Infringement proceedings concerning the transposition of the directive on the use of copyrighted printed material for blind and visually impaired people

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On 26 November 2018, the EU Commission initiated proceedings for infringement of the Treaty on the Functioning of the European Union against 17 member states for non-compliance with the Directive requiring the transposition into national law of the Marrakesh Treaty (Directive (EU) 2017/1564) (see IRIS 2017-9/4 and IRIS 2016-9/4).

The Marrakesh Treaty is a WIPO-administered convention that was signed on 27 June 2013 and entered into force on 30 September 2016, after the first 20 ratifications. The Treaty facilitates access to print works in formats adapted for persons who are blind, visually impaired or otherwise print disabled, through the creation of copyright limitations and exceptions to allow the creation of copies of protected works accessible to such persons, where such limitations and exceptions are not otherwise provided for.

As a member of both WIPO and the WTO, the European Union has authority to sign and ratify treaties on behalf of its member states and to then require their implementation into national law via EU instruments such as directives or regulations. On 30 April 2014, the European Union signed the Marrakesh Treaty, which is the first international treaty in the field of copyright that the European Union became part of on the basis of its exclusive external competence. The European Union ratified the Marrakesh Treaty on 1 October 2018, during an extraordinary session of the WIPO General Assembly.

At European level, on 13 September 2017, the European Union adopted the Directive 2017/1564 to be applied among EU member states, and the Regulation (EU) 2017/1563 (see IRIS 2017-9/4 and IRIS 2016-9/4), to regulate the application of the Treaty between EU member states and non-EU-countries; both amend the existing legislative framework in the Union by providing a mandatory exception to the harmonised rights which they will affect under the Marrakesh Treaty articles. The deadline for member states to transpose the Directive into national law ended on 11 October 2018. The Regulation entered into application on 12 October 2018.

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Not all member states complied by this deadline, whereby the EU Commission introduced infringement procedures against them for non-compliance. The list of the non-compliant countries is as follows: Belgium, Cyprus, the Czech Republic, Estonia, Germany, Greece, Finland, France, Italy, Latvia, Lithuania, Luxembourg, Poland, Portugal, Romania, Slovenia and the United Kingdom.

For the time being, the Commission has not published details regarding the claimed non-compliance by the countries listed, which may concern the failure to introduce the exceptions in full, but also the scope of such exceptions where implemented.

European Commission Infringement procedure database

http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&typeOfSearch=true&active_only=0&noncom=0&r_dossier=&decision_date_from=01%2F09%2F2018&decision_date_to=24%2F11%2F201

European Commission press release, The European Union joins the Marrakesh Treaty, 1 October 2018

https://ec.europa.eu/digital-single-market/en/news/european-union-joins-marrakesh-treaty

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