de/fileadmin/user\\_upload/Rechtsgrundlagen/Gesetze\\_Staatsvertraege/Medienstaatsvertrag\\_MStV.pdf](https://www.die-medienanstalten.de/fileadmin/user_upload/Rechtsgrundlagen/Gesetze_Staatsvertraege/Medienstaatsvertrag_MStV.pdf)

<sup>89</sup> Act on the Broadcasting Corporation under Federal Law “Deutsche Welle - consolidated 19 November, 2020, <http://www.gesetze-im-internet.de/dwg/>

<sup>90</sup> OJ L 151, 7.6.2019, p. 70, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2019:151:TOC>

service providing access to audiovisual media services that leads to a fundamental change in its nature.

It should however be noted that the invocation of a disproportionate burden is excluded where providers receive non-proprietary public or private funding to improve accessibility. In this respect, it is up to the audiovisual media service providers to make an assessment and therefore determine whether compliance with the accessibility requirements would entail a fundamental change or result in a disproportionate burden.

Providers of services providing access to audiovisual media services that claim they are affected by such a disproportionate burden must carry out the assessment again if the service is changed or if they are requested to do so by the competent state media authority, but at least every five years (Art. 99a (4) of the Interstate treaty).

### 3.2.2.2. Implementation of proportionate measures

The state broadcasting corporations which are members of the ARD, the ZDF, Deutschlandradio and all broadcasters of nationwide private broadcasting programmes must include barrier-free offerings within the scope of their technical and financial possibilities and must steadily and gradually expand the scope of such offerings (Article 7 (1) of the Interstate Treaty). According to Art. 7a (1) of the Deutsche Welle Act, the latter shall, within the scope of its technical and financial possibilities, make continuously and progressively available other accessible content for persons with disabilities.

Other service providers providing access to audiovisual media services are required to ensure accessible access, design accessible choices and support accessible use, as provided in the Interstate Treaty on Broadcasting and Telemedia (Article 99a (1)), while including the requirements set out in Section III of Annex I and in Section IV(b) of Directive (EU) 2019/882.<sup>91</sup>

### 3.2.2.3. Strategy

The German public service media provider Deutsche Welle must submit a report to the Broadcasting Council (*Rundfunkrat*) every three years, beginning on 1 November 2022, on the accessibility measures taken and must forward that report to the highest federal authority with responsibility for culture and media. This authority then forwards the report to the European Commission (Art. 7a (2) of the Deutsche Welle Act).

On the other hand, broadcasters of national commercial television services are expected, based on Art. 7 (2) of the Interstate Treaty, to report to the respective competent state media authority, and the state broadcasting corporations merged in the ARD, the ZDF and Deutschlandradio to their respective supervisory bodies at least every three years on measures taken and future measures. The reports, including the planned measures and the

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<sup>91</sup> [Directive \(EU\) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services, https://eur-lex.europa.eu/eli/dir/2019/882/oj](https://eur-lex.europa.eu/eli/dir/2019/882/oj)

progress made in this respect (action plans), must subsequently be submitted to the European Commission.

With regard to the assessment on whether compliance with the accessibility requirements would result in a fundamental change or a disproportionate burden, service providers providing access to audiovisual media services must also document this assessment and keep all relevant results for a period of five years after the last provision of the respective service concerned providing access to audiovisual media services. A copy of the assessment must be provided to the competent regulatory authority on request (Article 99a (3) of the Interstate Treaty).

No information is provided regarding contact points or emergency information.

### 3.2.3. FI - Finland

The Electronic Communications Services Act (917/2014)<sup>92</sup> and the Act on Yleisradio Oy [the Finnish Broadcasting Company] (1993/1380)<sup>93</sup> both cover accessibility of audiovisual media services for people with disabilities.

Finnish regulation envisages, *inter alia*, specific audio and subtitling proportions.

#### 3.2.3.1. Scope of obligations

Finnish legislation imposes accessibility obligations on all types of providers, namely private commercial services and public service television, also known as the Finnish Broadcasting Company.

The measures are aimed at television as well as video-on-demand services and are directed at and specific to certain types of content:

- Finnish or Swedish programmes
- Television and public-interest television programmes broadcast under a national programming licence
- Television programmes in the public interest and their video-on-demand programming

In contrast, live music performances or sports programmes are not covered by audio and subtitling requirements. No further exemptions, for instance related to high-cost issues or to the nature of the service or programme, are envisaged.

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<sup>92</sup> [Electronic Communications Services Act \(917/2014\) - consolidated 22 December, 2021, https://www.finlex.fi/fi/laki/ajantasa/2014/20140917#O8L25P206](https://www.finlex.fi/fi/laki/ajantasa/2014/20140917#O8L25P206)

<sup>93</sup> [Act on Yleisradio Oy \[the Finnish Broadcasting Company\] \(1993/1380\) - consolidated 15 July, 2017, https://finlex.fi/fi/laki/ajantasa/1993/19931380](https://finlex.fi/fi/laki/ajantasa/1993/19931380)

### 3.2.3.2. Implementation of proportionate measures

The accessibility techniques imposed on audiovisual media service providers depend on the provider and the programme, as provided for in Art. 211 of the Electronic Communications Act.

While television programmes and video-on-demand programming in Finnish or Swedish must be accompanied by subtitles, other programmes must include a description or service in which the text of the subtitled programme is converted into a sound (audio and subtitling service).

An audio and subtitling service must therefore accompany the public service television programming and its video-on-demand programme service. The subtitling service must be of high enough quality for subtitles to be sufficiently clear and understandable to the user.

A Government Decree may lay down further provisions on:

- The technical execution and transmission of the audio and subtitling service
- The cost of implementing the audio and subtitling service per programme hour
- What is considered to be programming serving a wide range of audiences

In addition, audio and subtitling proportions are envisaged depending on the providers and programmes:

- For television programmes in the public interest broadcast under a national programming licence and programming serving a wide range of audiences: 75% or 100% in the case of public service programming
- For video-on-demand services of television programmes in the public interest: 30%

It should be noted that the Electronic Communications Services Act provides for cost limits for making services accessible. Thus, audio and subtitling services may not exceed 1% of the television broadcaster's turnover in the preceding business year.

### 3.2.3.3. Strategy

The audiovisual content service provider must report to the national media regulatory authority Traficom (the Transport and Communications Agency) on its efforts to achieve accessibility of its services. It must also develop accessibility action plans on how to make its services continuously and progressively more accessible. This plan must be sent to the Transport and Communications Agency according to Art. 211 of the Electronic Communications Services Act.

The said Agency will also be responsible, under Art. 304 (14) of the same Act, for acting as a single point of contact on the accessibility of audiovisual content services.

With regard to emergency information, the Finnish Broadcasting Company is expected to provide programming to all citizens under equal terms (Art. 7(2)(7), Act on Yleisradio Oy).

### 3.2.4. FR - France

The French rules regulating the accessibility of audiovisual media services for people with disabilities are enshrined in Law No. 86-1067 of 30 September 1986 on the freedom of communication (*Loi L  otard*).<sup>94</sup> The national regulatory authority – the Audiovisual and Digital Communication Regulatory Authority (Arcom) – also produced, with the support of the National Consultative Council for the Disabled, a Guide to Imaging French Sign Language. More particularly, this guide provides recommendations as to the quality of the interpretation offered to deaf or hard-of-hearing viewers.<sup>95</sup>

The law provides for proportion obligations in terms of accessible content. They are further developed in the agreements between the national regulatory authority and the audiovisual media service providers.

#### 3.2.4.1. Scope of obligations

Television, catch-up television and video-on-demand audiovisual media services are all governed by accessibility obligations, which target both commercial and public audiovisual media services (thus including programmes by France T  l  visions and ARTE-France).

As envisaged in Articles 28 and 56(1), advertising shall be exempted from accessibility obligations. In other words, all television programmes shall be adapted to the deaf or hard-of-hearing, except for advertising programmes. Moreover, agreements concluded between Arcom and the party requesting authorisation to use the radio spectrum may provide for additional derogations if justified by the specificities of certain programmes (Art 33(1)). Likewise, the terms of reference of France T  l  visions and ARTE-France, and the objectives and resources contract of ARTE-France may allow derogations from adaptation if justified by the characteristics of certain programmes. (Art. 56(1))

For television services with local content, the agreement may simplify the adaptation obligations (Art 28).

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<sup>94</sup> Law No. 86-1067 of 30 September 1986 on the freedom of communication (Loi L  otard) - consolidated 18 August, 2022, <https://www.legifrance.gouv.fr/loda/id/LEGITEXT000006068930/>

<sup>95</sup> Guide to Imaging French Sign Language with the support of the National Consultative Council for the Disabled, March 2022, [https://www.arcom.fr/sites/default/files/2022-03/Guide%20de%20mise%20en%20image%20de%20la%20Langue%20des%20signes%20fran%20C3%A7aise%20%28LSF%29\\_4.pdf](https://www.arcom.fr/sites/default/files/2022-03/Guide%20de%20mise%20en%20image%20de%20la%20Langue%20des%20signes%20fran%20C3%A7aise%20%28LSF%29_4.pdf)

### 3.2.4.2. Implementation of proportionate measures

Under Art. 20(6), Arcom must ensure that accessibility to television and video-on-demand audiovisual media service programmes is guaranteed. Arcom must in particular ensure that such accessibility is continuously and gradually strengthened, both quantitatively and qualitatively.

Further rules shall be enshrined in the agreement concluded between Arcom and the audiovisual media service provider. To this end, account shall be taken of: the size of the area served; the share of the service in the advertising market; compliance with the principle of equal treatment between the various services and the competition conditions specific to each of them; and the development of terrestrial digital radio and television.

According to Art. 28, agreements also include proportion obligations, that is to say, the proportion of programme content that is to be made accessible via appropriate mechanisms, in particular during peak audience times. Particular attention shall nonetheless be paid to the accessibility of the diversity of programmes broadcast.

Agreements should therefore relate, *inter alia*, to:

- The proportion of content accessible by the deaf and hard of hearing. For television services whose average annual audience exceeds 2.5% of the total audience of television services, this obligation applies within a maximum period of five years following the publication of law n°2005-102 of 11 February 2005 on equal rights and opportunities, participation and citizenship of disabled people.
- The proportion of programmes accessible by blind or visually impaired people with regard to television services broadcast in digital mode whose average annual audience share exceeds 2.5% of the total audience for television services.

The agreement of multilingual service providers whose capital and voting rights are held to a degree of at least 80% by public broadcasters from Council of Europe States and at least 20% by one of the companies referred to in Article 44 (France Télévisions and Radio France) shall not be subject to these provisions (Art. 33(1)).

For video-on-demand services other than those governed by the provisions of Article 48, subparagraph 14a of Article 28, and the eleventh paragraph of Article 33(1), an agreement shall also be concluded with ARCOM to determine the proportions of programmes accessible to the deaf or hard-of-hearing and to the blind or visually impaired. By way of derogation, video-on-demand services whose turnover is less than a specific amount set by decree shall only be subject to prior declaration to ARCOM (Art. 33(3)).

The terms of reference of France Télévisions, ARTE-France and the National Audiovisual Institute, as well as the objectives and resources contract of ARTE-France, shall also determine the share of programmes of video-on-demand services adapted to the deaf or hard-of-hearing and the share of television programmes and video-on-demand services accessible to the blind or visually impaired (Art. 56(1)).

### 3.2.4.3. Strategy

In respect of Art. 20(6) of the *Loi Léotard*, audiovisual media service providers are expected to report to ARCOM annually on the accessibility of their programmes and communication services that are provided to the public by electronic means and that they edit.

As regards Art. 7 (4) of the AVMSD, Arcom shall be considered the contact point. Art. 20(6) paragraph 5 provides that it shall make information on the accessibility of the service programmes easily available through a communication service that is provided to the public by electronic means and for which it has editorial responsibility. This service shall also allow complaints to be submitted.

ARCOM shall also be responsible for ensuring that emergency information such as health alert messages referred to in Article 16(1) and information about important current events are accessible to people with disabilities (Art. 20(6) 2)).

## 3.2.5. LV - Latvia

In Latvia, measures related to the accessibility of audiovisual media services for people with disabilities are encompassed in two sets of rules: the Electronic Mass Media Law<sup>96</sup> and the Guidelines for the Electronic Media Law for the application of the guidelines for promoting access to electronic content media programmes and services<sup>97</sup> (hereafter referred to as “the Guidelines”).

Among the classic accessibility tools, Latvia includes plain language messages, specifically implemented for people with perceptual disabilities.

### 3.2.5.1. Scope of obligations

The Latvian rules on accessibility cover a wide array of services, including broadcasters, catch-up services, video-on-demand services and electronic media services’ websites or social media accounts.

In determining what type of content, for which audience, and which electronic programmes and services should be accessible to people with disabilities, electronic media must consult associations and foundations representing the interests of persons with disabilities (Art. 5(2) of the Guidelines). They must also do so in relation to quality issues and the selection and scheduling of programmes (Art. 6(4)).

According to Art. 5(3) of the Guidelines, broadcasters should ensure that subtitling is provided for programmes which are likely to be of greater interest to older people, who constitute a large proportion of the users of subtitles on television. For broadcasters with limited capacity to implement accessibility services, priority should be given to the most

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<sup>96</sup> Electronic Mass Media Law, <https://likumi.lv/ta/en/en/id/214039-electronic-mass-media-law>

<sup>97</sup> Guidelines for the Electronic Media Law for the application of the guidelines for promoting access to electronic content media programmes and services, <https://www.neplp.lv/lv/media/1013/download>

popular programmes and services, as subtitling or other accessibility services for these programmes and services are likely to benefit the majority of people.

Specific rules also apply to self-promotions for electronic media broadcasts (Art 5(10) of the Guidelines) and to the advertising or posting of programmes on social media platforms (Art 5(11) of the Guidelines).

Only a few exemptions apply. Given the audience of electronic media, accessibility services should not be provided for English and foreign-language content. Likewise, electronic media must not provide content access services in cases where this is rendered impossible due to the specific nature of the content item (Art. 5(13) and 5(14) of the Guidelines).

### 3.2.5.2. Proportionate measures

While Article 24(1) 1) of the Electronic Media Act sets out a fairly general obligation to ensure that electronic media services are continuously and progressively more accessible to people with disabilities, the Guidelines focus on the variety of techniques and methods available and the situations in which they are most appropriate. They target a wide range of users, from visually and/or hearing-impaired people to people with different types of perceptual disabilities, including people with disabilities and people who have difficulty comprehending complex written text, and those whose language skills are a barrier to comprehension.

Electronic media may therefore, considering the type and format most appropriate to the service, provide the following:

- Sign language interpretation (Art. 4(4))
- Subtitling (Art. 4(5))
- Audio description (Art. 4(6))
- Plain language messages (Art. 4(7))

In accordance with Art. 4(2) of the Guidelines, and given that content produced by electronic media may be available on a variety of platforms, the following may also be used to facilitate accessibility:

- Transcribed audio recording posted on an electronic media service's website or social media account(s)
- The possibility to increase the font size on the electronic media's website
- The possibility to listen to written information in audio mode
- An electronic description of the programme for audiovisual content on the website of an electronic media provider which is not subtitled

Electronic media providers may also use other services to make content more accessible but are then obliged to assess whether the chosen means will achieve the objective (Art. 4(3)).

On the basis of Art. 3(3)4 of the Guidelines, the National Electronic Media Council (*Nacionālajai elektronisko plašsaziņas līdzekļu padomei*) considers that, in line with international practice, electronic media providing television services with an annual turnover exceeding EUR 1 million should progressively provide at least one of the accessibility services to the maximum extent possible (initially at least 0.5% of the total cost) or at least two services for one of the programmes with the largest audience.

Besides, some measures are also specific to the type of service:

- Video-on-demand services should clearly and unambiguously inform the audience with a special indication or identification mark that the programme is available with an access service. Indications should also be provided if the electronic media service hosts content items on its website (Art. 5(8)).
- Where replayed broadcasts are made available through an access service, the audience must be informed during the first screening, for example by means of a caption or a sliding tape, containing the relevant information (Art. 5(9)).
- Self-promotions for electronic media broadcasts that will be made available through an access service must indicate that this is the case (Art. 5(10)).
- When advertising or posting programmes on social media platforms, it is necessary to indicate whether the programme in question is covered by an accessibility service (Art. 5(11)).
- Where a programme or service of an electronic media outlet has provided accessibility services for the dissemination of the programme or excerpts of the programme, those accessibility services shall be maintained when the programme or excerpts of the programme are posted on social media platforms (Art. 5(12)).

As a general rule, and irrespective of the type of programme or service, once a programme has been provided with a form of access, it is recommended under Article 5(6) of the Guidelines that this form of access be provided for all future programmes. For example, if subtitles are provided for a morning programme, they should be provided every morning; if subtitles are provided for a programme broadcast on Fridays at 17:00, subtitles should be provided every Friday.

### 3.2.5.3. Strategy

Art. 24(1) 1) of the Electronic Mass Media Law requires electronic media providers to notify the National Electronic Media Council once a year.

The Guidelines also envisage the submission of progress reports to the Council for the first half of the year and the year as a whole. The Council shall take into account data on the financial situation and audience of the electronic media provider when considering the action plans and the measures planned therein to ensure access to content and will regularly monitor their evolution for possible updating of the action plans (Art. 3(3)3 and 3(3)4).

The Electronic Mass Media Law establishes the National Council for Electronic Media as the contact point in Art. 60 (2) 4). It shall provide information and hear complaints about any problem related to the accessibility of the services or information referred to in Article 24.1 for persons with disabilities. It shall collect feedback and complaints received from users of electronic media service about non-compliance of content access services and shall report them to the electronic media service, allowing them time to remedy the deficiencies and involve experts where appropriate (Art. 6(5) of the Guidelines).

Emergency information and public announcements shall be provided in a manner that is accessible to people with disabilities (Art. 24(1) 3), Electronic Mass Media Law). Where appropriate, programmes provided in sign language may also be provided with subtitles, thereby making the content accessible to as large an audience as possible, in particular where the information provided is important and needs to reach as large a section of the public as possible in a short space of time (Art. 5(5), Guidelines).

### 3.2.6. LT - Lithuania

The Lithuanian rules on accessibility of audiovisual media services for people with disabilities are encompassed in three national laws: the Law amending Article 5 of Law No I-1571 on Lithuanian national radio and television;<sup>98</sup> the Law on the provision of information to the public of the Republic of Lithuania;<sup>99</sup> and the Law Amending the Law on the Provision of Information to the Public (No. XIV).<sup>100</sup>

Lithuania offers an interesting example considering that it specifies the minimum levels of television programmes that must be made available to persons with disabilities.

#### 3.2.6.1. Scope of obligations

The Lithuanian legal framework distinguishes between two types of providers: public service media (Lithuanian National Radio and Television - *Lietuvos nacionalinio radijo ir televizijos*, LRT) and other audiovisual media services.

Specific measures related to the proportion of accessible programmes broadcast by LRT apply to programmes with Lithuanian subtitles, programmes translated into Lithuanian sign language and programmes adapted for visually impaired persons.

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<sup>98</sup> Law amending Article 5 of Law No I-1571 on Lithuanian national radio and television, <https://e-seimas.lrs.lt/portal/legalActPrint/lt?jfwid=9o5pdmjox&documentId=fd64fc32508f11e98bc2ba0c0453c004&category=TAD>

<sup>99</sup> Law No I-1418 on the provision of information to the public of the Republic of Lithuania, <https://www.e-tar.lt/portal/lt/legalAct/TAR.065AB8483E1E/asr>

<sup>100</sup> Law Amending the Law on the provision of information to the public (No. XIV) of 14 January 2021, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAP/50f052704ebb11eba1f8b445a2cb2bc7>

### 3.2.6.2. Proportionate measures

As provided by Art. 34(2) of the Law on the provision of information to the public of the Republic of Lithuania, audiovisual media service providers are required to adapt public information for persons with disabilities in accordance with the Action Plan approved by the institution appointed by the Government.

While the obligation set on audiovisual media service providers remains quite extensive, LRT must respect further quotas (Art. 5(10) of the Law amending Article 5 of Law No I-1571 on Lithuanian national radio and television). A minimum share of total monthly transmission time must be dedicated to programmes accessible to people with hearing and visual impairments:

- Programmes with Lithuanian subtitles: at least 50% of total monthly transmission time
- Programmes translated into Lithuanian sign language: at least 20% of total monthly transmission time
- Programmes adapted for visually impaired persons: at least 10% of total monthly transmission time

### 3.2.6.3. Strategy

Audiovisual media service providers must regularly report to the Lithuanian Radio and Television Commission on the implementation of the measures contained in the Action Plan to improve information accessibility for persons with disabilities. The Commission shall in turn regularly report on the implementation of the measures contained in the Action Plan to improve information accessibility for persons with disabilities (Art. 34(2), Law on the provision of information to the public of the Republic of Lithuania).

On the basis of Art. 48(1) 10) of the same law, the Board shall also examine viewer complaints concerning the activities of broadcasters of radio and/or television broadcasts, suppliers of video-on-demand services and other persons providing consumers with television broadcasts and/or individual programmes online, and video-sharing platform services.

Art. 34(2) further states that the Board's website shall contain publicly available information allowing a complaint to be lodged concerning the accessibility of public information disseminated by audiovisual media service providers to persons with disabilities. This information shall be readily accessible to persons with disabilities.

In the event of an imminent or actual state of emergency, upon proclamation of mobilisation or in the event of war, and in other cases defined in law, producers and/or disseminators of public information shall immediately publish warnings on behalf of State and municipal authorities and bodies free of charge or allow State and municipal authorities and bodies to publish live warnings free of charge. Warnings shall be published in such a way as to ensure that the information disseminated therein is accessible to persons with disabilities (Art. 20.1, Law on the provision of information to the public of the Republic of Lithuania).

### 3.2.7. NL - Netherlands

The Netherlands provides for rules on accessibility of audiovisual media services for people with disabilities in the 2008 Media Decree,<sup>101</sup> the 2008 Media Act<sup>102</sup> and the Policy rule of the Media Authority (*Commissariaat voor de Media*).<sup>103</sup>

In addition to the distinction between public service media and private commercial audiovisual media services, the Dutch regulation requires the implementation of specific percentages and provides fairly comprehensive guidelines in this respect.

#### 3.2.7.1. Scope of obligations

Both public service broadcasters of original Dutch-language productions and broadcasters of television programme channels of a commercial media organisation with a reach of at least 75% of all households in the Netherlands and consisting of original Dutch-language productions are subject to accessibility obligations. In particular, they are required to meet a minimum quota of subtitled programmes for people with a hearing disability.

According to Art. 2.123 (2) (on public service media) and Art. 3.25 (2) (on private television programmes) of the 2008 Media Act, the Media Authority may grant a total or partial exemption from the above-mentioned obligation under certain conditions. A request for exemption must be submitted to the Media Authority and accompanied by substantiation. In determining whether such a special case exists, account must be taken of the nature of the programme channel or of special economic circumstances.

If the Media Authority is satisfied that there is a special case in which a programme channel cannot be required to comply with the subtitling percentage immediately, this percentage may be lowered for a maximum period of three calendar years. Where the Media Authority recognises a particular case in which a programme channel cannot be required to comply with the subtitling percentage, the share may be reduced or set to zero for the duration of the licence to provide the programme channel, provided that the programme format of the programme channel is not changed (Art. 16(2) to (5) of the Policy rule of the Media Authority).

Looking more closely at the 2008 Media Decree, Art. 15(2) further stipulates that the broadcasting by public media services of advertising and teleshopping messages, including framing, as well as television programme offerings distributed for Dutch speakers abroad and visual radio offerings<sup>104</sup> of the national public media service are exempted from accessibility obligations.

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<sup>101</sup> 2008 Media Decree, <https://wetten.overheid.nl/BWBR0025036/2022-01-01>

<sup>102</sup> Media Act 2008 - consolidated 1 July, 2022, <https://wetten.overheid.nl/BWBR0025028/2022-07-01>

<sup>103</sup> Policy rule of the Media Authority on recent European, independent media offerings, originally Dutch-language or Frisian-language programmes and programmes that are provided with subtitling for people with a hearing impairment, <https://zoek.officielebekendmakingen.nl/stcrt-2022-881.html>

<sup>104</sup> According to Article 1 of the Media Decree 2008, visual radio is defined as a “television programme consisting of a radio programme provided with images”, <https://wetten.overheid.nl/BWBR0025036/2022-01-01>



With regard to private television programmes, Art. 17(2) of the Media Decree also excludes advertising and teleshopping messages, including framing, and visual radio programmes. However, Art. 15(2) of the Policy rule of the Media Authority includes replays of programmes in the percentage of subtitling to be achieved.

### 3.2.7.2. Proportionate measures

As envisaged in Art. 2.1 (2) of the 2008 Media Act, public media services must be in line with public values and must therefore provide media services that are accessible to everyone. Art. 15(2) of the 2008 Media Decree stipulates that the total television programme offering of the national public media service must be subtitled to a degree of at least 95% for people with a hearing impairment.

On the other hand, the total programme offering on a television programme channel of a commercial media institution with a reach of at least 75% of all households in the Netherlands, which consists of original Dutch language productions, must be provided with subtitles for the benefit of persons with a hearing impairment to a degree of at least 50% (Art. 17(1) of the 2008 Media Decree).

The policy rule of the Media Authority provides further explanations as to the determination of the percentage of subtitling. According to Art. 15(1), the latter shall be based on the total programme offering per programme channel and per calendar year devoted to productions that can be regarded as originally Dutch-language productions. For the determination of the total programme offering, the programme offering consisting of productions spoken in the Dutch language and especially intended for children under the age of eight shall not be taken into account.

### 3.2.7.3. Strategy

The public media service must send the Dutch Media Authority and the Minister of Education, Culture and Science a report on the past calendar year, including at least the measures it has taken to further develop the accessibility of audiovisual media provision for persons with a disability. This must be done before 1 June of each year (Art. 2.58 (1), 2008 Media Act).

Likewise, commercial media institutions must report annually to the Authority on the measures they are taking to further develop the accessibility of audiovisual media provision for persons with a disability (Art. 3.27 (1), 2008 Media Act).

In turn, the Authority must report to the European Commission on the implementation of the audiovisual media service providers by 19 December 2022 and every three years thereafter.

Art. 6.27 of the 2008 Media Act provides that in the event of disasters or crises within the meaning of Article 1 of the Safety Regions Act, media services shall provide audiovisual media as far as possible in a way which is accessible to persons with a visual or hearing impairment.

## 3.2.8. PL - Poland

The Polish rules on accessibility of audiovisual media services for people with disabilities are enshrined in the Broadcasting Act<sup>105</sup> (hereafter referred to as “the Broadcasting Act”), the Act of 22 March 2018 amending the Broadcasting Act<sup>106</sup> and the Act of 11 August 2021 amending the Broadcasting Act and the Cinematography Act.<sup>107</sup>

Poland provides an interesting example with the development of specific rules for television broadcasters on the one hand and video-on-demand services on the other. Both services are obliged to gradually increase the percentage of accessible programming over a certain period of time.

### 3.2.8.1. Scope of obligations

Both television broadcasters and video-on-demand services have accessibility obligations. They may however be exempted from implementing gradual-increase measures:

- In the case of television broadcasting services, by taking into account the number of inhabitants in the range of the programme, the audience share of the programme, the types of facilities used for persons with disabilities, the method of broadcasting and the specialisation of the programme, the needs of the audience and the capabilities of the broadcasters, as determined by the National Broadcasting Council. Advertising and teleshopping are excluded (Art. 18a (2) 2) and 3) of the Broadcasting Act and Art. 2 of the Act of 22 March 2018 amending the Broadcasting Act).
- Video-on-demand service providers may be released or required to provide a lower proportion of accessible video-on-demand services if they have a low number of viewers (Art. 47g (2) of the Broadcasting Act), or in respect of specialised video-on-demand services (Art. 47g (3) of the Broadcasting Act).

### 3.2.8.2. Proportionate measures

For both broadcasters (Art. 18a (2) 1) of the Broadcasting Act) and video-on-demand services (Art. 47g (6) 1) of the Broadcasting Act), the National Broadcasting Council shall determine:

- The type and share of facilities for persons with disabilities in the total broadcasting time/catalogue, depending on the time of broadcasting/programme
- The nature and the type of programme to be made accessible, taking into account the needs of persons with visual and hearing disabilities and the capacity of broadcasters/ video-on-demand services in this respect

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<sup>105</sup> Broadcasting Act - consolidated 21 April, 2022, <https://lexlege.pl/ustawa-o-radiofonii-i-telewizji/>

<sup>106</sup> Act of 22 March 2018 amending the Broadcasting Act, <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20180000915>

<sup>107</sup> Act of 11 August 2021 amending the Broadcasting Act and the Cinematography Act, <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20210001676/T/D20211676L.pdf>



- The development of broadcasting techniques and facilities for persons with disabilities

Broadcasters of television programmes are bound by specific quotas. While Art. 18a (1) of the Broadcasting Act sets a rather general obligation by introducing a quota of at least 50% of the quarterly broadcasting time of the programme for accessible content, Art. 2 of the Act of 22 March 2018 amending the Broadcasting Act outlines an increase scheme for accessible programmes:

- 1) In 2019, at least 15% of quarterly transmission time
- 2) In 2020 and 2021, at least 25% of quarterly transmission time
- 3) In 2022 and 2023, at least 35% of quarterly transmission time
- 4) As from 2024, at least 50% of quarterly transmission time.

Broadcasters are also required to inform the National Broadcasting Council (*Krajowej Rady Radiofonii i Telewizji*) and the audience of the date, time of broadcast and duration of the programme containing facilities for persons with disabilities as well as the type of such facilities (Art. 18a (1) of the Broadcasting Act).

Providers of video-on-demand services are subject to similar obligations. Art. 47g (1) of the Broadcasting Act imposes a 30% quota obligation for accessible programmes in VOD catalogues. The increase in accessible content for video-on-demand services is set as follows:

- 1) In 2022, at least 5% of programmes in publicly available catalogues
- 2) In 2023, at least 10% of programmes in publicly available catalogues
- 3) In 2024 and 2025, at least 20% of programmes in publicly available catalogues
- 4) From 2026, at least 30% of programmes in publicly available catalogues

Providers of video-on-demand services are also obliged to inform the National Broadcasting Council and the public about programmes containing facilities for persons with disabilities and the type of such facilities.

### 3.2.8.3. Strategy

By 31 March of each calendar year, television broadcasters and video-on-demand services must submit an annual report to the National Broadcasting Council regarding the implementation of the requirements for the previous calendar year (Art 18a (1)b and 47g (5) of the Broadcasting Act).

The National Broadcasting Council must in turn send a report on the implementation by media service providers of the requirements laid down in Articles 18a and 47g to the European Commission (Art. 6 (3) 2), Broadcasting Act).

The National Broadcasting Council shall also act as a point of contact for providing information and receiving complaints regarding accessibility of media services for persons with visual or hearing impairments, as provided in Art. 6 (2) 15) of the Broadcasting Act.



Regarding emergency information, both broadcasters (Art 18a (1)a and video-on-demand services (Art. 47g (4)) must ensure that emergency information, including public communications and announcements in natural disaster situations, is provided with facilities for persons with disabilities, unless it is impossible to do so.

## 4. Implementation of Article 5(3)(b) and (4) of the InfoSoc Directive

As addressed in Chapter 2 of this report, the InfoSoc Directive and the Marrakesh Directive share the objective of making certain works more accessible to people with disabilities. Their differences in that regard lie within the types of contents to which they apply, in conjunction with the types of disabilities affecting people.

Where the Marrakesh Directive introduces a copyright exception to increase the availability of written works in accessible format for persons who are blind, visually impaired or otherwise print-disabled, the older InfoSoc Directive did not provide any detail as to the type of disabilities, referencing only “people with a disability” in its Article 5, thus rendering it inclusive of more impairments by choosing a less specific approach – in turn making the two directives complementary in that regard.

In the context of audiovisual media services, the provisions of the InfoSoc Directive have a stronger impact on the sector than the Marrakesh Directive. Article 5(3)(b) and (4) of the InfoSoc Directive states that member states may provide for exceptions or limitations to reproduction, communication and distribution rights for the benefit of people with a disability. The Directive is however particular with regard to the freedom it gave member states regarding transposition into national law, in addition to the fact that the possibility to introduce exceptions or limitations remained optional for member states. It also gave member states significant leeway regarding transposition into national laws, leading to notable differences in approaches among member states.

### 4.1. National transposition

The “Report on the availability of certain copyright protected works for persons with disabilities within the internal market” (the Report), published on 7 April 2022 by the European Commission, follows the requirements of Article 9 of the Marrakesh Directive which required the Commission to publish a report on the availability in accessible formats of works and other subject matter not covered by this instrument – audiovisual content, videogames, sculptures and images. As per the requirements of Article 9, the Report also concerns accessibility to people with other disabilities such as hearing disabilities, which are not covered by the Marrakesh Directive. The Report is based on information provided by 26 member states in response to a questionnaire designed by the European Commission.

The Report notes that in most member states, the beneficiaries of exceptions to copyright rules are in general persons with disabilities. In other cases, the beneficiaries are defined by their disability.

The works covered by the exceptions or limitations are defined in Article 2 of the InfoSoc Directive as works, performances, phonograms, films and broadcasts.



Most national laws encompass the same groups of works, with slight variations. National provisions cover all works or published works in Austria,<sup>108</sup> Bulgaria,<sup>109</sup> Croatia,<sup>110</sup> Cyprus,<sup>111</sup> Hungary,<sup>112</sup> Poland,<sup>113</sup> Romania<sup>114</sup> and Spain.<sup>115</sup>

Others have opted to define more precisely what “works” are entailed and this revolves in most cases around literary, artistic and audiovisual works: In Lithuania<sup>116</sup>, the Netherlands<sup>117</sup> and Sweden,<sup>118</sup> exceptions or limitations may apply to literary, scientific and artistic works – irrespective of the work’s mode or form of expression and of its artistic value; similarly, in France,<sup>119</sup> exceptions or limitations may apply to any intellectual creation protected by copyright, such as literary, musical, cinematographic and audiovisual works, and works of fine art; Greece<sup>120</sup> has opted for a more limited scope, narrowing it down to literary works but extending to audiobooks; Luxembourg<sup>121</sup> simply refers to “works”, but adds that databases are not included in the scope of the copyright rules exception – an interesting difference in approach to that of Malta,<sup>122</sup> where the national law explicitly references databases as part of the works that are subject to copyright exceptions (in addition to audiovisual, artistic and musical works), but excludes computer programmes from the list.

Permitted uses of the works and other subject matter are also defined with varying degrees of detail. Most member states expressly identify the acts covered, but others only refer to “uses” (Bulgaria, Croatia, Cyprus, Hungary, and Poland) and certain member states have more detailed provisions concerning the application of the exception, or specific conditions depending on uses: Germany<sup>123</sup> and the Netherlands allow for reproduction and distribution – or publication, in the case of the Netherlands – of works; Malta has similar provisions in place, with the notable addition of the translation of the works; Belgium specifically mentions the reproduction of broadcasts, which is allowed for certain institutions specialised in providing assistance to people with disabilities;<sup>124</sup> the Czech<sup>125</sup> and Slovakian transpositions further specify that the addition of audio description to a programme, with the goal of making it accessible to persons with visual impairments, does

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<sup>108</sup> <https://www.ris.bka.gv.at/eli/bgbl/l/2015/99>.

<sup>109</sup> [https://www.cem.bg/files/1577974509\\_zapsp.pdf](https://www.cem.bg/files/1577974509_zapsp.pdf).

<sup>110</sup> <https://www.zakon.hr/z/106/Zakon-o-autorskom-pravu-i-srodnim-pravima>.

<sup>111</sup> [http://www.cylaw.org/nomoi/indexes/1976\\_1\\_59.html](http://www.cylaw.org/nomoi/indexes/1976_1_59.html).

<sup>112</sup> <https://mkogy.jogtar.hu/jogszabaly?docid=a0300102.TV>.

<sup>113</sup> [http://orka.sejm.gov.pl/proc4.nsf/ustawy/2465\\_u.htm](http://orka.sejm.gov.pl/proc4.nsf/ustawy/2465_u.htm).

<sup>114</sup> <https://legislatie.just.ro/Public/DetaliiDocument/7816>.

<sup>115</sup> <https://www.boe.es/buscar/doc.php?id=BOE-A-2006-12308>.

<sup>116</sup> <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.415881>.

<sup>117</sup> <https://zoek.officielebekendmakingen.nl/stb-2004-336.html>.

<sup>118</sup> [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1960729-om-upphovsratt-till-litterara-och\\_sfs-1960-729](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1960729-om-upphovsratt-till-litterara-och_sfs-1960-729).

<sup>119</sup> <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000266350/>.

<sup>120</sup> <https://www.mtpo.org/read.php?file=0210101&typ=2>.

<sup>121</sup> [https://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=fr&p\\_isn=66993](https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=fr&p_isn=66993).

<sup>122</sup> <https://legislation.mt/eli/cap/415/eng/pdf>.

<sup>123</sup> [Bundesgesetzblatt BGBL. Online-Archiv 1949 - 2022 | Bundesanzeiger Verlag](https://www.bundestag.de/btgp18/bundestag/gesetzblatt/bundestag/gesetzblatt/Bundesgesetzblatt_BGBL_Online-Archiv_1949_-_2022_Bundesanzeiger_Verlag).

<sup>124</sup> [https://etaamb.openjustice.be/fr/loi-du-22-mai-2005\\_n2005011236.html](https://etaamb.openjustice.be/fr/loi-du-22-mai-2005_n2005011236.html).

<sup>125</sup> <https://www.zakonyprolidi.cz/cs/2000-121>.



not breach copyright and related rights; the Czech law also adds that the national exceptions to copyright rules do not apply to computer programmes and to databases.

According to Article 5(2), member states may provide exceptions or limitations to the “reproduction right” provided that the rightsholders receive “fair compensation”:

The concept of fair remuneration also appears in recitals 35 to 38, with recital 35 however adding that “in certain situations where the prejudice to the rightsholder would be minimal, no obligation for payment may arise.”

There are two main, diametrically opposed approaches among member states regarding the compensation of rightsholders. Some member states have opted for compensating authors with varying degrees of precision in the transposition texts as to the compensation itself and in some cases, the institutions in charge of managing the compensation. Financial compensation is provided for in the cases of copyright exceptions for the benefit of people with disabilities in Austria, Belgium, Finland,<sup>126</sup> Germany, the Netherlands, and Sweden. Germany however excludes compensation when making individual copies. Compensation is altogether excluded in Bulgaria, Estonia, Greece, Latvia, and Romania.

The various approaches to transposing Article 5(3)(b) and (4) of the InfoSoc Directive are the consequence of the freedom given by the Directive to member states regarding its implementation. Little can be derived from the choice to provide either little or extensive detail about the nature of the disabilities referenced, in great part because the technological means of making audiovisual content more accessible are limited to subtitles and audio description. A broad reference to “disabilities” in the context of making audiovisual content more accessible would *in fine* still only apply to people with visual and hearing impairments. The types of works, the permitted uses and the compensations for rightsholders are however more varied and insightful as to the approach chosen by member states.

Some national laws require some criteria to be met in order to permit an exception to copyright rules – like in Germany, where reproduction and distribution are possible only if the work is not already available in an accessible format. Finland, France and Ireland have added no such criteria, but their national laws indicate that only certain entities will be allowed to benefit from the exclusion in order to reproduce and distribute accessible version of works.

An overview of exceptions to copyright rules at national level, based on the information contained in the European Commission’s Report on the availability of certain copyright-protected works for persons with disabilities within the internal market is available in the annex to this publication (Table 3).

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<sup>126</sup> <https://finlex.fi/sv/laki/alkup/2014/20141171>.

## 4.2. Stakeholders' perspectives on implementation

In order to prepare the Report, the European Commission also engaged in a targeted consultation with stakeholders<sup>127</sup> between 11 February and 30 April 2021 with the aim of gathering information on the following issues:

- The availability of works other than printed works (e.g. films, video games, paintings) to persons with print disabilities (visual impairments and others impairments limiting the possibility to read)
- The availability of any type of work to persons with disabilities other than print disabilities (e.g. hearing disabilities)

Respondents representing various groups of stakeholders from 12 member states (Belgium, Czechia, Denmark, Finland, France, Germany, Ireland, Italy, the Netherlands, Poland, Romania and Spain) responded to the consultation. Almost two thirds of the respondents were audiovisual producers, distributors or sales agents (or their representative organisations) and organisations representing the interests of persons with disabilities.

Respondents tended to agree that the works covered by the consultation were available in accessible format within the European Union, or available with some limitations – with subtitles and closed captions being mostly easy to obtain. Other forms of accessibility features were however indicated as being much more difficult to obtain. With regard to the audiovisual sector, audio description was one of the accessibility options that was considered rather difficult to obtain. Not directly related to the audiovisual sector, easy-to-read text and tactile paintings, pictures, maps, images, and photo descriptions were described as similarly difficult to obtain.

In the specific case of movies, subtitles and audio description tend to be increasingly available commercially. Works created with accessible formats and which do not need time and resources to be made accessible afterwards are qualified as “born accessible”. ‘Born accessible’ content represents more than 50% of the audiovisual works produced, according to respondents.

Half of the respondents, including stakeholders representing persons with disabilities, said there was a need to have more accessible formats available, as access to accessible formats can be hindered by the cost of making such formats, when they are not ‘born accessible’, also pointing to a lack of funding or government incentives. “Absent or ambiguous” legal frameworks were also said to be an issue by some, along with obtaining the clearance of rights in some cases.

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<sup>127</sup> <https://digital-strategy.ec.europa.eu/en/library/summary-report-targeted-consultation-availability-works-other-printed-works-formats-accessible>.

### 4.3. Public funding and accessibility

The respondents to the European Commission's targeted consultation indicated that stakeholders considered that national public initiatives were generally lacking – although the situation may vary from one member state to another.

Legal provisions at the EU level opening the door to making works of all sorts more accessible to people with disabilities were examined. While the legal provisions examined above are a necessary starting point to make works of all sorts more accessible to people with disabilities, it is notable that the InfoSoc Directive left significant freedom to member states in how they wanted to implement national rules.

In its Article 5(3)(b) and (4), the InfoSoc Directive provides for the possibility to create exceptions or limitations to copyright rules for the benefit of people with disabilities – simplifying the development of more accessible versions of works.

Despite such legal developments, improved accessibility requires the combined efforts of legislators, national media regulators and the various industry stakeholders to ensure that the objectives enshrined in the law can be achieved. This includes the wider availability of subtitles and audio description for audiovisual content, for instance – which can be ensured after the creation of the work that they help make more accessible. To achieve such results, a growing number of financial incentives have been put in place.

In order to foster change, it is however worth rethinking the way works are made accessible. In the case of audiovisual content, accessibility is increasingly placed at the heart of the creation process. This key principle was identified by the Canadian Radio-television and Telecommunications Commission (CRTC) in their policy framework for Certified Independent Production Funds<sup>128</sup> as early as 2016. CRTC – Canada's national media regulator – noted:

*Making accessibility a consideration early in the creative process—not only in post-production—will help create a cultural shift that will result in accessibility becoming just another consideration in the regular course of doing business.*

Many national initiatives have been created to such effect, as a means to ensure that accessibility is taken into consideration as soon as the creation of the work itself, or that works are 'born accessible'.

In France, the *Centre national du cinéma et de l'image animée* (CNC) has several funding programmes that contribute to a general objective of making audiovisual works more accessible to people with disabilities. Among them, the CNC has a programme to support the creation of audio description files and subtitles for people with sensory disabilities.<sup>129</sup> The financial support is meant for the creation of both a digital audio description file for visually impaired people and a digital subtitles file specifically for deaf and hard-of-hearing people, and the adaptation of the files for digital support.

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<sup>128</sup> <https://crtc.gc.ca/eng/archive/2016/2016-343.htm>.

<sup>129</sup> [https://www.cnc.fr/professionnels/aides-et-financements/cinema/production/soutien-a-la-realisation-de-fichiers-dauidescription-et-de-soustitrage-pour-les-publics-atteints-de-handicaps-sensoriels\\_191627](https://www.cnc.fr/professionnels/aides-et-financements/cinema/production/soutien-a-la-realisation-de-fichiers-dauidescription-et-de-soustitrage-pour-les-publics-atteints-de-handicaps-sensoriels_191627).



The beneficiary of the CNC's financial support is the production company. Works are eligible if the total production cost is inferior or equal to EUR 4 million, for fiction or documentary cinematic works, or EUR 8 million for animation works. The audio description and subtitles produced must follow the *Charte relative à la qualité du sous-titrage à destination des personnes sourdes ou malentendantes* (Charter for the quality of subtitling for the deaf or hard of hearing) from December 2011<sup>130</sup> and the *Charte de l'audiodescription* (Audiodescription Charter) from December 2008.<sup>131</sup>

In Germany, any funding by the public *Deutscher Filmförderfonds* (German Film Promotion Fund, DFFF) of audiovisual works is conditioned upon – among other criteria – the creation of subtitles and audio description. The DFFF funding guidelines<sup>132</sup> indicate in sections 8(5) and 22(4) that “[a]t least one final version of the film must be produced with German subtitles for the hearing impaired and with a German audio description for the visually impaired of a quality which meets market requirements and is suitable for screening in a cinema”.

In Italy, there is a financing scheme by the *Direzione generale cinema e audiovisivo of the Ministero della cultura*<sup>133</sup> (the Ministry of Culture's Directorate General for Cinema and Audiovisual) which has made compulsory the provision of “adequate tools” aimed at facilitating their use by people with sensory disabilities, especially audio description and subtitling. Failure to provide such tools will result in the project being considered ineligible for financing.

A similar approach can be seen in Ireland too, under the management of the national media regulator, the Broadcasting Authority of Ireland (BAI), which is soon to become the Media Commission. The BAI's Sound & Vision Scheme,<sup>134</sup> a funding programme through the television license fee currently in its fourth edition, includes an obligation to provide subtitles for the better understanding and enjoyment of the programmes by people who are deaf or with hearing difficulties. Additional funding is available for applicants who wish to provide Irish Sign Language and/or audio description services. While such services are not mandatory at the moment of writing this report, the BAI will aim to incentivise this provision where appropriate over the course of the Scheme.

Another system in place in other member states, such as Croatia, is to have access services counted as a positive criterion for applicants for funding by the Croatian Fund for Promotion of Pluralism and Diversity of Electronic Media, managed – as in the Ireland case above – by the national media regulator, the Electronic Media Agency. While accessibility features are not a prerequisite for funding, they improve the chances of a project being granted the financing and may result in an increase in the amount of financial support granted. The rules for the Fund for Promotion of Pluralism and Diversity of Electronic

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<sup>130</sup> <https://www.csa.fr/Reguler/Espace-juridique/Les-relations-de-l-Arcom-avec-les-editeurs/Chartes-et-autres-guides/Charte-relative-a-la-qualite-du-sous-titrage-a-destination-des-personnes-sourdes-ou-malentendantes-Decembre-2011>.

<sup>131</sup> <https://www.csa.fr/Reguler/Espace-juridique/Les-relations-de-l-Arcom-avec-les-editeurs/Chartes-et-autres-guides/Charte-de-l-audiodescription-Decembre-2008>.

<sup>132</sup> <https://www.dfff-ffa.de/download.php?f=c9af78e9d7ee2526d0942f079366e024&target=0>.

<sup>133</sup> <https://cinema.cultura.gov.it/download/24401/>.

<sup>134</sup> <https://www.bai.ie/en/download/134843/>.

Media<sup>135</sup> indicate (in Article 5(5)(b)) that the level of the financial support can be increased in certain cases by up to 30% in the context of works intended for people with intellectual disabilities or with hearing and visual impairments.

The British Film Institute (BFI) Production Fund<sup>136</sup> requires both “hard of hearing” subtitle files and audio description tracks for all formats and platforms. It also includes a clause allowing for the holding back of 5% of funding until delivery of “specified materials, including disability access materials” (condition 24).

The examples above are just a few among the many national initiatives currently in place and that aim, albeit through different means, to create a more accessible environment for people with visual and hearing impairments. Whether through incentives (like in Croatia), or obligations, many public film funds now condition their support – fully or partially – on the provision of accessibility features, while other have created specific funding schemes to encourage producers to develop such features (e.g. the CNC’s programme to finance the creation of subtitles and audio description in France).

In addition to national initiatives, it is also worth mentioning the possibilities offered by various European funding programmes. While programmes such as Creative Europe – or until recently Horizon 2020 – are not designed specifically to support the creation of accessibility measures, such projects can be financed if they meet the other eligibility criteria set by each programme. The 2022 Annual Work Programme for the implementation of the Creative Europe Programme<sup>137</sup> establishes that the objectives of the programme must be pursued in a way that encourages the active participation in the cultural and creative sectors of people with disabilities. The Work Programme, which identified innovation as one of its key priorities in 2022 for the CULTURE strand, referenced the inclusion of people with disabilities as one such innovation. Calls for proposals for support for the year 2023 in the MEDIA strand will include a “subtitling of cultural content” cluster, with the objective to guarantee the online dissemination of subtitled European cultural content.<sup>138</sup> While none of these strands are strictly dedicated to making cultural and audiovisual content more available to people with disabilities, they allow such projects to be financed.

The Immersive Accessibility (ImAc)<sup>139</sup> project – funded under the European Union’s Horizon 2020 programme – aimed to explore how accessibility services can be integrated with immersive media (such as virtual reality headsets) and considered throughout the design, production and delivery process. ImAc explored new deployment methods for these services (subtitles, audio description, audio subtitling and sign language) in immersive environments with the goal of ensuring that immersive experiences are inclusive across different languages, addressing the needs of those with hearing and low vision problems,

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<sup>135</sup> [https://narodne-novine.nn.hr/clanci/sluzbeni/2022\\_07\\_84\\_1279.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2022_07_84_1279.html).

<sup>136</sup> <https://core-cms.bfi.org.uk/media/130/download>.

<sup>137</sup> [https://culture.ec.europa.eu/sites/default/files/2022-01/creative-europe-2022-work-programme-c\\_2022\\_36\\_f1.pdf](https://culture.ec.europa.eu/sites/default/files/2022-01/creative-europe-2022-work-programme-c_2022_36_f1.pdf).

<sup>138</sup> <https://digital-strategy.ec.europa.eu/en/policies/audience-development-european-audiovisual-content>.

<sup>139</sup> <https://cordis.europa.eu/project/id/761974>.



and learning difficulties, and the aged. The project was led by the i2CAT Foundation,<sup>140</sup> a Catalunya-based research and innovation centre with a focus on digital society.

Another example worth mentioning is a project led by University College London (“Exploring Subtitle Reading Process with Eyetracking Technology”<sup>141</sup>), also funded under the Horizon 2020 programme. It consisted in an experimental study of the subtitling reading process to establish subtitle quality indicators regarding optimum presentation rates and layout, to better understand how people perceive subtitled video materials and to potentially lead to improvements in that regard.

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<sup>140</sup> <https://i2cat.net/?lang=ca>.

<sup>141</sup> <https://cordis.europa.eu/project/id/702606>.

## 5. Accessibility measures developed by NRAs and the industry

While the AVMSD provides for general access to audiovisual media content for persons with disabilities (i.e. hearing and visual impairments), specific accessibility measures implemented by audiovisual media service providers are to be detailed via co- or self-regulation, and later reported on. Action plans describing the accessibility measures will be developed and implemented by providers.

For a better understanding of how co- or self-regulation has been transposed at national level, the next section will highlight examples of transposed national rules, while the second section will present – in more practical terms – the accessibility measures broadcasters and video-on-demand services (or in a few countries, only broadcasters) have developed via accessibility plans. The third section introduces examples of other, non-legislative initiatives to help persons with disabilities access audiovisual content.

### 5.1. National implementation of accessibility measures

While the scene will be briefly set in the next subsection, this will be followed by a presentation of the accessibility plans and measures designed to ensure accessibility of media content for persons with disabilities, and later by an overview of accessibility plans established by audiovisual media service providers.

#### 5.1.1. Setting the scene

As noted in Chapter 2, member states must ensure accessibility of content for persons with disabilities via accessibility measures developed either by national regulatory authorities (NRAs), as regulations or within a co-regulation process, or by the industry in action plans (self-regulation process), which are submitted later either for information purposes or for approval to NRAs (Article 7(3) of the AVMSD).

While Article 7(3) of the AVMSD requires member states to encourage media service providers to develop accessibility action plans with a view to making their services more accessible for persons with disabilities, the national transpositions vary in scope among audiovisual media services (linear and/or non-linear). It is worth mentioning that countries sometimes refer to rules applicable to audiovisual media services (e.g. Belgium [the capital Brussels and the German-speaking Community], Bulgaria, Romania, or Slovenia), to broadcasters only (e.g. Ireland before the OSMR reform process), or to broadcasters and video-on-demand services together (e.g. Czechia, France, Ireland in the reform process, or Portugal).

With regard to the 30 notified national transposition laws,<sup>142</sup> three main trends in the development of the accessibility measures mentioned in Article 7(3) AVMSD can be identified (and are further developed in the next two subsections):<sup>143</sup>

- In three countries, it is up to the NRAs to impose accessibility measures which audiovisual media service providers must implement (French and German-speaking Communities of Belgium, Ireland, Portugal).
- In one country (France), the accessibility measures are put in place through a co-regulatory process.
- In 22 countries, audiovisual media service providers must develop action plans for making their services accessible to persons with disabilities, that is to say, people with hearing and visual impairments (Austria, Belgium [the capital Brussels, Bulgaria, Cyprus, Czechia, Germany, Denmark, Estonia, Spain, Finland, Greece, Croatia, Hungary, Italy, Lithuania, Luxembourg, Latvia, Malta, Romania, Sweden, Slovenia, Slovakia).

The following table lists the main steps towards the creation and implementation of accessibility measures. While they are sometimes first set up by NRAs – as regulations – they are in other cases also developed by audiovisual media service providers themselves – as required by laws). The plans sometimes require further approval and/or must be reported on.

**Table 1. Overview – Steps of process put in place by EU members to develop accessibility measures**

Measures	Number	Countries
<b>NRAs set out regulations to be applied by audiovisual media service providers</b>	3	BE (DE), IE, PT
<b>Co-regulation: NRA and audiovisual media service provider agree on the accessibility measures</b>	2	BE (FR), FR
<b>Audiovisual media service providers develop action plans</b>	22	AT, BE (BRU), BG, CY, CZ, DE, DK, EE, ES, FI, GR, HR, HU, IT, LT, LU, LV, MT, RO, SE, SI, SK
<b>Action plans to be submitted to NRA</b>	17	AT, BE (BRU), BG, CY, DK, EE, ES, FI, GR, HU (if requested), IT, LT, LV, MT, RO, SI, SK

<sup>142</sup> 27 member states in the European Union but Belgium is split into four communities: Brussels, and the three Communities (DE, FR, VL).

<sup>143</sup> Over the past years, the EAO has been collecting all national information pertaining to the national transpositions of the AVMSD, see the AVMSD tracker, <https://www.obs.coe.int/en/web/observatoire/avmsd-tracking>, as well as the AVMSD database, <https://avmsd.obs.coe.int/>.

<b>Action plans prepared with an association representing sensory impaired persons</b>	3	AT, CZ, LV
<b>Reporting obligations</b>	17	AT, BE (BRU), BE (DE), BE (VL), BG, CZ, DE, FI, HU (if requested), IE, IT, LT, LU, NL, SE, SI, SK
<b>MSP action plan to be approved by NRA</b>	3	DK, LT, MT

Some member states are not included in more than one row in the overview table above.

The Netherlands is a particular case, according to the notified transposition laws, as only a reporting obligation applies (see Article 3.27):<sup>144</sup>

1. *Commercial media institutions shall report annually to the Authority on the measures they are taking to further develop the accessibility of audiovisual media provision for persons with a disability.*
2. *The Authority shall report to the European Commission on the implementation of the first paragraph by 19 December 2022 and every 3 years thereafter.*

For the Flemish Community of Belgium, the amended Decree on Radio Broadcasting and Television<sup>145</sup> directly provides for the accessibility measures and targets that broadcasters must implement to improve the accessibility of their content. The legislation does not directly provide for the development of action plans, as in the Netherlands. Broadcasting services must report annually to the Flemish regulator on compliance with these provisions.

The Polish transposition of Article 7 however provides for obligations regarding results, with specific quotas increasing over time. For the moment, there is no public information pertaining to the drafting process of action plans.

## 5.1.2. Accessibility regulations adopted by NRAs

NRAs from four countries (the French- and German-speaking communities of Belgium, France, Ireland, and Portugal) have set out the accessibility measures the audiovisual media service providers are obliged to implement. In France and in the French-speaking Community of Belgium, accessibility measures are agreed through a co-regulation process with the relevant stakeholders. Ireland, for its latest Access Rules 2019-2023, engaged with stakeholders when drafting accessibility measures. While in these cases the NRAs have been entrusted with the mission to set up accessibility measures, the creation and enforcement processes differ from one another. The following differences can be identified:

<sup>144</sup> Media Act 2008,

<https://www.government.nl/binaries/government/documenten/publications/2022/06/14/media-act-2008/Media+Act+2008.pdf>.

<sup>145</sup> Amended Decree on Radio Broadcasting and Television, Art. 151,

<https://codex.vlaanderen.be/PrintDocument.ashx?id=1035496&datum=&geannoteerd=false&print=false>

- Need for consultations with associations representing persons with disabilities when drawing up accessibility measures
- Development of the measures by a co-regulatory organ within the NRA
- Formal agreement between the NRA and the audiovisual media service providers (i.e. a signed contract) detailing accessibility measures
- Frequency of the reporting obligation
- Duration of the accessibility measures

Only one case can be identified as falling within the mandate of an NRA to establish accessibility measures: the Portuguese NRA must consult the National Institute for Rehabilitation.

While most of the four identified countries require NRAs to develop accessibility measures to be further imposed on audiovisual media service providers, two special situations have arisen, in France and in the French-speaking Community of Belgium.

On one hand, the audiovisual media service providers under the jurisdiction of France must conclude an agreement with the NRA to determine the measures. The French NRA agrees with each audiovisual media service provider on diverse topics (i.e. transmission times, diversity and inclusion measures, protection of minors), and which include the accessibility measures.

On the other hand, the Advisory Committee of the NRA of the French-speaking Community of Belgium, which is composed of members of the NRA and of representatives of content providers (public service media, private broadcasters, different categories of radio, etc.), must obtain agreement from the Government on the accessibility measures it has developed.

Audiovisual media service providers must report on the implementation of accessibility measures to their competent NRA according to different timeframes. A three-year-timeframe applies in the German-speaking community of Belgium, while a six-month-timeframe applies in the current Irish system. In France, legislation requires annual reporting.

Finally, the duration of accessibility measures differs from one country to another. For instance, the Irish NRA measures are applicable from 2019 until 2023 (the future Media Commission as foreseen by the new Online Safety and Media Regulation Act will take over the current Irish NRA missions). In France, the duration of the agreement is set up between the parties.

The next subsections provide for more detailed information pertaining to countries that are examples of co-regulation systems.

#### 5.1.2.1. French-speaking community of Belgium

The Advisory Committee of the *Conseil Supérieur de l'Audiovisuel* (CSA, French-speaking community of Belgium) is made up of members from the CSA and stakeholders representing the industry. Together, they have the mission to develop regulations on various issues (e.g. audiovisual commercial communications, protection of minors, measures to be taken by

video-sharing-platforms), which include accessibility of programmes for persons with disabilities (i.e. hearing and visual impairments). Once the accessibility measures are set out by the Advisory Committee, they are submitted to the government for approval. Subsequently, the accessibility co-regulations are implemented by audiovisual media service providers. In the Decree on audiovisual media services and video-sharing services of February 2021,<sup>146</sup> there is no further indication of reporting obligations for audiovisual media service providers.

### 5.1.2.2. Ireland

As provided for by the Broadcasting Act,<sup>147</sup> the *Broadcasting Authority of Ireland* (BAI) must prepare Access Rules, which – once adopted – come into immediate effect and set out the accessibility targets of broadcasters (Article 43(1)). The latest Access Rules were adopted in 2019 and are valid until the end of 2023.<sup>148</sup> The 2019 Access Rules set out annual targets for each accessibility measure (i.e. subtitling, sign language, and audio description), and this for a variety of channels. Broadcasters must report to the BAI every six months on progress regarding the accessibility measures.

For the setting up of the Access Rules 2019-2023, the BAI developed the accessibility measures and engaged with stakeholders. When the BAI released the Access Rules, the BAI Chief Executive, in 2019, expressed gratitude for the “engagement with broadcasters, user groups and interested parties”. He added: “We look forward to continued engagement with the key stakeholders to support the achievement of targets over the lifetime of the Rules.”

Ireland recently adopted the Online Safety and Media Regulation Act 2022,<sup>149</sup> amending the Broadcasting Act mentioned above. The future Media Commission (replacing the current BAI) will have powers for the performance of its functions, including ensuring that broadcasting services and video-on-demand services are accessible to persons with disabilities.

### 5.1.2.3. France

In the Léotard Law (mentioned in Chapter 3), Article 28(5) bis (for authorised terrestrial television services), Article 33(1)(l) (for other television services) and Article 33(3)(l)(4) (for video-on-demand services) stipulate that the French NRA (*Autorité de régulation de la communication audiovisuelle et numérique* – Arcom) shall include in the agreements of the

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<sup>146</sup> Decree on audiovisual media services and video-sharing services of 4 February 2021 (“Décret relatif aux services de médias audiovisuels et aux services de partage de vidéos”), Articles 4.1-1 and 9.1.2-1 §1 2°, <https://www.csa.be/document/decret-relatif-aux-services-de-medias-audiovisuels-et-aux-services-de-partage-de-vidéos/>.

<sup>147</sup> Broadcasting Act, Art. 43(1), <https://revisedacts.lawreform.ie/eli/2009/act/18/revised/en/html>.

<sup>148</sup> Access Rules, BAI, <https://www.bai.ie/en/bai-publishes-updated-access-rules/>.

<sup>149</sup> Online Safety and Media Regulation Act 2022, Article 7 (2), <https://data.oireachtas.ie/ie/oireachtas/act/2022/41/eng/enacted/a4122.pdf>.

audiovisual media service providers provisions relating to the accessibility of programmes for persons with disabilities (i.e. hearing and visual impairments).

Furthermore, audiovisual media service providers shall report annually to Arcom on the accessibility of the content they provide to the public by electronic means and that they edit.

Video-on-demand services<sup>150</sup> established in France with an annual net turnover exceeding EUR 1 million, shall, as well, include in their agreements with Arcom measures to make their programmes accessible to people with disabilities. VOD services and Arcom shall conclude agreements detailing the accessibility measures.

### 5.1.3. Accessibility measures developed by audiovisual media service providers

Among the 30 notified national transposition laws, 22 involve the attribution of the development of accessibility measures directly to audiovisual media service providers. Very often, the NRAs (17 countries) are to be notified by audiovisual media service providers of their action plans, and in three cases, these action plans must be approved by the NRAs (Denmark, Lithuania and Malta). In three countries (Austria, Czechia and Latvia), associations representing the interests of persons with disabilities must be consulted by audiovisual media service providers when developing action plans. More than half of the countries have reporting obligations, (i.e. audiovisual media service providers must report to the NRA on the implementation of their accessibility measures).

While all of these 22 pieces of legislation have entrusted the audiovisual media service providers with the mission to set up accessibility plans, the creation and enforcement processes differ from one to another. The following main differences can be identified:

- Associations representing persons with disabilities must be consulted when drawing up accessibility plans.
- NRAs may have a role in the drafting of the accessibility measures (i.e. issuing guidelines to help audiovisual media service providers draft their accessibility measures, or, encouraging audiovisual media service providers to develop accessibility measures).
- NRAs may be informed by the audiovisual media service providers of the accessibility plans they aim to implement, and in some cases, the NRAs may approve or express the need for changes to the accessibility measures.
- Frequency of the reporting obligation.
- Duration of the accessibility measures.

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<sup>150</sup> The rules for SMAD providers established in France, <https://www.arcom.fr/vos-services-par-media/television-et-video-la-demande/conventionner-ou-declarer-un-smad#collapseOR5448>.

While in most of the countries the audiovisual media service providers are required by law to set up accessibility plans, Croatia and Romania have accompanied this obligation with involvement of the national NRAs, which must encourage the audiovisual media service providers to develop accessibility measures that continuously and progressively make their services accessible to persons with disabilities.

In addition to the requirements set up by transposed legislation, in some member states, guidelines from NRAs help audiovisual media service providers establish their accessibility plans, with regard to ensuring the comparability and standardisation of action plans (Austria), with regard to the promotion of access to electronic content media programmes and services (Latvia), or with regard to laying down what must be included in accessibility plans (Sweden).

In some member states, ensuring the user-friendliness of the accessibility measures developed by audiovisual media service providers requires the involvement of associations representing persons with disabilities in the drawing up of the measures (Austria, Czechia, and Latvia).

While 17 countries require the audiovisual media service providers to notify the NRA of their accessibility plans (Austria, Belgium [BRU], Bulgaria, Cyprus, Denmark, Estonia, Spain, Finland, Greece, Hungary [if requested], Italy, Latvia, Lithuania, Malta, Romania, Slovakia and Slovenia), three of them have called for an additional step. In Denmark, Latvia and Malta, the NRAs must evaluate the accessibility measures submitted by the audiovisual media service providers (i.e. acceptance or request for modification).

Audiovisual media service providers must report on the implementation of accessibility measures to the NRA according to different timeframes, for instance:

- Three-year-timeframe: Germany, Luxembourg, Slovakia
- Annually: Austria, Bulgaria, Czechia
- Finally, the duration of accessibility measures differs from one country to another and varies from an annual plan to a three-year-plan:
  - Three-year-timeframe: Bulgaria, Denmark, Estonia, Italy, Slovakia, Slovenia
  - Two-year-timeframe: Malta
  - One-year-timeframe: Czechia, Spain

The following subsections provide for more detailed information pertaining to six of the countries mentioned above and how national legislation has implemented Article 7(3) of the AVMSD. These countries illustrate particularities in the adoption process of accessibility plans:

- Austria (cooperation with an association representing person with disabilities)
- Denmark (requirement for NRA approval)
- Finland and Lithuania (standardised countries due to literal transposition of the AVMSD)
- Germany (involvement of different State NRAs)
- Latvia (NRA guidelines helping audiovisual media service providers establish accessibility plans)

### 5.1.3.1. Austria

Both private and public audiovisual media service providers must ensure increasing accessibility of their content through the development of action plans,<sup>151</sup> in consultation with an association representing sensory-impaired people on the user-friendliness of the accessibility measures. These action plans shall apply to non-live broadcasts, in accordance with the guidelines established by the Austrian NRA (*Kommunikationsbehörde Austria*). The action plans – once developed by the audiovisual media service providers – shall be submitted for information purposes to the Austrian media regulatory authority.

Audiovisual media service providers whose revenue did not exceed EUR 500 000 in the previous year are exempted from the obligation to prepare an action plan and to submit it for information purposes to the Austrian NRA.

The Austrian NRA guidelines (mentioned above)<sup>152</sup> help audiovisual media service providers draft their accessibility plans. The guidelines serve the purpose of ensuring the comparability and standardisation of actions plans for the development of accessibility in audiovisual media services. Action plans shall include a three-year timetable, with an annual increase in the proportion of accessible broadcasts (except for live broadcasts). Audiovisual media service providers shall publish action plans in a simple, direct, and permanently accessible manner. The action plan shall introduce the company and present its accessibility measures and objectives, as well as the discussions that the audiovisual media service provider has had with the consulted association(s).

Finally, audiovisual media service providers must report on the status of implementation of their action plan and submit an annual report to the Austrian media regulatory authority by 31 March of each calendar year.

### 5.1.3.2. Denmark

As provided by Article 3 of the Order on accessibility of licence- and registration-based programme services for persons with disabilities,<sup>153</sup> audiovisual media service providers shall develop an action plan presenting the accessibility measures they aim to implement.

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<sup>151</sup> Federal Act on Audiovisual Media Services (“Gesamte Rechtsvorschrift für Audiovisuelle Mediendienste-Gesetz”), Art. §30b. 2 and 3, <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20001412>ediende-Genste-Gesetz – Bundesrecht konsolidiert, Fassung vom 23.01.2023 (bka.gv.at) and the Federal Act on the Broadcasting Corporation, Art. § 5.2. and 2a, <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10000785>

<sup>152</sup> Guidelines for the comparability and standardisation of action plans for the development of accessibility in audiovisual media (“Richtlinien zur Vergleichbarkeit und Standardisierung von Aktionsplänen zum Ausbau der Barrierefreiheit in audiovisuellen Mediendiensten”), part 4 “Action plan”, [https://www.rtr.at/medien/aktuelles/veroeffentlichungen/Veroeffentlichungen/Sonstiges/Richtlinien\\_Barrierefreiheit.html](https://www.rtr.at/medien/aktuelles/veroeffentlichungen/Veroeffentlichungen/Sonstiges/Richtlinien_Barrierefreiheit.html).

<sup>153</sup> Order on accessibility of licence- and registration-based programme service for persons with disabilities (“Bekendtgørelse om tilgængelighed af programvirksomhed på grundlag af tilladelse og registrering for personer med handicap”), <https://www.retsinformation.dk/eli/lta/2020/944#:~:text=1%2C%20skal%20ved%20hj%C3%A6lp%20af,opl%C3%A6ste%20undertekster%20og%20synstolkning%20m.v.>

The action plans shall be submitted for approval to the Danish NRA (*Radio og tv-nævnet*) which evaluates the plan, accepts it, or requires additional changes. Once approved, the action plan is valid for three years.

An interesting recent example of an action plan rejected by the Danish NRA occurred in November 2022.<sup>154</sup> According to the Danish NRA, TV Alternativ (part of the Familiekanaalen group) did not sufficiently disclose in its action plan how it would continuously and gradually make its programming more accessible to persons with disabilities from 2022 to 2025. Following this, TV Alternativ had until 6 January 2023 to amend its action plan and meet the NRA requirements.

In contrast, the Danish NRA took a positive decision when analysing Dit Lokal TV's action plan in autumn 2022,<sup>155</sup> since Dit Lokal TV aims to subtitle (including explanatory texts) broadcasts and will, as well, include a reader-friendly text scroll on the screen at the start of a programme, summarising what the content is about.

### 5.1.3.3. Finland

Audiovisual media service providers (television and video-on-demand services) shall develop accessibility measures they present in actions plans. AVMS providers are required to submit for information purposes their plans to the Finish NRA (*Traficom*) and report on their progress.<sup>156</sup>

The Finnish government can adopt decrees to detail audio and subtitling techniques, and the costs of implementing measures per programme hour. Besides, programme offerings to be accompanied by accessibility measures are to be determined by the Ministry of Transport and Communications.

### 5.1.3.4. Germany

Article 7(1) of the Interstate Treaty on Broadcasting and Telemedia<sup>157</sup> requires broadcasters to include accessibility measures in their offerings. Broadcasters of nationwide private television services must report to their respective competent state media authority (*Landesmedienanstalt*) at least every three years on measures both taken and envisioned. The reports must then be submitted to the European Commission and must include the binding nature of the planned measures and the progress made in this respect. The same reporting obligation applies to the regional public service broadcasters (*Landesrundfunkanstalten*) merged in the ARD, ZDF as well as Deutschlandradio, in respect

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<sup>154</sup> Decision on TV Alternativ, [https://slks.dk/fileadmin/user\\_upload/SLKS/Omraader/Medier/Radio-og\\_tv-naevnet/Afgoerelser\\_og\\_handlingsplaner\\_2022\\_/Afgoerelse\\_vedr\\_TV\\_Alternativ\\_Handlingsplan.pdf](https://slks.dk/fileadmin/user_upload/SLKS/Omraader/Medier/Radio-og_tv-naevnet/Afgoerelser_og_handlingsplaner_2022_/Afgoerelse_vedr_TV_Alternativ_Handlingsplan.pdf)

<sup>155</sup> Decision on Dit Lokal, [https://slks.dk/fileadmin/user\\_upload/SLKS/Omraader/Medier/Radio-og\\_tv-naevnet/Afgoerelser\\_og\\_handlingsplaner\\_2022\\_/AFGR\\_DitLokalTV](https://slks.dk/fileadmin/user_upload/SLKS/Omraader/Medier/Radio-og_tv-naevnet/Afgoerelser_og_handlingsplaner_2022_/AFGR_DitLokalTV)

<sup>156</sup> Electronic Communications Services Act, Art. 211, <https://www.finlex.fi/fi/laki/ajantasa/2014/20140917>

<sup>157</sup> Interstate Treaty on Broadcasting and Telemedia ("Medienstaatsvertrag"), Art. 7, [https://www.die-medienanstalten.de/fileadmin/user\\_upload/Rechtsgrundlagen/Gesetze\\_Staatsvertraege/Medienstaatsvertrag\\_MStV.pdf](https://www.die-medienanstalten.de/fileadmin/user_upload/Rechtsgrundlagen/Gesetze_Staatsvertraege/Medienstaatsvertrag_MStV.pdf)

of their supervisory bodies. It is expected from broadcasters that they gradually expand their accessibility measures over time.

#### 5.1.3.5. Latvia

According to Article 24.1 (2) of the Electronic Mass Media Law,<sup>158</sup> audiovisual media service providers shall develop action plans in cooperation with associations representing the interests of persons with disabilities. They can refer to the Latvian NRA's (*Nacionālā elektronisko plašsaziņas līdzekļu padome*) guidelines when drafting their action plans, which shall be submitted for information purposes to the NRA.

The guidelines relate to the promotion of access to electronic-content media programmes and services.<sup>159</sup> The action plan must present the audiovisual media service providers' objectives and measures. For linear services, the accessibility target must be interpreted as the number of transmission hours of each programme and, accordingly, the percentage thereof per day (24 hours), excluding advertising time. For video-on-demand services, the accessibility target shall be interpreted as the number of units covered by the access service and their proportion in relation to the total number of units deployed in the video-on-demand service. When it comes to accessibility measures, audiovisual media service providers shall have the possibility to choose different ways/services to make content accessible, such as subtitling, sign language interpretation, and audio description, as well as other technological and content solutions. The programme must include at least one of the accessibility services. Audiovisual media service providers may prioritise which content will be primarily made accessible, and this must be disclosed in the action plan (e.g. news and information, entertainment, films, children's programmes, social and religious programmes).

#### 5.1.3.6. Lithuania

While the public service media service provider (LRT) is obliged by law to provide content with accessibility measures (Law on National Radio and Television),<sup>160</sup> other audiovisual media service providers must set up action plans to adapt public information disseminated to persons with disabilities. Action plans must be submitted to and validated by the Lithuanian NRA (*Lietuvos radijo ir televizijos komisija*). Later, audiovisual media service providers will have to regularly report to the NRA, which monitors the action plan implementation.

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<sup>158</sup> Electronic Mass Media Law ("Elektronisko plašsaziņas līdzekļu likums"), Art. 24.1 (2), <https://likumi.lv/ta/id/214039-elektronisko-plassazinas-lidzeklu-likums>

<sup>159</sup> Guidelines for the Electronic Media Law for the application of the guidelines for promoting access to electronic content media programmes and services ("Vadlīnijas Elektronisko Plašsaziņas Līdzekļu Likuma Piemērošanā Satura Pieejamības Veicināšanai Elektronisko Plašsaziņas Līdzekļu Programmās Un Pakalpojumos"), extract available at: <https://avmsd.obs.coe.int/>

<sup>160</sup> Law on the provision of information to the public of the Republic of Lithuania ("Lietuvos Respublikos visuomenės informavimo įstatymas"), Art. 34 2, <https://www.e-tar.lt/portal/lt/legalAct/TAR.065AB8483E1E/asr>

## 5.2. Industry examples

Traditional broadcast services and video-on-demand services have developed accessibility measures over the past years, in accordance with self- or co-regulation presented in Section 1.1. A sample of examples is presented hereafter as they illustrate very detailed measures the audiovisual media services have implemented (Austria), sometimes in agreement with the NRA (France).

### 5.2.1. Broadcasters

#### 5.2.1.1. Austria

The public service provider, the *Österreichischer Rundfunk* (ORF), has developed a “barrier-free” action plan for 2021-2024.<sup>161</sup> Accessibility measures are audio description, sign language interpretation and subtitles. The ORF plans to increase annually the accessibility measures according to the categories of broadcasts (information, art and culture, entertainment, education, and sport). Priority is given to information programmes, children’s programmes and relevant online offerings. The ORF aims to make increasing use of new technologies in the expansion of accessibility such as speech recognition (speech-to-text) for the automatic creation of subtitles and synthetic audio description (in which the acoustic description of images is spoken by an artificial voice).

The ORF’s objectives:

- Increase the subtitling rate from 44.7% to 49.6% by 2024
- Increase audio description rate from 4.3% to 4.9% by 2024 (according to possibilities)
- Daily news in simple language in one ORF news programme
- Focus on Austrian Sign Language (e.g. children's programmes, election coverage)
- Increased use of new technologies

#### 5.2.1.2. France

In the agreement between Canal+ (private channel) and Arcom from December 2020,<sup>162</sup> Canal+ pledges to make its programming accessible to persons with disabilities in totality for Canal+, and at the levels of 50% for Canal+ Cinéma, 40% for Canal+ Sport and 20% for Canal+ Family, Canal+ Décalé and Canal+ Séries. Besides, the broadcaster will, annually,

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<sup>161</sup> ORF’s accessibility action plan, <https://der.orf.at/unternehmen/humanitarian/barrierefreiheit/aktionsplan-barrierefreiheit104.html>

<sup>162</sup> Agreement between Arcom and Canal+ (Article 3-1-4), signed on 27 July 2017, <https://www.csa.fr/content/download/16014/303674/version/20/file/Convention%20de%20Canal%20%20.pdf>

make available to persons with visual impairments, by means of appropriate devices, a minimum of 150 new audio-described programmes.

In the agreement between TF1 (private channel) and Arcom,<sup>163</sup> the broadcaster pledges to ensure total accessibility of its programmes to persons with disabilities, excluding live broadcasts. Besides, the broadcaster will, annually, make available to blind or partially sighted persons, by means of appropriate devices, a minimum of 100 audio-described programmes, of which at least 55 will be new.

As Arte is a Franco-German channel, it does not fall under the jurisdiction of the French or German authorities, but under the control of its members.<sup>164</sup> However Arte implements accessibility measures:<sup>165</sup>

- Audio description: between four and five prime-time programmes per week have audio descriptions (French or German).
- Subtitles for hearing-impaired people: Subtitles transcribing the soundtrack using a color code and subtitle positioning that enable the speakers and the noises accompanying the image to be identified.

## 5.2.2. Video-on-demand

Due to a shift from traditional linear services to on-demand content, online platforms have increased their accessibility measures to ensure access of their content to persons with disabilities (i.e. hearing and visual impairments).

Before we turn to pan-European video-on-demand services, it is worth noting that the cornerstone of the AVMSD provisions is the country-of-origin principle. According to this principle, audiovisual media service providers only need to abide by the laws of the member state where they are established. Video-on-demand services follow the same principle: they respect the laws of their country of establishment while their services are available also in other member states.

When it comes to pan-European video-on-demand services established in one member state, this means that they will abide by the accessibility rules of this member state only, without the need to abide by the accessibility rules of multiple member states, in which the video-on-demand service provides for its services.

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<sup>163</sup> Agreement between Arcom and TF1, amended in December 2019, <https://www.csa.fr/content/download/15980/303198/version/25/file/CONVENTION%20TF1%20CONSOLIDEE%20au%2018%2012%202019.pdf>.

<sup>164</sup> Arte, the Franco-German channel, <https://www.csa.fr/Mes-services/Foire-aux-questions/Proteger/Le-cas-des-chaines-Arte.-LCP-AN.-Public-Senat/Toutes-les-chaines-diffusees-en-France-sont-elles-controlees-par-le-CSA>.

<sup>165</sup> Arte's accessibility measures, <https://www.arte.tv/sites/corporate/en/accessibility/>.

### 5.2.2.1. Video-on-demand services with strong international presence

International and pan-European video-on-demand platforms, which are not always subject to accessibility obligations depending on the nature of their establishment in member states, provide users with accessibility features that are not as detailed as those outlined in action plans, to help people with disabilities when viewing content. Lists of these measures are available on video-on-demand services' websites such as those of Disney+, Netflix or Prime Video (Amazon).<sup>166</sup>

They include, for instance: assistive listening system (e.g. user can hear content using headphones, headsets, etc.), subtitles, captions, audio description, brightness controls, or font size controls.

The platforms offer website-related accessibility measures too, such as screen readers (text-to-speech software): assistance via narration of the on-screen elements during navigation of the platform.

### 5.2.2.2. Agreements between video-on-demand services established in France and Arcom

The French NRA has struck an agreement with video-on-demand services on the accessibility measures they must develop. Such agreements on accessibility rules with NRAs are not necessary in all member states. Two examples of these agreements will be described here. Arcom reached separate agreements with Orange VOD<sup>167</sup> and Canal VOD<sup>168</sup>. They both contain an Article 5 describing accessibility targets the video-on-demand services must implement. Both Articles 5 are the same and represented below:

Subtitling		Audio description	
<b>Annual net turnover between EUR 1 and EUR 10 million</b>	>1% for 2022 >2% from 2023 on	<b>Annual net turnover between EUR 1 and EUR 20 million</b>	<i>"The provider strives to make its programming accessible to people with visual disabilities"</i>

<sup>166</sup> Netflix accessibility measures: <https://help.netflix.com/en/node/116022>.

Prime Video accessibility measures:

[https://www.primevideo.com/help/ref=atv\\_hp\\_nd\\_nav?nodeId=GWJL4JZ3SAW4P8ME](https://www.primevideo.com/help/ref=atv_hp_nd_nav?nodeId=GWJL4JZ3SAW4P8ME).

Disney+ accessibility measures:

[https://help.disneyplus.com/csp?id=csp\\_article\\_content&sys\\_kb\\_id=2f3f6323dbe384d8c2deecb13961901](https://help.disneyplus.com/csp?id=csp_article_content&sys_kb_id=2f3f6323dbe384d8c2deecb13961901).

<sup>167</sup> Convention between Arcom and Orange VOD, signed on 27 July 2022, available at:

<https://www.arcom.fr/sites/default/files/2022-11/Convention%20entre%20l%27Arcom%20et%20le%20G.I.E%20Orange%20Portails%20concernant%20le%20service%20de%20m%C3%A9dias%20audiovisuels%20%C3%A0%20la%20demande%20LA%20VOD%20D%27ORANGE.pdf>.

<sup>168</sup> Convention between Arcom and CanalVOD, signed on 27 July 2022, available at:

<https://www.arcom.fr/sites/default/files/2022-11/Convention%20entre%20l%27Arcom%20et%20la%20soci%C3%A9t%C3%A9%20Groupe%20Canal%2B%20concernant%20le%20service%20de%20m%C3%A9dias%20audiovisuels%20%C3%A0%20la%20demande%20CANALVOD.pdf>.



<b>Annual net turnover between EUR 10 and EUR 20 million</b>	>2% for 2022 >5% from 2023 on	<b>Annual net turnover above EUR 20 million</b>	>1% for 2022 >2% from 2023 on
<b>Annual net turnover above EUR 20 million</b>	>5% for 2022 >10% from 2023 on		

The parties will meet during 2024 to assess new targets applicable as of 2025.

### 5.3. Other initiatives

This IRIS *Plus* publication provides an overview of the accessibility rules and measures enforced so that persons with disabilities may access audiovisual content. It is worth noting that international standards for web accessibility exist too.

The World Wide Web Consortium (W3C) develops open standards for the growth of the web. The Working Group on Accessibility Guidelines and the Web Accessibility Initiative develop technical documents, such as the Web Content Accessibility Guidelines international standard, aiming at making web content accessible to people with disabilities.<sup>169</sup>

While standards exist to make websites accessible to people with disabilities, there is no worldwide initiative developing standards regarding access to content as such. The sections below present some of the territorial initiatives that exist, which we believe to be relevant.

#### 5.3.1. LEAD-ME

In 2020, a coordinated research project obtained financing from the EU Horizon 2020 programme: “LEAD-ME”. The project groups researchers, engineers, scholars, businesses and policymakers to observe media accessibility, contribute to existing standards and propose new ones.<sup>170</sup> The network shares innovative technologies and solutions, best practices, and guidelines among the associated countries (Albania, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, France, Germany, Greece, Hungary, Ireland, Israel, Italy, Lithuania, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Serbia, Slovenia, Spain, Sweden, Switzerland, Turkey and the United Kingdom) and promotes them. The platform started its work in October 2020 and should end its work in October 2024.

<sup>169</sup> Web Accessibility Initiative, Standards guidelines, <https://www.w3.org/WAI/standards-guidelines/wcag/>.

<sup>170</sup> LEAD-ME website, <https://lead-me-cost.eu/>.

### 5.3.2. EBU expert group

The European Broadcasting Union (EBU) has a working group dealing with access issues,<sup>171</sup> which groups experts focused on activities covering subtitles, sign languages, audio description, etc. The group aims at discussing current practices and developing future ones (i.e. by stimulating and supporting the exchange of technologies, products, and services, and by achieving standardisation to develop common formats, guidelines, processes and legislation for authorities and stakeholders). The experts meet once per year during a plenary session.

### 5.3.3. EasyTV

From October 2017 to June 2020, the European Commission funded the project “EasyTV”, organised by a consortium of universities, engineering services and associations (Italy, Greece, and Spain).<sup>172</sup> It aimed at improving access to multimedia services for people with disabilities, with the possibility of adaptation to user preferences. Developers created a service development kit and, additionally, the “EasyTV Service Development Kit”. The first is an information language allowing for the creation of applications usable on certain software/hardware platforms. The second is a toolkit for the EasyTV platform itself.<sup>173</sup> The main features are the following:

- Integration of the EasyTV HbbTV Companion Screen application into a third party HbbTV terminal application
- Integration of an HbbTV Companion Screen application with HbbTV terminal applications that are compatible with the EasyTV SDK
- Accessibility features for HbbTV Companion Screen applications
- Command line tool that registers services to the Service Manager (which is described in deliverable 1.4)
- SDK for the internal and public Web API of the Service Manager.

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<sup>171</sup> EBU, access service experts, <https://www.ebu.ch/groups/access-services-experts>

<sup>172</sup> “Easing the access of Europeans with disabilities to converging media content” factsheet, <https://cordis.europa.eu/project/id/761999>.

<sup>173</sup> See <https://cordis.europa.eu/project/id/761999>.



Among the drivers towards a stronger commitment from audiovisual services, accessibility was mentioned as an important asset also in terms of reaching further audiences, thanks to subtitling in a variety of languages.

Some shortcomings were highlighted by the organisations representing people with disabilities:

- As became apparent during the COVID pandemic, more can be done for emergency communications.
- The AVMSD does not reflect the obligation to consult disability organisations and does not specify how much progress should be shown.
- National exemptions for live events are worrisome, considering their importance with regard to the right to be informed.

## 6.2. Artificial intelligence: The solution?

A commonly adduced reason for not doing enough in making media more accessible is the question of feasibility, both in technical and financial terms. But now, the much-heralded advent of artificial intelligence (AI) in virtually every aspect of our present and future lives may be the solution to this conundrum. Of course, AI's potential is awe-inspiring, and its practical applications are seemingly limitless. Obviously, as with any other technical development, it is not without its risks. AI has also a dark side, of course. If we think only about the media sector, AI can contribute to the proliferation of fake news, it raises issues such as users' right to information, media diversity and pluralism, data protection ...

Regarding accessibility issues in the media, the potential is immense. AI can remove accessibility barriers through different solutions:<sup>176</sup>

- Image recognition for people with a visual impairment
- Facial recognition for people with a visual impairment
- Lip-reading recognition for people with a hearing impairment
- Text summarisation for people with a mental impairment
- Real-time captioning or translations for people with a hearing impairment or even people who don't speak the language

However, the promise of AI bears the risk of leaving disadvantaged people behind even without this being intended. Just to give an example, the European Union of the Deaf (EUD) highlights that the increasing amount of speech-based technology and virtual assistance based on voice recognition excludes deaf users, and that therefore the development of new kinds of accessibility features that are visual or text-based should also be promoted. Moreover, new investments in research, design, development, production and distribution of sign-language recognition technologies, such as those involving avatars, are crucial. However, the EUD believes that the use of sign language interpreters continues to be crucial

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<sup>176</sup> <https://www.inclusivecitymaker.com/artificial-intelligence-accessibility-examples-technology-serves-people-disabilities/>.

in important broadcasts, such as live emergency communications or the news, to ensure that all elements of the information (such as sense of urgency, tone of voice, etc.) are properly transmitted and understood.<sup>177</sup>

Given AI's immense potential and underlying risks, in April 2021, the European Commission proposed a Regulation laying down harmonised rules on artificial intelligence aimed at addressing risks of specific uses of AI, categorising them into four different levels: unacceptable risk, high risk, limited risk, and minimal risk.<sup>178</sup> At the time of writing (April 2023), the proposal was still being discussed in the European Parliament.<sup>179</sup>

On 1 April 2023, a Resolution on the “EU Artificial intelligence Act for the inclusion of persons with disabilities” adopted by the Board of Directors of the European Disability Forum (EDF)<sup>180</sup> summarised the hopes and fears that AI raises among persons with disabilities. The Resolution recalls that AI can further support the social participation and inclusion of persons with disabilities if they are developed with a design-for-all approach and used in a way that respects the right to non-discrimination, equality and privacy. Persons with disabilities are at increased risk of becoming victims of fraud or misinformation through misuse of generative AI, and limitation of their self-determination, and therefore AI solutions that are not designed taking human diversity into consideration can increase the exclusion of and discrimination against already disadvantaged groups. A lack of accessibility in the design and use of AI can endanger the lives and well-being of persons with disabilities, and the effective use of these technologies requires the removal of accessibility barriers for persons with disabilities and investing in their digital skills.

### 6.3. Concluding remarks

Further to this publication, the European Audiovisual Observatory will produce a Note for the European Commission, to be published in early 2024. The Note will build on this publication's findings in order to provide an overview of the current situation in the EU member states with regard to the transposition of Article 7 AVMSD, accompanied by a comparative analysis and a selection of national case studies. This forthcoming building block will be an attempt to complete the picture on a transposition process where there is still room for improvement.

Next year the Observatory will also work on artificial intelligence, which will constitute another opportunity to look into the progress made in the field of accessibility

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<sup>177</sup> EUD Position Paper, “Accessibility of Information and Communication”, <https://www.eud.eu/wp-content/uploads/2022/03/EUD-Position-Paper-Accessibility-of-Information-and-Communication.pdf>.

<sup>178</sup> See press release of the European Commission, “Proposal for a Regulation laying down harmonised rules on artificial intelligence”, 21 April 2021, <https://digital-strategy.ec.europa.eu/en/library/proposal-regulation-laying-down-harmonised-rules-artificial-intelligence>.

<sup>179</sup> See [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2021/0106\(COD\)&l=en](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2021/0106(COD)&l=en).

<sup>180</sup> Resolution on the “EU Artificial intelligence Act for the inclusion of persons with disabilities” adopted by the Board of Directors of the European Disability Forum, 1 April 2023, <https://www.edf-feph.org/publications/resolution-on-the-eu-artificial-intelligence-act-for-the-inclusion-of-persons-with-disabilities/>.



measures. The potentials of generative AI include the production of tailored content for the specific needs of people with disabilities. But that's not all. A wide variety of users out there are waiting to be reached thanks to new technological features, such as those permitting viewing in noisy environments or multitasking while watching content. The wide array of AI-driven tools, even when targeting people with disabilities, is therefore a clear asset with regard to reaching wider audiences.

Stay tuned.





<b>BG</b>	Accessibility measures include sign language, deaf and hard of hearing subtitling, spoken subtitles, and audio description.
<b>CY</b>	<p>Accessibility measures include use of sign language, audio description and oral subtitling.</p> <p>Broadcasters must broadcast on at least half the television screen a special news bulletin adapted for the hearing-impaired between 6 p.m. and 10 p.m., lasting at least five minutes.</p> <p>There must be a gradual increase by at least 5% of the proportion of accessible programmes other than news bulletins.</p>
<b>CZ</b>	<p>Broadcasters shall make available programmes to persons with hearing or visual impairments for at least 30 days from the date of their broadcast.</p> <p>VOD services shall provide open or closed captioning or interpretation into Czech sign language for persons with hearing impairments, and audio description for persons with visual impairments, if available, or ensure that certain programmes provided as part of a VOD service are accessible to persons with hearing impairments and persons with visual impairments.</p>
<b>DE</b>	<p>Broadcasters and telemedia shall, in addition to their existing commitments, include accessible offerings within the limits of their technical and financial capabilities and extend the scope of these offerings in a continuous and progressive manner.</p> <p>Service providers shall ensure accessible access, design accessible choices and support accessible use, provided such obligations do not impose a disproportionate burden on them, or require a substantial modification of the service providing access to audiovisual media services which would lead to a fundamental change in its nature.</p>
<b>DK</b>	<p>Accessibility measures include sign language interpretation, subtitles for the deaf and hard of hearing, spoken subtitles and audio description.</p> <p>The Minister for Culture shall lay down provisions requiring programming services, by means of proportionate measures, to be constantly and gradually made more accessible to persons with disabilities.</p>
<b>EE</b>	<p>Accessibility measures can include subtitles, sign language translation, descriptive translation, separate audio channels, teletext and other additional services.</p> <p>The minister responsible for the policy sector shall establish by regulation more specific accessibility requirements, including a minimum quota of accessible programmes and requirements for the selection of subtitles and audio subtitles.</p>

<p><b>ES</b></p>	<p>Audiovisual media service providers shall progressively and continuously improve accessibility to their audiovisual media services.</p> <p>They shall, <i>inter alia</i>, guarantee progressive compliance with the quality requirements for subtitling and audio description in accordance with Spanish UNE quality regulations and ensure that content featuring sign language complies with the quality criteria set by the Centre for Linguistic Standardisation of Spanish Sign Language or by the equivalent bodies in the Autonomous Communities that have their own sign language.</p> <p>Quota of programmes to be subtitled: 80% for free TV, 90% for free public TV, 30% for pay TV and VOD.</p>
<p><b>FI</b></p>	<p>Accessibility measures include subtitles, signing, descriptions, audio service and spoken subtitles.</p> <p>No audio and subtitling for live music performances or sports events.</p> <p>Non-public broadcasters' costs in providing audio and subtitling service: max. 1% of revenue.</p> <p>A total of 75% of programmes in the public interest and programmes serving a wide range of audience shall contain audio and subtitling services (100% in the case of public service programming).</p> <p>A total of 30% of the programming for video-on-demand services shall contain audio and subtitling services.</p>
<p><b>FR</b></p>	<p>The agreements concluded between the audiovisual media service provider and Arcom shall cover the proportions of programmes which, by means of suitable devices and in particular at peak viewing times, are made accessible to the deaf or hard of hearing, taking particular care to ensure access to the diversity of the programmes broadcast.</p> <p>Broadcasters whose average annual audience exceeds 2.5% of the total audience of TV services must make all their programmes accessible, with the exception of commercials.</p> <p>Accessible programmes shall also be made accessible when they are offered by a catch-up television service.</p> <p>Video-on-demand services whose turnover is less than a specific amount set by decree shall only be subject to prior declaration.</p> <p>Recommendations related to the presentation of French sign language are provided in the Guide to Imaging French Sign Language published by Arcom with the support of the National Consultative Council for the Disabled.</p>
<p><b>GR</b></p>	<p>Accessibility measures include subtitling of programmes, sign language, audio description and verbal subtitling.</p>
<p><b>HR</b></p>	<p>Television broadcasters and video-on-demand service providers shall make their services continuously and progressively more accessible to children with developmental disabilities and persons with disabilities through proportionate measures.</p>



<b>HU</b>	<p>&gt; 1% audience: Accessibility measures must include sign language interpretation or Hungarian subtitles.</p> <p>Public service audiovisual media service providers with significant powers of influence (determined based on the annual audience share): between 6.30 p.m. and 9.30 p.m. , Hungarian-made cinematographic works are accessible to the visually impaired.</p>
<b>IE</b>	<p>Specific subtitling targets and timeframes have been identified for each broadcast service with respect to subtitling, Irish sign language and audio description.</p>
<b>IT</b>	<p>AGCOM has prepared a technical table aimed at defining the measures to ensure accessibility to audiovisual media services for users with disabilities.</p>
<b>LT</b>	<p>On a monthly transmission time basis, the public service broadcaster must adapt TV programmes for people with hearing and visual impairments:</p> <ul style="list-style-type: none"><li>- min. 50% for Lithuanian subtitled programmes</li><li>- min. 20% for Lithuanian sign language programmes</li><li>- min. 10% for programmes for visually impaired</li></ul>
<b>LU</b>	<p>The mission of the regulator (ALIA) is to encourage audiovisual media service providers to make their services continuously and progressively more accessible to persons with disabilities.</p>
<b>LV</b>	<p>Accessibility measures can include sign language interpretation, subtitling, audio description and production of content in sign language.</p> <p>Detailed guidelines have been developed to promote and increase accessibility.</p>
<b>MT</b>	<p>Media services provided by media service providers shall, without undue delay, by means of a progressive and continuous process, ensure that content is accessible to persons with disabilities by means of proportionate measures.</p>
<b>NL</b>	<p>The TV offering for public TV channels must be at least 95% subtitled for people with a hearing disability, and at least 50% subtitled for commercial channels with an audience of at least 75% of all households in the Netherlands.</p> <p>Advertising and teleshopping messages, including framing, and visual radio services as well as public service television programme services for Dutch speakers abroad are excluded.</p>



<b>PL</b>	<p>Broadcasters must ensure that at least 35% of quarterly broadcasting time - excluding advertising and teleshopping - includes programmes accessible to people with visual or hearing impairments in 2022 and 2023, rising to 50% from 2024.</p> <p>Providers of VOD services, other than specialised services and services with a small number of users, must ensure that 5% of their publicly available catalogues consist of programmes accessible to people with visual or hearing impairments in 2022, 10% in 2023, 20% as of 2024 and 30% as of 2026.</p>
<b>PT</b>	<p>Accessibility measures include the use of subtitling, Portuguese sign language interpretation, audio description and the provision of easily understandable navigation menus.</p> <p>Failure by any broadcaster or video-on-demand audiovisual service operator to comply with the obligations shall be punishable by a fine.</p>
<b>RO</b>	<p>Accessibility measures can include sign language, subtitling for the deaf and hard of hearing, spoken subtitles, and audio description.</p> <p>Broadcasters must ensure accessibility by providing interpretation in sign language and real-time subtitles for a scheduled period of at least 30 minutes a day for news and current affairs programmes, and for programmes of major importance in their full duration or as a summary.</p>
<b>SE</b>	<p>Accessibility measures include sign language, subtitles, spoken subtitles or similar technology. The promotion requirement may also be fulfilled by offering the technology of read-out text for programmes in other languages with Swedish translation text.</p> <p>The provider may decide which of the technologies to use, but at least some programmes shall be made available, using one of the technologies, during the first period. The number of programmes shall then increase in the second period.</p> <p>Commercials and other advertisements are not subject to accessibility requirements, as is the case for live sports broadcasts (matches and competitions) or rebroadcasts of sports if, for technical or practical reasons, they cannot be made available in an accessible manner.</p>
<b>SI</b>	<p>Accessibility measures can include sign language translation, subtitling for the deaf and hard of hearing, spoken subtitles and audio descriptions.</p>

<b>SK</b>	<p>PSM: all programmes are accompanied by subtitles for persons with hearing impairment or interpreted into or in Slovak sign language; and at least 50 % of all programmes broadcast are accompanied by voice commentary for the blind.</p> <p>Authorised broadcasters: 25 % of all programmes broadcast are subtitled for persons with hearing impairment or interpreted into or in Slovak sign language; and 10 % of all programmes broadcast are accompanied by voice commentary for the blind.</p>
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**Table 3. Overview of exceptions or limitations to copyright rules at national level and additional provisions<sup>182</sup>**

Countries	Exceptions or limitations to copyright rules apply for
AT, BE, BG, CY, CZ, DE, ES, EE, HR, HU, LT, LU, NL, PL, RO, SI, SK: Persons with disabilities	
LV, SE: Persons with any limitation of functional ability	
<b>FI</b>	Persons who, due to an injury or illness, are unable to use works in the ordinary way
<b>IE</b>	Persons with disabilities, with “disability” defined as “a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment”. <sup>183</sup>
<b>FR</b>	Persons with one or more impairments in the motor, physical, sensory, mental, cognitive or psychological functions and who, as a result of such impairments, are prevented from accessing the work in the form in which the author makes it publicly available; the definition includes also persons with cognitive impairments or learning disabilities
<b>GR</b>	Persons with hearing impairments
<b>IT</b>	People with sensory disabilities ascertained according to national rules on disabilities
Countries	Exceptions or limitations to copyright rules apply to
AT, BG, CY, ES, HR, HU, PL, RO: Works or published works	
<b>FR</b>	Any intellectual creation (literary, musical, cinematographic, audiovisual work, work of fine art, etc.) protected by copyright

<sup>182</sup> All information contained in the table is available in the report on the availability of certain copyright-protected works for persons with disabilities within the internal market, of 7 April 2022: <https://digital-strategy.ec.europa.eu/en/library/report-availability-copyright-protected-works-persons-disabilities>.

<sup>183</sup> <http://www.irishstatutebook.ie/eli/2005/act/14/section/2/enacted/en/html>.



<b>GR</b>	The works in the form of a book, magazine, or other kind of writing or notation, in any media, including in digital format and in audio form, such as audiobooks
<b>LT</b>	Any original result of creation activities in the literary, scientific or artistic domain, whatever may be its artistic value, the mode or form of its expression
<b>LU</b>	Works (excluding databases)
<b>MT</b>	Audiovisual, artistic and musical works and databases. Excludes computer programmes.
<b>NL</b>	Literary, scientific or artistic works.
<b>SE</b>	Literary works (which include descriptive works, such as maps and construction drawings), musical works and works of visual art which have been published.
<b>SK</b>	All types of works and performances, phonograms and audiovisual recordings.
<b>Countries</b>	<b>Definitions of permitted uses:</b>
BG, CY, HR, HU, PL: Refer to “uses” without additional precisions	
<b>DE</b>	Reproduction and distribution.
<b>EE</b>	Reproduce, distribute and communicate to the public a lawfully published work in the interest of disabled persons, covering for instance the making of audio description for films and theatre performances for visually impaired people.
<b>MT</b>	The rights of reproduction, translation, distribution and communication to the public.
<b>NL</b>	Reproduction and publication.
<b>Countries</b>	<b>More detailed provisions concerning the application of national exceptions</b>
<b>BE</b>	Reproduction and communication to the public of works, as well as for the reproduction of broadcasts (“emissions”) by certain institutions.
<b>CZ</b>	Reproduction of works or subject matter, as well as their distribution or communication; further, allows the reproduction of an audiovisual fixation of a published audiovisual work, where necessary to make the work accessible to persons with visual or hearing impairment; to accompany the accessibility requirements imposed on broadcasters, expressly stipulates that television broadcasting services that supplement a programme by audio description make it accessible to the persons with a visual impairment, and do not breach copyright and related rights. The national exception is however not applicable in relation to an author’s rights to computer programs or for the makers of databases.



<b>SK</b>	Supplementing the audiovisual works with verbal description of the visual elements, or the separate use of the sound element of an audiovisual work in order to provide audio description for persons with visual impairments.
<b>Countries</b>	<b>Specific conditions for certain uses</b>
<b>DE</b>	Reproduction (for non-commercial reasons) and distribution is permissible in as far as the access of persons with disabilities to the work in an already available format is impossible or made considerably more difficult due to the disability.
<b>FI</b>	The right to make copies in sign language (i.e. by recording sound or moving images) is reserved only to certain institutions (Finnish Association of the Deaf).
<b>FR</b>	The entities that want to be authorised to adapt the works for the benefit of persons with disabilities need to be registered on an official government list.
<b>IE</b>	Persons with disabilities or designated bodies need to use licensing schemes if these are in place.
<b>Countries</b>	<b>Compensation for authors</b>
AT, BE, DE, FI, NL, SE: Financial compensation for authors when the exception and limitation for persons with disabilities is used	
<b>BE</b>	Grants authors, performing artists and phonogram producers of audiovisual works the right to remuneration with regard to private copying, and a reimbursement scheme for blind and partially sighted persons, deaf and hearing-impaired persons as well as recognised institutions established for the benefit of these persons.
<b>DE</b>	The author is entitled to fair remuneration or compensation, for distribution and reproduction, which can be collected through collective societies. The making of individual copies is exempted from compensation.
<b>FI, SE</b>	Compensation may be due to authors when a copy is distributed or communicated to the persons on a permanent basis by an authorised institution.
BG, EE, GR, LV, RO: Compensation is excluded/prohibited	

**Table 4. Action plans (Article 7(3) AVMSD)**

Countries	Action plans
<b>AT</b>	Consultation with organisations representing people with disabilities on the user-friendliness of the accessibility measures. Action plans should include a concrete three-year timetable and an annual increase in the proportion of accessible broadcasting.
<b>BE (FR)</b>	AVMS providers should apply the rules on accessibility of programmes for people with sensory impairments established by the CSA Advisory Committee, and approved by the government.
<b>BE (VL)</b>	AVMS providers should apply the rules on accessibility of programmes for people with sensory impairments established by decree and report to the Flemish Media Regulator on compliance with the decree.
<b>BE (BRU)</b>	AVMS providers shall establish and submit their accessibility action plans to the media regulator, and later report on their implementation.
<b>BE (DE)</b>	AVMS providers implement accessibility measures developed by the media regulator and report on their implementation.
<b>BG</b>	AVMS providers shall establish and submit their accessibility action plans to the media regulator, and later report on their implementation.
<b>CY</b>	AVMS providers shall establish and submit their accessibility action plans to the media regulator.
<b>CZ</b>	Consultation with organisations representing people with disabilities on the user-friendliness of the accessibility measures. AVMS providers shall establish and submit their accessibility action plans annually, and later report on their implementation.
<b>DE</b>	AVMS providers shall establish and submit their accessibility action plans to their respective competent state media authority ( <i>Landesmedienanstalt</i> ), and later report on their implementation.
<b>DK</b>	AVMS providers shall establish and submit their accessibility action plans to the media regulatory authority, which shall approve the plans.
<b>EE</b>	AVMS providers shall establish and submit their accessibility action plans.
<b>ES</b>	AVMS providers shall establish and submit their accessibility action plans annually to the media regulator.
<b>FI</b>	AVMS providers shall establish and submit their accessibility action plans, and later report on their implementation.
<b>FR</b>	AVMS providers must specify in their agreement with ARCOM the proportion of programmes made accessible.
<b>GR</b>	AVMS providers shall establish and submit their accessibility action plans to the media regulator.
<b>HR</b>	AVMS providers shall establish their accessibility action plans.
<b>HU</b>	AVMS providers shall establish and submit their accessibility action plans if requested by the media regulator.



<b>IE</b>	AVMS providers should apply the rules and targets on accessibility of programmes for people with sensory impairments established by the BAI (access rules). The BAI may work in collaboration with stakeholders when developing the access rules. The future Media Commission will take over the mission.
<b>IT</b>	AVMS providers shall establish their accessibility action plans and report on their implementation to the media regulator.
<b>LT</b>	AVMS providers shall establish and submit their accessibility action plans to the media regulatory authority, which shall approve the plans. Later on, they shall report on the implementation.
<b>LU</b>	AVMS providers should develop action plans to make their services continuously and progressively more accessible. They shall report on their implementation.
<b>LV</b>	Cooperation with organisations representing people with disabilities on the user-friendliness of the accessibility measures. AVMS providers shall establish and submit their accessibility action plans to the media regulator.
<b>MT</b>	AVMS providers should submit an action plan detailing the measures adopted and update it every two years. The media regulator shall approve the plan or request changes.
<b>NL</b>	AVMS providers shall report on the implementation of accessibility measures.
<b>PL</b>	The Polish transposition of Article 7 provides for the obligation to achieve results, with specific quotas increasing over time. For the moment, there is no public information pertaining to the drafting process of action plans.
<b>PT</b>	AVMS providers should apply the rules on accessibility of programmes for people with sensory impairments established by the media regulator.
<b>RO</b>	AVMS providers shall develop action plans and notify the media regulator.
<b>SE</b>	New competence granted media NRA the power to lay down provisions on reporting, including an action plan. AVMS providers shall establish their accessibility action plans. Later on, they shall report on the implementation.
<b>SI</b>	AVMS providers shall establish and notify their accessibility action plans to the media regulatory authority. Later on, they shall report on the implementation.
<b>SK</b>	AVMS providers shall establish and submit their accessibility action plans to the media regulatory authority. Later on, they shall report on the implementation.

A publication  
of the European Audiovisual Observatory

