

Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies (Text with EEA relevance)

Article 1

Subject matter and scope

1 In order to improve the functioning of the internal market, this Directive aims to approximate the laws, regulations and administrative provisions of the Member States relating to the accessibility requirements of the websites and mobile applications of public sector bodies, 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 requiring Member States to ensure that websites, independently of the device used for access thereto, and mobile applications of public sector bodies meet the accessibility requirements set out in Article 4.

3 This Directive does not apply to the following websites and mobile applications:

- a websites and mobile applications of public service broadcasters and their subsidiaries, and of other bodies or their subsidiaries fulfilling a public service broadcasting remit;
- b websites and mobile applications of NGOs that do not provide services that are essential to the public, or services that specifically address the needs of, or are meant for, persons with disabilities.

4 This Directive does not apply to the following content of websites and mobile applications:

- a office file formats published before 23 September 2018, unless such content is needed for active administrative processes relating to the tasks performed by the public sector body concerned;
- b pre-recorded time-based media published before 23 September 2020;
- 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 third-party content that is neither funded nor developed by, nor under the control of, the public sector body concerned;
- f reproductions of items in heritage collections that cannot be made fully accessible because of either:
 - (i) the incompatibility of accessibility requirements with either the preservation of the item concerned or the authenticity of the reproduction (e.g. contrast); or
 - (ii) the unavailability of automated and cost-efficient solutions that would easily extract the text of manuscripts or other items in heritage collections and transform it into content compatible with the accessibility requirements;
- g content of extranets and intranets, that is to say, websites that are only available for a closed group of people and not to the general public as such, published before 23 September 2019, until such websites undergo a substantial revision;
- h content of websites and mobile applications qualifying as archives, meaning that they only contain content that is neither needed for active administrative processes nor updated or edited after 23 September 2019.

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

Article 2

Minimum harmonisation

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

Article 3

Definitions

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

- (1) ‘public sector body’ means the State, regional or local authorities, bodies governed by public law, as defined in point (4) of Article 2(1) of Directive 2014/24/EU, or associations formed by one or more such authorities or one or more 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;
- (2) ‘mobile application’ means 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. It does not include the software that controls those devices (mobile operating systems) or hardware;
- (3) ‘standard’ means a standard as defined in point (1) of Article 2 of Regulation (EU) No 1025/2012;
- (4) ‘European standard’ means a European standard as defined in point (1)(b) of Article 2 of Regulation (EU) No 1025/2012;
- (5) ‘harmonised standard’ means a harmonised standard as defined in point (1)(c) of Article 2 of Regulation (EU) No 1025/2012;
- (6) ‘time-based media’ means media of the following types: audio-only, video-only, audio-video, audio and/or video combined with interaction;
- (7) ‘items in heritage collections’ means privately or publicly owned goods presenting an historical, artistic, archaeological, aesthetic, scientific or technical interest and that are part of collections preserved by cultural institutions such as libraries, archives and museums;
- (8) ‘measurement data’ means the quantified results of the monitoring activity carried out in order to verify the compliance of the websites and mobile applications of public sector bodies with the accessibility requirements set out in Article 4. It covers both quantitative information about the sample of websites and mobile applications tested (number of websites and applications with, potentially, the number of visitors or users, etc.) and quantitative information about the level of accessibility.

Article 4

Requirements for the accessibility of websites and mobile applications

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 5

Disproportionate burden

1 Member States shall ensure that public sector bodies apply the accessibility requirements set out in Article 4 to the extent that those requirements 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 set out in Article 4 imposes a disproportionate burden, Member States shall ensure that the public sector body concerned takes account of relevant circumstances, including the following:

- a the size, resources and nature of the public sector body concerned; and
- 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 of this Article, the public sector body concerned shall perform the initial assessment of the extent to which compliance with the accessibility requirements set out in Article 4 imposes a disproportionate burden.

4 Where a public sector body avails itself of the derogation provided for in paragraph 1 of this Article for a specific website or mobile application after conducting an assessment as referred to in paragraph 2 of this Article, it shall explain, in the accessibility statement referred to in Article 7, the parts of the accessibility requirements that could not be complied with and shall, where appropriate, provide accessible alternatives.

Article 6

Presumption of conformity with the accessibility requirements

1 Content of websites and mobile applications that meets harmonised standards or parts thereof the references to 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 set out in Article 4 that are covered by those standards or by parts thereof.

2 Where no references to the harmonised standards referred to in paragraph 1 of this Article have been published, content of mobile applications that meets the technical specifications or parts thereof shall be presumed to be in conformity with the accessibility requirements set out in Article 4 that are covered by those technical specifications or by parts thereof.

The Commission shall adopt implementing acts establishing the technical specifications referred to in the first subparagraph of this paragraph. Those technical specifications

shall meet the accessibility requirements set out in Article 4 and shall ensure at least a level of accessibility equivalent to that ensured by European standard EN 301 549 V1.1.2 (2015-04).

The implementing acts referred to in the second subparagraph of this paragraph shall be adopted in accordance with the examination procedure referred to in Article 11(3). The first such implementing act shall be adopted, where no references to the harmonised standards referred to in paragraph 1 of this Article have been published, by 23 December 2018.

3 Where no references to the harmonised standards referred to in paragraph 1 of this Article have been published, content of websites that fulfils the relevant requirements of European standard EN 301 549 V1.1.2 (2015-04) or parts thereof shall be presumed to be in conformity with the accessibility requirements set out in Article 4 that are covered by those relevant requirements or by parts thereof.

Where no references to the harmonised standards referred to in paragraph 1 of this Article have been published, and in the absence of the technical specifications referred to in paragraph 2 of this Article, content of mobile applications that fulfils the relevant requirements of European standard EN 301 549 V1.1.2 (2015-04) or parts thereof shall be presumed to be in conformity with the accessibility requirements set out in Article 4 that are covered by those relevant requirements or by parts thereof.

4 The Commission is empowered to adopt delegated acts in accordance with Article 10 in order to amend paragraph 3 of this Article by updating the reference 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 4 and ensures at least a level of accessibility equivalent to that ensured by European standard EN 301 549 V1.1.2 (2015-04).

Article 7

Additional measures

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

For websites, the accessibility statement shall be provided in an accessible format, using the model accessibility statement referred to in paragraph 2, and shall be published on the relevant website.

For mobile applications, the accessibility statement shall be provided in an accessible format, using the model accessibility statement referred to in paragraph 2, and shall be available on the website of the public sector body that developed the mobile application concerned, or alongside other information available when downloading the application.

The statement shall include the following:

- a an explanation concerning those parts of the content that are not accessible, and the reasons for that inaccessibility and, where appropriate, the accessible alternatives provided for;
- b a description of, and a link to, a feedback mechanism enabling any person to notify the public sector body concerned of any failure of its website or mobile application

- to comply with the accessibility requirements set out in Article 4 and to request the information excluded pursuant to Article 1(4) and Article 5; and
- c a link to the enforcement procedure set out in Article 9 to which recourse may be had in the event of an unsatisfactory response to the notification or the request.

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

2 The Commission shall adopt implementing acts establishing a model accessibility statement. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 11(2). By 23 December 2018, the Commission shall adopt the first such implementing act.

3 Member States shall take measures to facilitate the application of the accessibility requirements set out in Article 4 to other types of websites or mobile applications apart from those referred to in Article 1(2) and, in particular, to websites or mobile applications covered by existing national laws on accessibility.

4 Member States shall promote and facilitate training programmes, relating to the accessibility of websites and mobile applications for relevant stakeholders and staff of public sector bodies, designed to train them how to create, manage and update the accessible content of websites and mobile applications.

5 Member States shall take the necessary measures to raise awareness of the accessibility requirements set out in Article 4, of their benefits to users and to owners of websites and mobile applications, and of the possibility of giving feedback in the case of any failure to comply with the requirements of this Directive, as set out in this Article.

6 For the purposes of the monitoring and reporting referred to in Article 8, the Commission shall facilitate cooperation at Union level between Member States, and between Member States and relevant stakeholders, with a view to the exchange of best practices between them and to reviewing the monitoring methodology referred to in Article 8(2), market and technological developments and progress in accessibility for websites and mobile applications.

Article 8

Monitoring and reporting

1 Member States shall periodically monitor the compliance of websites and mobile applications of public sector bodies with the accessibility requirements set out in Article 4 on the basis of the monitoring methodology provided for in paragraph 2 of this Article.

2 The Commission shall adopt implementing acts establishing a methodology for monitoring the conformity of websites and mobile applications with the accessibility requirements set out in Article 4. 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 11(3). By 23 December 2018, the Commission shall adopt the first such implementing act.

3 The monitoring methodology referred to in paragraph 2 may take into account expert analysis and shall include:

- a the periodicity of the monitoring, as well as the sampling of the websites and mobile applications that are to be subject to monitoring;
- b at website level, the sampling of web pages and of the content on those pages;

- c 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;
- d a description of the way in which compliance or non-compliance with the accessibility requirements set out in Article 4 is to be sufficiently demonstrated, directly referencing, when appropriate, the relevant descriptions in the harmonised standard or, in the absence thereof, in the technical specifications referred to in Article 6(2), or in the European standard referred to in Article 6(3);
- e in the event of deficiencies being identified, a mechanism to provide data and information on compliance with the accessibility requirements set out in Article 4 in a format which can be used by public sector bodies to correct those deficiencies; and
- f 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.

4 By 23 December 2021, and every three years thereafter, Member States shall submit to the Commission a report on the outcome of the monitoring including the measurement data. That report shall be drawn up on the basis of the arrangements for reporting referred to in paragraph 6 of this Article. The report shall also cover information on the use of the enforcement procedure set out in Article 9.

5 In relation to the measures adopted pursuant to Article 7, the first report shall also cover the following:

- a a description of the mechanisms set up by Member States for consulting with relevant stakeholders on the accessibility of websites and mobile applications;
- b procedures to make public any developments in accessibility policy relating to websites and mobile applications;
- c experiences and findings from the implementation of the rules on conformity with the accessibility requirements set out in Article 4; and
- d information on training and awareness-raising activities.

Where significant changes have been made in relation to the elements referred to in the first subparagraph, Member States shall include in their subsequent reports information concerning those changes.

6 The content of all the reports, which need not list the websites, mobile applications or public sector bodies 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 11(3). By 23 December 2018, the Commission shall adopt the first such implementing act.

7 By 23 September 2018, Member States shall inform the Commission of the body designated to perform the monitoring and reporting functions.

Article 9

Enforcement procedure

1 Member States shall ensure the availability of an adequate and effective enforcement procedure to guarantee compliance with this Directive, in relation to the requirements set out in Articles 4 and 5 and Article 7(1). In particular, Member States shall ensure that an enforcement procedure, such as the possibility of contacting an ombudsman, is in place to guarantee an

effective handling of notifications or requests received as provided for in point (b) of Article 7(1) and to review the assessment referred to in Article 5.

2 By 23 September 2018, Member States shall inform the Commission of the body responsible for the enforcement of this Directive.

Article 10

Exercise of the delegation

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Article 6(4) shall be conferred on the Commission for an indeterminate period of time from 23 June 2017.

3 The delegation of power referred to in Article 6(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 the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6 A delegated act adopted pursuant to Article 6(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 11

Committee procedure

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 12

Transposition

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 23 September 2018. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2 Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

3 Member States shall apply those measures as follows:

- a to websites of public sector bodies not published before 23 September 2018: from 23 September 2019;
- b to websites of public sector bodies not covered by point (a): from 23 September 2020;
- c to mobile applications of public sector bodies: from 23 June 2021.

Article 13

Review

The Commission shall carry out a review of the application of this Directive by 23 June 2022. That review shall take into account the Member States' reports on the outcome of the monitoring provided for in Article 8 and the use of the enforcement procedure provided for in Article 9. 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 14

Entry into force

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

Article 15

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 26 October 2016.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

I. LESAY