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NOTE

From: Presidency

To: Delegations

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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.

- Examination of Presidency text

With the view to the meeting of the Working Party on Telecommunications and Information Society (WP TELE) of 28 October, delegations will find in Annex a new version of the above proposal.

This new version is based on:

- the latest text circulated to delegations on 15 April as document 7888/15,
- the progress report of the Latvian Presidency¹, and
- the comments made by delegations.

¹ Doc. 8977/15

Amendments by the European Parliament have been removed as well as text of the original proposal that was deleted in previous Working Party meetings. However the Presidency plans to provide the delegations with a new 4-column document for November Working Party meetings.

The major changes proposed by the Presidency as compared to doc. 7888/15 are detailed below. All changes are marked in bold or strikethrough in the Annex.

Throughout the text, the Presidency replaced "web-accessibility" by "web accessibility" to be grammatically correct and consistent.

Article 1

Paragraph 1

Based on delegations' comments, and on the Web Content Accessibility Guidelines (WCAG) 2.0, the text "to be accessible to all users" has been replaced by "to be more accessible to users"².

The Presidency has also added the notion of websites **available to the public at large**, in order to make it clear that we focus on internet websites rather than intranet / extranet sites.

Paragraph 2

This paragraph was amended to:

- take into account the access through different types of devices, including mobile devices.
- integrate the notion of proportionality that had been raised by delegations.

² www.w3.org/TR/2008/REC-WCAG20-20081211/

Paragraph 3

No changes have been made, but the consistency of this paragraph will need to be reassessed after discussions on paragraph 4.

Paragraph 4

This new paragraph has been added to take into account the suggestions of content exclusions discussed in the past meetings. Delegations are invited to state clearly whether they agree with these exclusions, on the basis of the definitions provided in Article 2.

In coherence with the change proposed for Paragraph 1, the Presidency has excluded websites or webpages only available to a closed group of people and not to the general public as such (extranets, intranets).

The proposal, supported by many delegations, to exclude Audio-Video content has been taken into account through the notion of time-based media, which is the terminology used in the WCAG 2.0³.

The suggestion of a few Member States to exclude Digital collections in the area of culture was not retained by the Presidency for the following reasons:

- Most collections already should have available descriptions/metadata that could be reused to make these collections accessible.
- Because of the difficulty to find an unambiguous and precise definition, the Presidency believes that the exclusion preferred by some Member States could be covered through the amendment proposed to paragraph 2 and the restrictive definition of "public sector bodies" in article 2.

³ www.w3.org/TR/WCAG20/#media-equiv

Delegations that would prefer this notion to be excluded explicitly are invited to contribute with a written definition of "Digital collections in the area of culture", and to give further explanation why they consider this exclusion necessary or helpful.

New Article 1a

In order to help Member States agree on the scope, a new Article 1a on **minimum harmonisation** has been drafted. This would make it possible for Member States to include websites, contents, or even apps currently excluded from this directive.

Article 2

Paragraphs (4) and (5)

As presented in the progress report of the Latvian Presidency, the definition of "Public sector bodies" has been limited to "State, regional and local authorities".

This will avoid the risk of having definitions that could include websites such as those of NGOs which receive significant state funding, or those of public broadcasters.

Paragraph (6) offers a definition for time-based media adopting the terminology of the WCAG 2.0.

Article 3

The Presidency is proposing a simpler text to improve readability and to enhance the coherence with the terminology used in the WCAG 2.0⁴. Indeed the Presidency thinks the 4 principles of accessibility cover all notions previously included in Article 3. For example, the principle of robustness would cover former paragraph 1(b).

The Presidency is of the opinion that a definition is not needed for these principles, but is open for comments. If needed, the following definitions of the 4 principles could be included in the main text or in a recital:

- a) Perceivability: Information and user interface components must be presentable to users in ways they can perceive.*
- b) Operability: User interface components and navigation must be operable.*
- c) Understandability: Information and the operation of user interface must be understandable.*
- d) Robustness: Content must be robust enough that it can be interpreted reliably by a wide variety of user agents, including assistive technologies.*

Article 4

To make it simpler, articles 4 and 5 have been merged into article 4 which has been renamed "Presumption of conformity with the web accessibility requirements"

⁴ www.w3.org/TR/UNDERSTANDING-WCAG20/intro.html

Articles 6, 7 & 10

The Presidency does not intend to discuss these articles during the WP on 28 October, but invites delegations to send their written comments.

Among others, monitoring, reporting and transposition requirements are certainly issues to be dealt with. But as there are interdependencies between articles 1 to 3 and these topics, the Presidency considers it best to first tackle the fundamental issues of articles 1 to 3.

Proposal for a
DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on the accessibility of public sector bodies' websites

(Text with EEA relevance)

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 requirements for ~~web accessibility~~ of public sector bodies' websites **available to the public at large**, thereby enabling those websites to be **more** accessible to ~~all~~ users, in particular to people with disabilities.
2. It lays down the rules according to which Member States shall ensure that websites of public sector bodies meet, **independently of the device used for access**, the requirements of web accessibility, **while not imposing a disproportionate or undue burden on those bodies**.
3. This Directive is without prejudice to 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).
4. **The following are excluded from the scope of this Directive:**
 - a. **Websites or webpages only available for a closed group of people and not to the general public as such (extranets, intranets);**
 - b. **Time-based media;**
 - c. **Office file formats not intended primarily or mainly for use on the web (PDF, DOC, RTF, XLS, PPT, etc.) published before the date defined in Article 10 paragraph 1;**
 - d. **Websites that are no longer updated or edited after the date defined in Article 10 paragraph 1;**
 - e. **Third party content incorporated in public sector bodies' websites;**
 - f. **Online mapping services.**

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 established by this Directive.

Article 2

Definitions

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

- (1) ‘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.
- (2) ‘European standard’ means a standard adopted by a European standardisation organisation as defined in Article 2(1)(b) of Regulation (EU) No 1025/2012.
- (3) ‘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.
- (4) ‘Public sector body’ means the State, regional or local authorities, ~~bodies governed by public law and associations formed by one or several such authorities or one or several such bodies governed by public law.~~
- (5) ~~‘Body governed by public law’ means a body defined in point (4) of Article 2(1) of Directive 2014/24/EU.~~
- (6) **Time-based media means (live or pre-recorded) media of the following types: audio-only, video-only, audio-video, audio and/or video combined with interaction.**

Article 3

Requirements for web accessibility

1. Member States shall take the necessary measures to ensure that public sector bodies' websites ~~are constructed to~~ **comply with all of the 4 accepted principles of accessibility: perceivability, operability, understandability, robustness.:**
 - (a) ~~allow, in a consistent and adequate way, for users' perception, operation, and understanding, including adaptability of content presentation and readability interaction, and, when necessary, providing accessible usable equivalent alternatives for inaccessible content on websites;~~
 - (b) ~~facilitate interoperability with a variety of user agents and assistive technologies at Union and international level.~~

Article 4

Presumption of conformity with ~~harmonised standards~~ **the web accessibility requirements**

1. Websites that meet harmonised standards or parts thereof the references of which have been drawn up and 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 web accessibility requirements, set out in Article 3.

Article 5

~~Presumption of conformity with European standards~~

- ~~1.~~ **2.** As long as the references of the harmonised standards referred to in Article 4 have not been published, websites that meet Chapter 9 of European standards EN 301 549⁵ shall be presumed to be in conformity with the web accessibility requirements, set out in Article 3.

⁵ EN 301 549: "Accessibility requirements suitable for public procurement of ICT products and services in Europe".

Article 6

Additional measures

1. Member States shall promote that public sector bodies' websites provide a detailed, comprehensive and clear statement on their web accessibility in general including an accessible explanation on parts of the content that are not accessible, the reasons for this inaccessibility and the usable equivalent alternatives provided for inaccessible content.
4. ~~2~~ The Commission shall facilitate cooperation at Union level between Member States, and between them and industry and civil society stakeholders in order to exchange best practices and to review, for the purpose of the monitoring referred to in Article 7(1) and the monitoring methodology referred to in Article 7(4), market and technological developments and progress in web accessibility.

Article 7

Monitoring and reporting

1. Member States shall periodically monitor the compliance of public sector bodies' websites with the requirements for web accessibility, taking into account the methodology provided for in paragraph 4.
2. For the purposes of the review referred to in Article 11, Member States shall report to the Commission on the outcome of the monitoring including the measurement data. The report shall be made by 54 months after the date ~~set~~ in Article 12.
3. This report shall also cover the actions conducted pursuant to Article 6.
4. By two years after the entry into force of this Directive, taking into account the results of the cooperation between the Member States referred to in Article 6(4), the Commission shall adopt guidelines on the methodology for the monitoring of the conformity of websites with the requirements for web accessibility as set out in Article 3.
5. The methodology referred to in paragraph 4 shall include:
 - (a) the periodicity of the monitoring and the sampling of the websites ~~concerned~~ that shall be subject to monitoring;

- (b) at website level, the description of how compliance with the requirements for web accessibility referred to in Article 3 is to be demonstrated, directly referencing the relevant descriptions in the harmonised standard, or in their absence in the European standards referred to in Articles 4 and 5 respectively, 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.

Article 10

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [*insert date: 24 months after the date set out in Article 12*] at 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.
 - 1a. 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)*],

Article 11

Review

The Commission shall carry out a review of the application of this Directive within five years from its entry into force.

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

The President

For the Council

The President
