



Brussels, 5 November 2018  
(OR. en)

13811/18

LIMITE

SOC 665  
MI 787  
ANTIDISCRIM 27  
AUDIO 90  
CODEC 1870

---

---

**Interinstitutional File:  
2015/0278(COD)**

---

---

#### **NOTE**

From:	Presidency
To:	Permanent Representatives Committee
No. prev. doc.:	13432/18
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services - Preparation for the trilogue

#### **I. INTRODUCTION**

Following the Coreper discussion on 31 October, the Presidency needs further guidance from Coreper for the negotiations on the remaining political issues. The seventh trilogue will take place on 8 November.

#### **II. ISSUES TO BE CLARIFIED ON THE NEGOTIATING MANDATE**

In order to have a clear mandate for the trilogue, the Presidency suggests the following clarifications to its compromise suggestions:

##### **(A) Other Union acts and in particular public procurement**

The Presidency has suggested stating in the text that the accessibility requirements applicable to the products and services referred to in Article 1 are mandatory accessibility requirements within the meaning of Article 42(1) of Directive 2014/24/EU and Article 60(1) of Directive 2014/25/EU.

In addition, the Presidency has suggested including in the text that complying with the accessibility requirements of the EAA regarding features, elements or functions of products or services leads to the fulfilment of the relevant obligations set out in other Union acts regarding accessibility for those features, elements or functions.

To complete the above Presidency suggestions, which were broadly welcomed by Coreper on 31 October, the Presidency has drawn up the new Section for Annex I of the EAA, which gives guidance for identifying the relevant accessibility requirements to be used for other Union acts. The new Section for Annex I is set out in the Annex to this Note.

Moreover, the Presidency suggests including paragraphs in Article 25 on enforcement and Article 26 on penalties, stating that these Articles shall not apply to contracts which are subject to Directives 2014/24/EU or 2014/25/EU.

## **(B) Emergency communications**

The EP insisted that the emergency communications at least to the European emergency number 112 should be answered and handled in an accessible manner.<sup>1</sup> Based on the technical discussions the Presidency suggested that emergency calls should be answered in an accessible manner. This was acceptable to the majority of delegations in Coreper on 31 October.

In addition, DE - supported by a number of delegations - suggested adding a recital on the role of the third party relay service providers. As no text on the recital was available on 31 October, it was decided to return to this issue at the Coreper meeting on 7 November. Ensuring consistency with the European Electronic Communications Code (EECC) is of utmost importance.

---

<sup>1</sup> NB. As regards the accessibility of emergency communications, the following elements should be clearly distinguished:

- accessibility features in *consumer equipment* (e.g. in smart phones) which are included in the EAA;
- accessibility of *emergency communications* which are provided by the electronic communication service operators and which are already included in the EAA;
- accessibility requirements related to *answering of emergency calls and in particular calls to the single European emergency number 112*.

The Presidency provides, in the Annex to this Note, a completed text suggestion including a new recital as proposed by DE.

**(C) Passenger transport, in particular the extension of the scope to cover urban and intermodal transport**

Following the Coreper meeting on 31 October, the Presidency wishes to confirm the following aspects of its revised mandate with regard to passenger transport for the next trilogue:

- there is no mandate to include intermodal transport services in the EAA;
- concerning the urban transport, only the self-service terminals used for this transport service can be included in the EAA.

**III. CONCLUSION**

The Committee of Permanent Representatives is invited

- to examine the proposed compromises; and
  - to agree on an updated Presidency negotiation mandate for these points for the trilogue on 8 November.
-

## **ANNEX to the NOTE**

**Text suggestions for points A and B that the Presidency will present to the European Parliament:**

### **A. Other Union acts**

#### **Article 21**

##### **Accessibility under other Union acts**

1. As regards the products and services referred to in Article 1, the accessibility requirements laid down in Annex I shall constitute mandatory accessibility requirements within the meaning of Article 42(1) of Directive 2014/24/EU and Article 60(1) of Directive 2014/25/EU.
2. Any product or service, whose features, elements or functions comply with the accessibility requirements laid down in Annex I of this Directive in accordance with new Section VI of Annex I shall be presumed to fulfil the relevant obligations set out in Union acts other than this Directive, as regards accessibility, for those features, elements and functions unless otherwise provided therein.

## **Section VI of Annex I: Accessibility requirements for features, elements and functions of products and services in accordance with Article 21(2)**

The presumption to fulfil the relevant obligations set out in other Union acts requires the following:

### **1. Products**

- a) The accessibility of the information concerning the functioning and accessibility features related to products complies with the corresponding elements in Annex I Section I paragraph 1 of this Directive, namely information on the use of the product provided on the product itself and the products instructions for use, not provided in the product itself but made available through the use of the product or other means such as a website.
- b) The accessibility of features, elements and functions of the user interface and the functionality design of products complies with the corresponding accessibility requirements of such user interface or functionality design set out in Annex I Section I paragraph 2 of this Directive.
- c) The accessibility of the packaging, including the information provided in it and instructions of products for the installation and maintenance, storage and disposal of the product not provided in the product itself but made available through other means such as a website, except for Self Service terminals complies with the corresponding accessibility requirements set out in Annex I Section II of this Directive.

### **2. Services**

The accessibility of the features, elements and functions of services complies with the corresponding accessibility requirements for those features, elements and functions set out in Annex I Section III of this Directive.

In addition, clarifying recitals on Article 21 should be introduced, in particular to explain that

- the EAA should apply to procurement procedures that are published after the application date of this Directive;
- the EAA does not change the compulsory or voluntary nature of the provisions related to accessibility in other Union acts;

- as regards Article 21(2), the EAA does not prevent contracting authorities from establishing accessibility requirements going beyond the accessibility requirements laid down in Annex I.

## **B. Emergency communications**

The complete Presidency suggestion on this point is as follows<sup>2</sup>:

**Recital (new):** Those measures related to the accessibility of the answering of emergency communications should be adopted without prejudice to, and should have no impact on, the organisation of emergency services themselves, which remains in the exclusive competence of Member States.

**Recital (new):** It is recalled that, in accordance with the European Electronic Communications Code (EECC), Member States should ensure that access for end-users with disabilities to emergency services is available through emergency communications and equivalent to that enjoyed by other end-users in accordance with Union law harmonising accessibility requirements for products and services. The Commission and the national regulatory and/or other competent authorities should take appropriate measures to ensure that end-users with disabilities can access emergency services on an equivalent basis with others, whilst travelling in another Member States, where feasible, without any pre-registration. These measures should seek to ensure interoperability across Member States and should be based to the greatest extent possible on European standards or specifications published in accordance with the provisions of Article 39 (EECC), and they should not prevent Member States from adopting additional requirements in order to pursue the objectives set out in the EECC. It is therefore understood that Member States could, for example, determine a third party relay service provider which could be used by persons with disabilities to communicate with the public safety answering point.

---

<sup>2</sup> Further aligned with the wording of the EECC.

## **Article 1**

### **Scope<sup>3</sup>**

**(2a)(new)** This Directive applies to answering of emergency communications, including communications to the single European emergency number 112.

## **Article 3**

### **Accessibility requirements**

**(xx)(new)** Member States shall ensure that answering of emergency communications including communications to the single European emergency number 112, by the most appropriate PSAP, shall comply with the specific accessibility requirements set out in Section V of Annex I in the manner best suited to the national organisation of emergency systems.

### **New paragraph 3 in Article 27a(new)**

### **Transitional period**

By derogation from Article 27(2), Member States may decide to apply the measures regarding the obligations set out in Article 3(xx)(new) at the latest from [2 years after the date set out in Article 27(2)].

---

<sup>3</sup> Definitions based on EECC.

**ANNEX I, SECTION V: SPECIFIC ACCESSIBILITY REQUIREMENTS RELATED TO THE ANSWERING OF EMERGENCY COMMUNICATIONS, INCLUDING TO THE SINGLE EUROPEAN EMERGENCY NUMBER 112, BY THE MOST APPROPRIATE PSAP:**

The answering of emergency communications including to the single European Emergency number 112 by the most appropriate PSAP, shall, in order to maximise their foreseeable use by persons with disabilities, be achieved by-including functions, practices, policies and procedures and alterations targeted to address the needs of persons with disabilities:

Emergency communications, including to the single European Emergency number 112, shall be appropriately answered, in the manner best suited to the national organisation of emergency systems, at the most appropriate PSAP using the same communication means as received, namely by using synchronised voice and text (including real time text), or, where video is provided, voice, text (including real time text) and video synchronised as total conversation.<sup>4</sup>

---

---

<sup>4</sup> The ending has been revised slightly to improve the drafting.