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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
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Subject:	Proposal for a Directive of the European Parliament and of the Council on the accessibility of public sector bodies' websites. - Political agreement

1. With a view to the adoption of a political agreement, delegations will find in Annex the text of the above proposal which was agreed in substance at the informal trilogue of 3 May 2016. It was subsequently endorsed by the Permanent Representatives Committee and by the Internal Market and Consumer Protection committee of the European Parliament, on 25 May and 24 May 2016 respectively.
2. A technical adjustment has been made to the compromise text, without however changing the substance. This technical modification consists of correcting the reference to the EU legal act referred to in recital 8.
3. Legal/linguistic revision will start after the confirmation of the political agreement by the Council.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the accessibility of the websites and mobile applications of public sector bodies

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 (1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The trend towards a digital society provides users with new ways of accessing information and services. The providers of information and services, such as public sector bodies, rely increasingly on the Internet in order to produce, collect and provide a wide range of information and services online, which are essential to the public.

¹ OJ C 110/26 ,9.5.2006 / (COM(2005) 425 final).

² OJ C 009, 11/01/2012 P. 0065 - 0070.

- (2) For the purposes of this Directive, accessibility refers to principles and techniques to be observed when designing, constructing, maintaining, and updating websites and mobile applications in order to render the content of these more accessible to users, in particular persons with disabilities. The content includes textual as well as non-textual information, documents and forms to be downloaded, as well as two-way interaction such as the processing of digital forms and the completion of authentication, identification and payment processes.
- (2a) Although this Directive does not apply to websites and mobile applications of Union institutions, those institutions are encouraged to comply with the accessibility requirements of this Directive.
- (3) The Commission's eGovernment Action Plan 2011-2015³ calls for action to develop eGovernment services that ensure inclusiveness and accessibility. This includes measures to reduce the gap in information and communication technology (ICT) usage and to promote the use of ICT to overcome exclusion, thus ensuring that all users are able to make the most of the opportunities presented. The Commission's eGovernment Action Plan 2016-2020 reiterates the importance of inclusiveness and accessibility.
- (4) In its Communication 'A Digital Agenda for Europe'⁴ the Commission announced that public sector websites should be fully accessible by 2015, as has been reflected in the Riga Ministerial Declaration of 11 June 2006.
- (4a) In its Digital Agenda for Europe, the Commission stresses that concerted actions are needed to make sure that new electronic content is fully available to persons with disabilities, in order to provide Europeans with a better quality of life through for instance easier access to public services and cultural content. . It also encouraged the facilitation of the memorandum of understanding on digital access for persons with disabilities.

³ COM(2010) 743 final – Not published in the Official Journal

⁴ COM(2010) 245 final/2

- (5) The Framework Programme for Research and Innovation⁵ supports research on and the development of technological solutions to accessibility problems.
- (6) By ratifying the United Nations Convention on the Rights of Persons with Disabilities ('the UN Convention'), the majority of the Member States and the Union, by its conclusion, have committed themselves to taking appropriate measures to ensure to persons with disabilities access, on equal basis with others, to inter alia information and communication technologies and systems and to develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public as well as to promote access for persons with disabilities to new information and communications technologies and systems, including the Internet, and to refrain from engaging in any act or practice that is inconsistent with that Convention and to ensure that public sector bodies act in conformity with it. The UN Convention also stipulates that the design of products, environments, programmes and services should enable their use by all people, to the greatest extent possible, without the need for adaptation or specialized design. Such "universal design" should not exclude assistive devices for particular groups of persons, where this is needed.

According to the UN Convention, persons with disabilities include those having long-term physical, mental, intellectual or sensory impairments which may, in conjunction with other barriers, hinder their full and effective participation in society on an equal basis with others.

- (7) The European Disability Strategy 2010-2020⁶ builds on the UN Convention and aims to break down barriers that prevent persons with disabilities from participating in society on an equal basis. It contains actions in several priority areas, including accessibility of information and communications technologies and systems, with the objective to "ensure accessibility to goods, services including public services and assistive devices for people with disabilities."

⁵ *OJ L 347, 20.12.2013, p. 104–173.*

⁶ COM(2010) 636 final - Not published in the Official Journal

- (8) Regulation (EU) No 1303/2013⁷ laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 contains provisions on accessibility including for ICT. It does not, however, address specificities of accessibility of websites or of mobile applications.
- (9) The fast growing market of making digital products and services more accessible comprises a range of economic operators such as those developing websites or software tools to create, manage and test web pages or mobile applications, developing user agents such as web browsers and related assistive technologies, implementing certification services and training providers.
- (10) Several Member States have adopted measures based on internationally-used guidelines for the design of accessible websites, but the guidance provided often refers to different versions or compliance levels of those guidelines, or technical variations at national level have been introduced.
- (11) Suppliers of accessible websites, mobile applications, and related software and technologies include a large number of small and medium-sized enterprises (SME). Suppliers and SME in particular are discouraged from entering business ventures outside their own domestic markets. Due to the differences in web accessibility specifications and regulations, their competitiveness and growth are hampered by the additional costs they would incur in the development and marketing of cross-border web accessibility related products and services.

⁷ OJ L 347, 20.12.2013, p. 320-469.

- (12) Buyers of websites and mobile applications and relating products and services are faced with high prices in service provision or dependence on a single supplier, due to limited competition. Suppliers often favour variations of proprietary 'standards', hindering later scope for interoperability of user agents, and Union-wide ubiquitous access to the content of websites and mobile applications. Fragmentation among national regulations reduces the benefits that could result from sharing experiences with national and international peers in responding to societal and technological developments.
- (13) The approximation of national measures at Union level, based on an agreement on accessibility requirements for public sector bodies' websites and their mobile applications, is necessary in order to put an end to fragmentation of the internal market. It would reduce uncertainty for developers and would foster interoperability. By using accessibility requirements which are technology neutral, innovation will not be hampered and may possibly even be stimulated.
- (13aa) The requirements of this Directive do not apply to the content exclusively on mobile devices or user agents for mobile devices which are developed for closed groups of users or for specific use within certain environments and which are not available to and used by large parts of the public. If the accessibility requirements of this Directive are not applicable, in accordance with Directive 2000/78/EC, the UN Convention, and other relevant legislation, the requirements of 'reasonable accommodation' still apply and should be provided where needed, especially in the workplace and education.
- (13ab) This Directive is without prejudice to Directive 2014/24/EU and in particular to Article 42 thereof, and Directive 2014/25/EU and in particular to article 60 thereof, which require that the technical specifications of all procurements which are intended for use by natural persons, whether general public or staff of a contracting authority, shall, except in duly justified cases, be drawn up so as to take into account accessibility criteria for persons with disabilities or design for all users.

- (13a) Given the lack of automatized or efficient and easy to implement means to make some types of published content accessible, and in order to limit the scope of the directive to content, websites, and mobile applications effectively under the control of public sector bodies, this Directive foresees the temporary or permanent exclusion of some types of content, websites, or mobile applications from the accessibility requirements. These exclusions should be reconsidered in the context of the review of this Directive, in light of future technological developments.
- (13ac) 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. However, this right may be better developed in the context of sector-specific legislation or legislation focusing on accessibility covering also private broadcasters in order to guarantee conditions of fair competition without prejudice to the public interest role discharged by the audiovisual media services. This Directive should consequently not apply to websites and mobile applications of public service broadcasters.
- (13b) Some non governmental organisations (NGOs), which are voluntary self-governing bodies established to pursue essentially non-profit making objectives, provide services that are not essential to the public, such as services that are not directly mandated by State, regional or local authorities, or services that do not specifically address the needs of persons with disabilities in particular, could fall under the scope of this Directive. In order to avoid imposing a disproportionate burden on such NGOs, this Directive should not apply to them.
- (13ba) Essential online administrative functions of schools, kindergartens or nurseries should be made accessible. When that essential content is provided in an accessible manner via another website, such content does not need to be made accessible again on the facility's website.

- (13c) Member States should be able to : extend the application of this Directive to other types of websites and mobile applications, in particular to intranet or extranet websites and mobile applications not covered by this Directive, designed for and used by a limited number of persons in the workplace or in education, and maintain or introduce measures in conformity with Union law which go beyond the minimum requirements for accessibility. Member States should also be encouraged to extend the application of this Directive to private entities that offer facilities and services which are open or provided to the public, including in the healthcare, childcare, social inclusion and social security areas, as well as in the transport sector and the electricity, gas, heat, water, electronic communication and postal services, with particular attention to those services set out in Articles 8 to 13 of Directive 2014/25/EU.
- (13d) Nothing in this Directive is intended to restrict the freedom of press or the freedom of expression in the media as they are guaranteed in the Union and in the Member States, in particular under Article 11 of the Charter.
- (13e) This Directive does not require Member States to make accessible archived websites or mobile applications if their content is no longer updated or edited and if it is not needed for the fulfilment of administrative processes or if the service in question is no longer provided. (...) For the purposes of this Directive, purely technical maintenance should not be considered to be an update or an edit of a website or mobile application.
- (13f) Some accessibility requirements for websites or mobile applications should still be respected in regard to the metadata linked to the reproduction of the heritage collections item.
- (13h) Office file formats refer to documents that are not intended primarily for use on the web and that are included in web pages, such as Adobe Portable Document Format (PDF), Microsoft Office documents or their (open source) equivalents.

- (13ha) Live time-based media that are kept online or republished after the live broadcast have to be considered as pre-recorded time-based media without undue delay from the date of the initial broadcast or republishing of the time-based media, not exceeding the time strictly necessary to make time-based media accessible with priority given to essential information relating to health, welfare and safety of the public. That necessary period of time would in principle be no longer than 14 days. In justified cases, such as when it is impossible to procure the relevant services in due time, this period might exceptionally be extended to the shortest time necessary to make the content accessible.
- (13i) This Directive, while encouraging public sector bodies to make all content accessible, is not intended to limit the content which public sector bodies place on their websites or in their mobile applications to accessible content alone. Whenever non accessible content is added, public sector bodies should, to the extent that it is reasonably possible, add accessible alternatives on their websites or in their mobile applications.
- (13j) When maps are intended for navigational use, as distinguished from geographical description, accessible information can be needed to help citizens that cannot use visual information or complex navigation functionalities properly, for instance to locate premises or areas where services are provided. An alternative should therefore be provided such as postal addresses and nearby public transport stops, or the names of places or regions which are often already available for the public sector body in a simple and readable form for most users.

- (13k) Embedded content, such as embedded image or video, should be covered by this Directive. However, sometimes, websites and mobile applications are created on which additional content will be later added, for example an email program, a blog, an article that allows users to add comments, or applications supporting user-contributed content. Another example would be a page, such as a portal or news site, composed of content aggregated from multiple contributors, or sites that automatically insert content from other sources over time, such as when advertisements are inserted dynamically. Such third party content, provided that it is neither funded nor developed by the public sector body nor under its control, is excluded from the scope of this Directive. Such content should, in principle, not be used, if it hinders or decreases the functionality of the public service offered on these websites or mobile applications. Content of public sector bodies' websites or mobile applications, whose purpose is to hold consultation or to organize forum discussion cannot be considered as third party content and should therefore be accessible except for user-contributed content not under the control of the public sector body.
- (14) A harmonised approach should also allow Union public sector bodies and enterprises to gain economic and social benefits from extending the provision of online or mobile services to include more citizens and customers. This should increase the potential of the internal market for products and services relating to accessibility of websites and mobile applications. The resulting market growth should allow undertakings to contribute to economic growth and jobs creation within the Union. Strengthening the internal market should make investment in the Union more attractive. Governments should benefit from cheaper provision of accessibility-related products and services.
- (15) Citizens should benefit from wider access to public sector services through websites and mobile applications and should receive services and information which will facilitate their daily lives and the enjoyment of their rights across the Union, notably their right to move and reside freely within the territory of the Union and their freedom of establishment and to provide services.

- (16) The accessibility requirements defined in this Directive are written to be technology neutral. They describe what must be achieved for the user to perceive, operate, interpret and understand a website, a mobile application, and relating content. They do not specify what technology should be selected for a particular website, online information or application. As such they do not hamper innovation.
- (16a) The 4 principles of accessibility are: perceivability, meaning that information and user interface components must be presentable to users in ways they can perceive; operability, meaning that user interface components and navigation must be operable; understandability, meaning that information and the operation of user interface must be understandable; and robustness, meaning that content must be robust enough that it can be interpreted reliably by a wide variety of user agents, including assistive technologies. These principles of accessibility are translated into testable success criteria such as those forming the basis of the European Standard EN 301 549⁸ v1.1.2 (2015-04) via harmonised standards and a common methodology to test the conformance of content on websites and mobile applications to these principles. Until the references of harmonised standards, or of parts thereof, are published, the relevant clauses of EN 301 549 v1.1.2 (2015-04) should be considered as the minimum means to put these principles into practice.

⁸ The European standard is a result of mandate M/376 issued by the Commission to the European Standardisation Organisations.

- (16b) Public sector bodies should apply the accessibility requirements set out in this Directive to the extent that they do not impose a disproportionate burden on them. This means that in justified cases, it might not be reasonably possible for a public sector body to make specific content fully accessible. That body, however, should still make this content as accessible as possible and make other content fully accessible. Exceptions to meeting the accessibility requirements due to disproportionate burden should not go beyond what is strictly necessary to limit that burden with respect to the particular content concerned in the individual case. Measures that would impose a disproportionate burden refer to measures that would put an excessive organisational or financial burden on a body, or would jeopardise the body's capacity to either perform its purpose, or publish information needed for or relevant to its tasks and services, while taking into account the likely benefit or detriment likely to occur for citizens, especially for persons with disabilities. Only legitimate reasons should be taken into account when assessing to which extent the requirements cannot be met on the basis that they would impose a disproportionate burden. Lack of priority, time or knowledge should not be legitimate reasons. Likewise, there are not supposed to be any legitimate reasons for not procuring or developing software systems to manage content on websites and mobile applications in an accessible manner, since sufficient and advisory techniques to make those systems accessible are available to meet the requirements.
- (17) Interoperability relating to accessibility should maximize the compatibility of the content with current and future user agents and assistive technologies. More specifically, content of websites and mobile applications should provide user agents with a common internal coding of natural language, structures, relations, and sequences, as well as data of any embedded user-interface components. Interoperability thus benefits the users, allowing them to employ their user agents ubiquitously to access websites and mobile applications: they might also benefit from greater choice and reduced prices across the Union. Interoperability would also benefit the suppliers and buyers of products and services relating to accessibility of websites and mobile applications.

- (17a) Mobile Applications are available from a variety of sources, including private application stores. Information, regarding the accessibility of the mobile applications of public sector bodies downloaded from third party sources, should be provided alongside the description of the mobile application users are presented with prior to download the app. This clause does not require major platform providers to change their application distribution mechanisms - but instead places the requirement on the public sector body to make the statement available using existing or future technologies.
- (18) As underlined in the Digital Agenda for Europe, public authorities should play their part in promoting markets for online content. Governments can stimulate content markets by making public sector information available under transparent, effective and non-discriminatory conditions. This is an important source of potential growth of innovative online services.
- (18aa) Member States should take accompanying measures to raise awareness and to promote training programmes, relating to the accessibility of websites and mobile applications, for relevant stakeholders, including in particular staff responsible for accessibility of websites or mobile applications. Relevant social partners should be consulted or involved in preparing the content of the accessibility-related training and awareness raising schemes.
- (18b) It is of importance that Member States, in close cooperation with the Commission, promote the use of authoring tools, that allow better implementation of the accessibility requirements set out in this Directive. That promotion could take passive forms, such as publishing a list of compatible authoring tools without a requirement to use those tools, or that promotion could take active forms, such as the requirement to use compatible authoring tools or to fund their development.

- (18c) In order to ensure the proper implementation of this Directive, and in particular the implementation of conformity to accessibility requirements, it is of the utmost importance for the Commission and the Member States to consult with relevant stakeholders on a regular basis. Relevant stakeholders within the meaning of this Directive should be understood as, inter alia, organisations representing the interests of persons with disabilities and of the elderly, social partners, industry involved in the creation of accessibility software relating to websites and mobile applications and civil society.
- (19) The Directive should aim at ensuring that the websites and mobile applications of public sector bodies are made more accessible according to common requirements.
- (20) This Directive lays down accessibility requirements for the websites and mobile applications of public sector bodies. In order to facilitate the conformity of websites and mobile applications concerned with those requirements it is necessary to provide presumption of conformity for the websites concerned that meet harmonised standards that are drawn up and published in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council on European Standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Decision 87/95/EEC and Decision No 1673/2006/EC, for the purpose of expressing detailed technical specifications for those requirements. Pursuant to this Regulation, Member States and the European Parliament shall be able to object to the harmonised standards which they consider that do not entirely satisfy the accessibility requirements laid down in this Directive.
- (21) The European Standardisation Organisations adopted European standard EN 301 549 ‘Accessibility requirements suitable for public procurement of ICT products and services in Europe’, specifying the functional accessibility requirements for ICT products and services, including web content, which could be used in public procurement or to support other policies and legislation.

The presumption of conformity with the accessibility requirements laid down in this Directive should be built upon clause 9, 10 and 11 of the European standards EN 301 549 V1.1.2 (2015-04) . In particular, technical specifications adopted on the basis of this Directive should further detail European standards EN 301 549 V1.1.2 (2015-04) in relation to mobile applications.

- (21aa) The technical specifications and the standards developed in relation to the accessibility requirements set out in this Directive should moreover take into account the specificities of mobile devices, conceptually and technically.
- (24) The conformity with the accessibility requirements set out in this Directive should be regularly monitored. A harmonised monitoring methodology would cover a way of verifying, on a uniform basis in all Members States, the degree of compliance with the accessibility requirements, the collection of representative samples and the periodicity of the monitoring. Member States should report periodically on the outcome of the monitoring and at least once on the list of actions taken in application of this Directive.
- (24aa) In order not to hinder innovation on how to measure the accessibility of websites and mobile applications, and as long as it does not hinder the comparability of data across the EU, Member States may use, based on the methodology established by the Commission, more advanced monitoring technologies . To improve comparability the methodology developed by the Commission should describe in which way the outcome of different tests need to be or can be presented.
- (24ab) The monitoring methodology shall be transparent, transferable, comparable and reproducible. The reproducibility of the monitoring methodology should be maximized while taking into account the fact that human factors, such as testing by users, might have an influence on that reproducibility.

- (24ad) The statement on the compliance of websites and mobile applications should include, where appropriate, the alternatives provided for. By using the feedback mechanism, which is linked to the enforcement procedure, it should be possible for users of public sector bodies websites or mobile applications to ask for the needed information, including services and products to be delivered in an adequate and appropriate manner within a reasonable period of time by the public sector body. Such requests could also concern content that is excluded from the scope of this directive or otherwise exempted from compliance with the accessibility requirements set out in this directive, such as office file formats, pre-recorded time-based media, or content of archived websites. On the basis of a legitimate and reasonable request, information would need to be provided in an adequate and appropriate manner by the public sector body within a reasonable period of time.
- (24ae) In order to avoid systematic recourse to court the right to have recourse to an adequate and effective procedure to ensure compliance with this Directive should be provided. This is without prejudice to the right to an effective remedy as set out in Article 47 of the Charter of Fundamental Rights. That procedure should be understood to include the right to submit complaints to any existing national authority competent to adjudicate upon these complaints.
- (25) In a harmonised framework, the design and development industry for websites and mobile applications should face fewer barriers to operate in the internal market, while costs for governments and others procuring products and services relating to the accessibility of websites and mobile applications should be reduced.

- (26) In order to ensure the proper application of the presumption of conformity with the accessibility requirements, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the amendment of references to European standard EN 301 549 V1.1.2 (2015-04). It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (26a) In order not to divert resources from the tasks of making content more accessible, the monitoring methodology should be easy to use.
- (27) In order to ensure uniform conditions for the implementation of the relevant provisions of this Directive, implementing powers should be conferred to the Commission. The examination procedure should be used in order to establish technical specifications for the accessibility requirements, to define the methodology that Member States should use for monitoring the conformity of the websites and mobile applications concerned with those requirements, , and to establish the arrangements for reporting by Member States to the Commission on the outcome of the monitoring. The advisory procedure should be used for the adoption of the implementing acts establishing a model statement on accessibility, which does not have any impact on the nature and scope of the obligations stemming from this Directive, but serves to facilitate the application of the rules which it lays down. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers.

(28) Since the objective of this Directive, namely, the establishment of a harmonised market for the accessibility of the websites and mobile applications of public sector bodies, cannot be sufficiently achieved by the Member States, because it requires the harmonisation of different rules currently existing in their respective legal systems and can, therefore, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter and scope

1. In order to improve the functioning of the internal market, this Directive aims at approximating the laws, regulations and administrative provisions of the Member States related to the accessibility requirements of public sector bodies' websites and their mobile applications, thereby enabling those websites and mobile applications to be more accessible to users, in particular to persons with disabilities.
2. This Directive lays down the rules according to which Member States shall ensure that websites, independently of the device used for access, and mobile applications of public sector bodies meet the accessibility requirements as set out in Article 3.
7. The following websites and mobile applications are excluded from the scope of this Directive :
 - a. Websites and mobile applications of public service broadcasters and their subsidiaries, and of other bodies or their subsidiaries for the fulfilment of a public service broadcasting remit;

- b. Websites and mobile applications of Non-governmental organisations (NGOs) that do not provide services that are essential to the public, or services specifically addressing the needs of, or meant for, persons with disabilities;

7a Member States may exclude from the application of this Directive websites and mobile applications of schools, kindergartens, or nurseries except for the content relating to essential online administrative functions ;

8. The following content of websites and mobile applications is excluded from the scope of this Directive:

- a. Office file formats published before the date defined in Article 10 paragraph 1, unless they are needed for the active administrative processes of the tasks performed by the public sector body.
- b. Pre-recorded time-based media published before the date defined in Article 10.2.ii;
- c. Live time-based media;
- d. Online maps and mapping services, as long as essential information is provided in an accessible digital manner for maps intended for navigational use.
- e. Reproductions of heritage collections items that can not be made fully accessible because of either:
 - the incompatibility of accessibility requirements with either the preservation of the item or the authenticity of the reproduction (e.g. contrast); or
 - the unavailability of automated and cost-friendly solutions that would easily extract the text of manuscripts or other heritage collection items into content compatible with the accessibility requirements.

- f. Third party content that is neither funded nor developed by, nor under the control of, the public sector body.
- g. Content of extranets and intranets, which are websites that are only available for a closed group of people and not to the general public as such, published before the date defined in Article 10.2.i until such websites undergo a substantial revision.
- h. Content of the websites and mobile applications qualifying as archives, meaning that these websites only contain content that is neither needed for active administrative processes, nor updated or edited after the date defined in Article 10 paragraph 2.i.

Article 1a

Minimum harmonisation

Member States may maintain or introduce measures in conformity with Union law which go beyond the minimum requirements for web accessibility of websites and mobile applications established by this Directive.

Article 2

Definitions

For the purposes of this Directive, the following definitions shall apply:

- (4) ‘Standard’ means a technical specification, adopted by a recognised standardisation body, for repeated or continuous application, with which compliance is not compulsory as defined in Article 2(1) of Regulation (EU) No 1025/2012.

- (6) 'European standard' means a standard adopted by a European standardisation organisation as defined in Article 2(1)(b) of Regulation (EU) No 1025/2012;
- (7) 'Harmonised standard' means a European standard adopted on the basis of a request made by the Commission for the application of Union harmonisation legislation as defined in Article 2(1)(c) of Regulation (EU) No 1025/2012.
- (8) 'Public sector body' means the State, regional or local authorities, bodies governed by public law as defined in Article 2(1) subparagraph 4 of Directive 2014/24/EU, or associations formed by one or several such authorities or one or several such bodies governed by public law, if those associations are established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character.
- (9) Time-based media means media of the following types: audio-only, video-only, audio-video, audio and/or video combined with interaction.
- (10) Heritage collections items means privately or publicly owned goods presenting a historical, artistic, archaeological, aesthetical, scientific or technical interest and that are part of collections preserved by cultural institutions such as libraries, archives and museums.
- (11) 'Measurement data' is the quantified results of the monitoring activity carried out in order to verify the compliance of public sector bodies' websites and of their mobile applications with the accessibility requirements set out in Article 3. Measurement data covers both quantitative information about the sample of websites and mobile applications tested (number of websites and applications with potentially their number of visitors or users,...) and quantitative information about the level of accessibility.
- (12) Mobile applications, for the purpose of this Directive, refer to application software designed and developed, by or on behalf of public sector bodies, for use, by the general public, on mobile devices, such as smartphones and tablets. They do not include software that controls these devices or computer hardware themselves (mobile operating systems).

Article 3

Requirements for the accessibility of websites and mobile applications

1. Member States shall ensure that public sector bodies take the necessary measures to make their websites and mobile applications more accessible by making them perceivable, operable, understandable and robust.

Article 3a

Disproportionate Burden

1. Member States shall ensure that public sector bodies apply the accessibility requirements referred to in Article 3 to the extent that they do not impose a disproportionate burden on the public sector bodies for the purposes of that Article.
2. In order to assess the extent to which compliance with the accessibility requirements referred to in Article 3 imposes a disproportionate burden, Member States shall ensure that the public sector bodies concerned take account of relevant circumstances, including the following:
 - a. the size, resources and nature of the public sector body concerned;
 - b. the estimated costs and benefits for the public sector body concerned in relation to the estimated benefits for persons with disabilities, taking into account the frequency and duration of use of the specific website or mobile application.
3. Without prejudice to paragraph 1, the initial assessment of the extent to which compliance with accessibility requirements referred to in Article 3 imposes a disproportionate burden shall be performed by the public sector bodies concerned.

4. Where a public sector body has used the exception provided for in paragraphs 1, 2 and 3 for a specific website or mobile application it shall explain, in the statement referred to in Article 6, the parts of the requirements that could not be complied with and, where appropriate, the alternatives.

Article 4

Presumption of conformity with the accessibility requirements for websites and mobile applications

1. Content of websites and mobile applications that meets harmonised standards or parts thereof the references of which have been published by the Commission in the Official Journal of the European Union, in accordance with Regulation (EU) No 1025/2012, shall be presumed to be in conformity with the accessibility requirements covered by those standards or parts thereof, set out in Article 3.
2. Where no references of the harmonised standards referred to in paragraph 1 have been published, content of mobile applications which is in conformity with technical specifications or parts thereof shall be presumed to be in conformity with the accessibility requirements set out in Article 3, covered by those technical specifications or parts thereof.

The Commission shall adopt implementing acts establishing the technical specifications referred to in subparagraph 1. Those technical specifications shall meet the accessibility requirements set out in Article 3 and shall ensure at least an equivalent level of accessibility to that ensured by European Standard EN 301 549 V1.1.2 (2015-04).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 9(3) of this Directive. The first of those implementing acts shall be adopted, where no references of the harmonised standards referred to in paragraph 1 have been published, within 24 months following the entry into force of this Directive.

3. Where no references of the harmonised standard referred to in paragraph 1 have been published, and in the absence of the technical specifications referred to in paragraph 2, content of websites and mobile applications that fulfils the relevant requirements or parts thereof of European standard EN 301 549 V1.1.2 (2015-04) shall be presumed to be in conformity with the accessibility requirements covered by those relevant requirements or parts thereof, set out in Article 3.
4. The Commission is empowered to adopt delegated acts in accordance with Article 8 in order to amend the references in paragraph 3 to European standard EN 301 549 V1.1.2 (2015-04) so as to make reference to a more recent version of that standard, or to a European standard replacing it, where that version or standard meets the accessibility requirements set out in Article 3 and ensures at least an equivalent level of accessibility to that ensured by European Standard EN 301 549 V1.1.2 (2015-04).

Article 6

Additional measures

1. Member States shall ensure that public sector bodies provide and regularly update a detailed, comprehensive and clear statement on the compliance of their websites and mobile applications with this Directive.

For websites, the statement shall be provided in an accessible format, using the model statement referred to in paragraph 1a, and shall be published on the relevant website.

For mobile applications, the statement shall be provided in an accessible format, using the model statement referred to in paragraph 1a, and shall be available on the website of the public sector body that developed the mobile application, or alongside other information available when downloading the application.

This statement shall include :

- a) an explanation on the parts of the content that are not accessible, and the reasons for that inaccessibility and where appropriate, the alternatives; and
- b) a description of and a link to a feedback mechanism to enable any person to notify the public sector body concerned of any failures of the website or mobile application to comply with the requirements set out in Article 3 and to request the information excluded pursuant to articles 1 (8) and 3a, as well as a link to the enforcement procedure as set out in Article 7a, to which recourse may be made in the event of an unsatisfactory response to the feedback.

Member States shall ensure that public sector bodies give an adequate response to the notification or request within a reasonable period of time.

- 1a. The Commission shall adopt implementing acts establishing a model statement on accessibility . Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 9(2). By two years after entry into force of this Directive, the Commission shall adopt the first implementing act.
- 2. Member States shall take measures to facilitate the application of the accessibility requirements set out in Article 3 to other types of websites or mobile applications than those referred to in Article 1(2), in particular, to websites or mobile applications covered by existing national laws on accessibility.
- 2a. Member States shall promote and facilitate training programmes, relating to the accessibility of websites and mobile applications, for relevant stakeholders, including staff of public sector bodies, to create, manage and update accessible content of websites and mobile applications.

- 2b. Member States shall take the necessary measures to raise awareness of the accessibility requirements set out in Article 3, their benefits to users and to owners of websites and mobile applications, and of the possibility to give feedback in cases of failures to comply with the requirements of this Directive, as set out in this Article.
3. For the purpose of the monitoring and reporting referred to in article 7, the Commission shall facilitate cooperation at Union level between Member States, and between them and relevant stakeholders, in order to exchange best practices and to review the monitoring methodology referred to in Article 7(4), the market and technological developments and progress in accessibility for websites and mobile applications.

Article 7

Monitoring and reporting

1. Member States shall periodically monitor the compliance of public sector bodies' websites and mobile applications with the accessibility requirements set out in Article 3 on the basis of the monitoring methodology provided for in paragraph 4.
2. By 36 months after the establishment of the monitoring methodology defined in paragraph 4, and every three years thereafter, Member States shall report to the Commission on the outcome of the monitoring including the measurement data. That report shall be drawn upon the basis of the arrangements for reporting referred to in paragraph 3a. The report shall also cover information on the use of the enforcement procedure set out in Article 7a.

3. In addition, the first report shall also cover the following measures adopted pursuant to Article 6:

- a. a description of mechanisms set up by Member States for consulting with relevant stakeholders on accessibility of websites and mobile applications,
- b. procedures to make public any developments in accessibility policy relating to websites and mobile applications, and
- c. experiences and findings from the implementation of conformity with the accessibility requirements set out in Article 3; and
- d. information on training and awareness raising activities.

Where there have been significant changes made to the measures referred to in paragraph 3, Member States shall include in their subsequent reports information concerning these updated measures.

4. The content of all the reports, which shall not necessarily include the list of websites, mobile applications or entities examined, shall be made public in an accessible format. , The Commission shall adopt implementing acts establishing the arrangements for reporting by Member States to the Commission . Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 9(3). By two years after the date of entry into force of this Directive, the Commission shall adopt the first implementing act.

5. The Commission shall adopt implementing acts establishing a methodology for the monitoring of the conformity of websites and mobile applications with the requirements for accessibility as set out in Article 3. That methodology shall be transparent, transferable, comparable, reproducible, and easy to use. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 9(3). By two years after the date of entry into force of this Directive, the Commission shall adopt the first implementing act.
6. The methodology referred to in paragraph 4 may take into account expert analysis and shall include:
- (a) the periodicity of the monitoring and the sampling of the websites and mobile applications that shall be subject to monitoring; and
 - (b) at website level, the sampling of webpages, and of the content on those pages; and
 - (baa) at mobile application level, the content to be tested, taking into account the moment of the initial release of the application and of subsequent functionality updates; and
 - (ba) the description of how compliance or non-compliance with the accessibility requirements set out in Article 3 is to be sufficiently demonstrated, directly referencing, when appropriate, the relevant descriptions in the harmonised standard or, in its absence, in the technical specifications referred to in Article 4(2), or in the European standard referred to in Article 4(3); and
 - (c) in the event of deficiencies being identified, a mechanism to provide data and information on the compliance with the requirements set out in Article 3 in a format which can be used by public sector bodies to correct the deficiencies; and

(d) appropriate arrangements, including where necessary examples and guidance, for automatic, manual and usability tests, in combination with the sampling settings, in a way which is compatible with the periodicity of the monitoring and reporting.

7. By date set out in Article 10(1), Member States shall inform the Commission of who will perform the monitoring and reporting.

Article 7a

Enforcement procedure

1. Member States shall ensure the availability of an adequate and effective enforcement procedure, to ensure compliance with this Directive, in relation to the requirements set out in Articles 3, 3a and 6(1). In particular Member States shall ensure that an enforcement procedure, such as the possibility to contact an ombudsman, is in place to ensure an effective handling of feedback received as foreseen in Article 6(1)b and to review the assessment referred to in Article 3a.
2. By date set out in Article 10(1), Member States shall inform the Commission of who will be responsible for the enforcement of this Directive.

Article 8

Exercise of the delegation

1. The power to adopt the delegated acts shall be conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt the delegated acts referred to in Article 4(4) shall be conferred on the Commission for an indeterminate period of time from *OJ: please insert: six months from the date of entry into force of this Directive
3. The delegation of power referred to in Article 4(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following that of the publication of the decision in the Official Journal of the European Union or on a later date, specified therein. It shall not affect the validity of any delegated acts already in force.
- 3a. Before the adoption of a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 4(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 9
Committee

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 10
Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 21 months after the date set out in Article 12 the latest. They shall forthwith communicate to the Commission the text of those provisions. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.
2. Member States shall apply those provisions as follows:
 - i. to public sector bodies' websites not published before the [insert date: transposition date set out in Article 10(1)] : from [insert date: 12 months after that date],

- ii. to all public sector bodies' websites not covered by point (i): from [insert date: 24 months after the transposition date set out in Article 10(1)].
- iii. to mobile applications of public sector bodies: from insert date: 33 months after the transposition date set out in Article 10(1)

Article 11

Review

The Commission shall carry out a review of the application of this Directive within 66 months from its entry into force. This review shall take into account the Member States' reports on the outcome of the monitoring set out in Article 7 and the use of the enforcement procedure set out in Article 7a, It shall also include a review of technological advances that could make accessibility easier for some types of content excluded from the scope of this Directive. The findings of that review shall be made public in an accessible format.

Article 12

Entry into force

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 13

Addressees

This Directive is addressed to the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament

For the Council

The President

The President
