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PROPOSAL

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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

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

Encl.: COM(2012) 721 final



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Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the accessibility of public sector bodies' websites

(Text with EEA relevance)

{SWD(2012) 401 final}

{SWD(2012) 402 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

This explanatory memorandum presents in further detail the proposal for a new Directive aiming at the approximation of the laws, regulations and administrative provisions of the Member States on the accessibility of websites from public sector bodies.

The Directive supports Member States to achieve their national commitments regarding web-accessibility as well as their commitment to the United Nations Convention on the Rights of Persons with Disabilities regarding websites of public sector bodies.

Web-accessibility refers to principles and techniques to be observed when constructing websites, in order to render the content of these websites accessible to all users, in particular those with disabilities¹.

1.1. Objectives and context of the Proposal

In 2009, the website-developer market consisted of some 175.000 enterprises in the 27 EU Member States. It employed some 1 million people and the generated turnover was € 144 billion².

The European market for web-accessibility related products and services is estimated at € 2 billion. It could grow significantly, as less than 10% of websites are accessible. The number of citizens with functional limitations or disabilities (15% of the EU working age population or 80 million people) may increase significantly as the Union population ages.

Web-accessibility is of great importance for public sector bodies, to extend their reach and to fulfil their public responsibilities. The number of websites providing e-government services (about 380.500 in EU) and public sector websites (over 761.000 in EU) grow rapidly. Most Member States have already either enacted legislation, or taken other measures on web-accessibility. However, significant differences exist between these laws and measures.

The non-harmonised national approaches to web-accessibility create barriers in the Internal Market. Suppliers that operate cross border face additional production costs. Competition, competitiveness and economic growth are hampered because enterprises, SMEs in particular, lack the knowledge and capacity to cope with all the specifications and procedures.

¹ According to the United Nations Convention on the Rights of Persons with Disabilities, persons with disabilities **include** those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

² The website developer market is calculated as the sum of the economic activities, NACE Rev. 2 classes J6201 – Computer programming activities and J6312 – Web portals. Source: Eurostat, Annual detailed enterprise statistics for services (NACE Rev.2 H-N and S95), online data code sbs_na_1a_se_r2).

National authorities and business actors face uncertainties concerning the selection of 'web-accessibility' specifications for potential cross-border services, and concerning the most appropriate policy framework for web-accessibility.

Harmonisation of national measures for the public sector at EU level is being proposed as a necessary condition to put an end to this fragmentation and lack of confidence in the web-accessibility market.

This Directive addresses public sector bodies' websites, because they provide information and services that are essential for citizens, and public expenditure in itself can create already a secure and sizable market for web-developers.

The compliance costs for administrations have been assessed. The analysis concluded that benefits outweigh these costs.

As web-developers are encouraged to achieve economies of scale, this measure will contribute to create a cascade of 'spill-overs', beginning with all other public sector websites.

Harmonisation will lead to better market conditions, more jobs, cheaper web-accessibility and more accessible websites: a triple win for governments, businesses, and citizens.

1.2. Technical background

Stakeholders world-wide currently widely use techniques based on the Success Criteria and Requirements for Conformance Level AA of version 2.0 of the Web Content Accessibility Guidelines (WCAG 2.0) issued by the World Wide Web Consortium (W3C)³.

A European standard that includes web accessibility in line with WCAG 2.0 (including its use at level AA and associated compliance assessment methods) is under development within the Commission mandate M/376 to the European Standardisation Organisations CEN, CENELEC and ETSI. A harmonised standard to provide presumption of conformity with the web-accessibility requirements laid down in this Directive should be built upon the outcome of this work.

The international standard ISO/IEC 40500:2012⁴, on web accessibility was adopted by the International Standardisation Organisation and the International Electrotechnical Commission (IEC). ISO/IEC 40500:2012 is exactly the same as the original WCAG 2.0.

1.3. Policy background

Many political initiatives at European level relate to web-accessibility: the European Disability Strategy 2010-2020 (ICT accessibility); the eGovernment Action Plan 2011-2015 (inclusive and accessible eGovernment services); the 'Digital Agenda for Europe' (Commission proposes to ensure fully-accessible public sector websites by 2015), EU funding programmes (FP7, CIP) support of R&D on technological web-accessibility solutions. Web-accessibility will also be stimulated by the revision of the Public Procurement Directives.

³ Source: <http://www.w3.org/WAI/>

⁴ http://www.iso.org/iso/iso_catalogue/catalogue_tc/catalogue_detail.htm?csnumber=58625

1.4. Consistency with other policies and objectives of the Union

Article 9 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)⁵ obliges Member States and the EU to take appropriate measures to ensure access for persons with disabilities, on equal basis with others, to inter alia information and communication technologies, including the Internet. This Directive would ensure the effective use of the harmonised standard for web-accessibility that should be built upon the outcome of Commission mandate M/376⁶.

The coverage of the proposal below is limited to website-based online services provided by public sector bodies.

The proposal is in synergy with the European Accessibility Act⁷ (EAA), which is currently in preparation and addresses accessibility of goods and services including ICT. This EAA, subject to the outcome of the ongoing Impact Assessment, by focusing on the private sector, will facilitate the realisation of the full web-accessibility commitment of the Digital Agenda for Europe, by ensuring also the accessibility of private-sector websites from providers of basic services to citizens. These websites offer information and interaction, e.g. for contracting, booking, billing and payment, and for obtaining support.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

2.1. Consultations with the interested parties

Numerous public consultations and studies were carried out to identify problems and needs, addressing Member States, industry and civil-society:

- Benchmarking Study 2010-2011 “Monitoring eAccessibility”⁸.
- Study on “Economic Assessment for Improving e-Accessibility Services and Products”⁹. Workshops on web-accessibility (2008).¹⁰
- Public consultation via the Commission’s interactive Internet platform “Your voice” (2008)¹¹.
- Survey on “Web-accessibility in European countries”.¹²

⁵ <http://www.un.org/disabilities/default.asp?id=150>

⁶ <http://www.mandate376.eu/>

⁷ http://ec.europa.eu/governance/impact/planned_ia/docs/2012_just_025_european_accessibility_act_en.pdf

⁸ The study (procured in 2008 as SMART 2008/0066) produced two annual reports, in 2010 and 2011. (<http://www.eaccessibility-monitoring.eu/researchResult.aspx>)

⁹ SMART 2009/00-72: <http://ec.europa.eu/digital-agenda/en/news/study-economic-assessment-and-evaluation-recommendations-improving-e-accessibility-services-and>

¹⁰ <http://ec.europa.eu/digital-agenda/en/news/consultation-workshop-web-accessibility-10-june-2008>

¹¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0804:FIN:EN:PDF>

¹² Web-accessibility in European countries: level of compliance with latest international accessibility specifications, notably WCAG 2.0, and approaches or plans to implement those specifications” (SMART 2008/0068). <http://ec.europa.eu/digital-agenda/en/news/study-report-web-accessibility-european-countries-level-compliance-latest-international>

- Benchmarking Study “Measuring Progress of eAccessibility in Europe” (2006 – 2008)¹³.
- Member State expert groups on ‘e-inclusion’ and ‘Inclusive Communications’¹⁴.
- Direct consultations and meetings with representatives of major civil society organisations such as the European Disability Forum and the European Blind Union, AGE and ANEC, and with software industries and a European industry association¹⁵.

2.2. Impact assessment

An Impact Assessment Steering Group, led by the Directorate General for the Information Society and Media, was established with a wide representation of services and departments of the Commission. These included the Legal Service, the Secretariat-General, and the DGs Communication; Economic and Financial Affairs; Employment, Social Affairs and Inclusion; Enterprise and Industry; Eurostat; Health and Consumers; Informatics; Internal Market and Services; and Justice. The Steering Group had the task to analyse and discuss the different issues and perspectives relevant to this proposal.

The final version of the Impact Assessment incorporates the responses to the Impact Assessment Board's recommendations.

3. LEGAL ELEMENTS OF THE PROPOSAL

3.1. Legal basis

Article 114(1) of the Treaty on the Functioning of the European Union (TFEU).

3.2. Subsidiarity Principle

The subsidiarity principle applies insofar as the issues addressed by this proposal do not fall under the exclusive competence of the EU.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reason(s):

It entails transnational aspects that cannot be dealt with by individual Member States actions. Actions at national level are not enough for the approximation of national measures and a coordinated implementation of a harmonized approach, as is confirmed by the studies and consultations;

National differences in approach put burdens and barriers on companies that seek to interact across borders. This limits the scope for a mature public market for web-accessibility products and services and may place mobility constraints on those citizens that use assistive technologies.

¹³ Benchmarking Study 2006-2008 – “Measuring Progress of eAccessibility in Europe” (MEAC-1). See Empirica, WRC, RNIB, RNID, eWORX (2007), <http://ec.europa.eu/digital-agenda/en/news/assessment-status-eaccessibility-europe>

¹⁴ <http://ec.europa.eu/digital-agenda/en/news/groups-supporting-e-inclusion-agenda>

¹⁵ European Information & Communications Technology Industry Association

A more efficient use of resources would be achieved by using harmonised requirements, and by participating in a cooperation scheme for the sharing of good practices, know how and responses to technological developments.

3.3. Proportionality Principle

The proportionality principle is guarded by limiting the proposal to a minimum list of (types of) websites, giving Member States the option of extending this list.

Furthermore, significant implementation parameters, such as the choice of the authority to be responsible for verifying compliance, are left to the discretion of Member States.

3.4. Proposal

Article 1 - Subject matter and scope

The Directive aims at approximating the laws, regulations and administrative provisions of the Member States on the accessibility of public sector bodies' websites, by defining harmonised requirements.

The proposal lays down the technical provisions whereby Member States shall make accessible the content of certain types of websites of public sector bodies (hereafter 'websites concerned'). The listed types of websites comprise information and services provided by public sector bodies, that are essential for citizens' participation in economy and society, and enjoyment by EU citizens of their rights. The list is provided in the Annex and is drawn from the 2001 E-government benchmarking exercise¹⁶.

Member States may decide to extend this list of types of websites.

Article 2 – Definitions

In the Directive terms related to websites, standards and public entities are clarified. The terminology related to web content and user interface is similar to that of W3C in the context of their Web Accessibility Initiative and in line with the draft standard from Mandate 376.

Article 3 – Requirements for web-accessibility

The requirements for web-accessibility are defined along two dimensions:

- User orientation.
- Market orientation and interoperability.

Considering that requirements may change due to more disruptive technological and social evolutions, the Commission shall be empowered to adopt delegated acts to specify further, where appropriate, the harmonised requirements necessary to ensure the accessibility of the websites concerned.

In order to achieve promptly current political commitments, the above provisions are to be implemented by 31 December 2015.

¹⁶ <http://ec.europa.eu/digital-agenda/en/news/egovernment-indicators-benchmarking-eeurope>

Article 4 – Harmonised standards and presumption of conformity

This Directive is in line 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 which sets legal basis for the Commission to request European standardisation organisations to develop harmonised standards to assist stakeholders in providing presumption of conformity. The reference to these standards would be published in the *Official Journal of the European Union*, indicating, as appropriate, the options that need to be observed when applying such standards.

The Directive indicates in a recital that the Success Criteria and Requirements for Level AA conformance specified in the version 2.0 of the Web Content Accessibility Guidelines (WCAG 2.0) issued by World Wide Web Consortium (W3C), are expected to be taken into account in the European standard resulting from Mandate 376 and subsequently in the harmonised standard that should be built upon the outcome of this work. These technology neutral specifications provide the basis for the requirements for web-accessibility.

Article 5 – European and international standards and presumption of conformity

In the absence of harmonised standards, the Directive provides a solution for presumption of conformity with the web-accessibility requirements to the websites concerned which meet European standards or parts thereof that have been determined by the Commission by delegated acts. Mandate 376 is preparing a European Standard that includes web-accessibility..

In the absence of such European standard, the Directive also provides a solution for presumption of conformity with the web-accessibility requirements to the websites concerned which meet the parts of the ISO/IEC 40500:2012 **covering** the Success Criteria and Conformance Requirements for Level AA conformance.

Article 6 – Additional measures

Additional measures are requested to contribute to awareness-raising, the establishment of cooperation arrangements and market growth.

Member States are called upon to facilitate the extension of web-accessibility to public sector websites other than those concerned, as this will accelerate market growth and the achievement of web-accessibility for EU citizens.

Article 7 – Reporting

The accessibility of a website should be continuously monitored, in the light of regular updates of web content. Member States are requested to monitor the public sector bodies' websites concerned, using the methodology established by Commission in accordance with the procedure laid down in the Directive. The methodology will use procedures and technical assessment approaches from the harmonised standard, if available and adequate, and will be published in the *Official Journal of the European Union*.

Member States would be free to arrange a suitable mechanism for these verifications, in assigning the responsible authorities.

Member States shall annually report on the results of such monitoring. Reports should also include the possible extension of the list of types of websites concerned, as well as any additional measures pursuant Article 6 that have been taken.

The arrangements for Member States to report to the Commission shall be determined in accordance with the procedure indicated in this Directive.

Article 8 – Exercise of delegation

The Directive contains the provisions for the exercise of delegated acts in line with Article 290 of the TFEU, which allows the legislator to delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act. Such a procedure would be used in order to specify further the requirements for web-accessibility laid down in the Directive as indicated in Article 3 and to determine the European standard or parts thereof which provide presumption of conformity with the web-accessibility requirements for the websites concerned that meet them.

Article 9 – Committee

The Commission shall be assisted by a committee as described in Regulation (EU) No 182/2011. References are made to the procedures, advisory or examination, that are distinctively applied under the articles of this Directive.

Article 10 – Transposition

The Directive sets out the date of entry into force of the laws, regulations and administrative provisions necessary to comply with this Directive by 30 June 2014 at the latest.

Article 11 – Review

A review shall be carried out of the application of this directive within three years from its entry into force.

4. BUDGETARY IMPLICATION

No budgetary implications for the budget of the Union.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the accessibility of public sector bodies' websites

(Text with EEA relevance)

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 Committee¹⁷,

Having regard to the opinion of the Committee of the Regions¹⁸,

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.
- (2) Web-accessibility refers to principles and techniques to be observed when constructing websites in order to render the content of these websites accessible to all users, in particular people with functional limitations, including persons with disabilities. The content of websites includes textual as well as non-textual information, and also the downloading of forms and two-way interaction, e.g. the processing of digital forms, authentication, and transactions like case handling and payments.
- (3) The Commission's eGovernment Action Plan 2011-2015¹⁹ calls for action to develop eGovernment services that ensure inclusiveness and accessibility.

¹⁷ OJ C 110/26 ,9.5.2006 / (COM(2005) 425 final).

¹⁸ OJ C 009, 11/01/2012 P. 0065 - 0070.

¹⁹ COM(2010) 743 final – Not published in the Official Journal

- (4) In its Communication ‘A Digital Agenda for Europe’²⁰ the Commission announced that public sector websites should be fully accessible by 2015.
- (5) The Framework Programme for Research, Technological Development and Demonstration²¹ and the Competitiveness and Innovation Programme²² support 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 ensure to persons with disabilities access, on equal basis with others, to inter alia information and communication technologies" and "to take appropriate measures [...] to promote access for persons with disabilities to new information and communications technologies and systems, including the Internet."
- (7) The European Disability Strategy 2010-2020²³ builds on the UN Convention and contains actions in several priority areas, including web accessibility, with the objective "to ensure accessibility to goods and services including public services and assistive devices for people with disabilities."
- (8) The Council Regulation (EC) No 1081/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund²⁴ contains provisions on the accessibility of ICT. It does not, however, address specificities of web-accessibility.
- (9) The fast growing web-accessibility market comprises a range of economic operators such as those developing websites or software tools to create, manage and test web pages, 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 compliancy levels of those guidelines, or technical variations at national level have been introduced.
- (11) Suppliers of web-accessibility 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.
- (12) Buyers of websites and related 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

²⁰ COM(2010) 245 final/2

²¹ OJ L 412, 30.12.2006, p. 1–43.

²² OJ L 310, 9.11.2006, p. 15 – 40.

²³ COM(2010) 636 final - Not published in the Official Journal

²⁴ OJ L 210, 31.07.2006, p.25.

interoperability of user agents, and Union-wide ubiquitous access to website contents. 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, is necessary in order to put an end to fragmentation. It would reduce uncertainty for web-developers and would foster interoperability. By using accessibility requirements which are technology neutral, innovation will not be hampered and may possibly even be stimulated.
- (14) A harmonised approach should also allow Union public sector bodies and enterprises to gain economic and social benefits from extending the provision of on-line services to include more citizens and customers. This should increase the potential of the internal market for web-accessibility products and services. 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 web-accessibility.
- (15) Citizens should benefit from wider access to online public sector services and should receive services and information which will facilitate 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 web-accessibility requirements defined in this Directive are technology neutral. They only indicate which basic functionalities have to be fulfilled for the user to perceive, operate or understand a site and its content. They do not specify how this has to be achieved or what technology should be selected for a particular site, on-line information or application. As such they do not hamper innovation.
- (17) Interoperability related to web-accessibility should be based on commonly adopted and used specifications that maximize the compatibility of the web-content with current and future user agents and assistive technologies. More specifically, web-content 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: they might also benefit from greater choice and reduced prices across the Union. Interoperability would also benefit the suppliers and buyers of web-accessibility related products and services.
- (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.
- (19) The Directive should aim at ensuring that certain types of public sector bodies' websites that are essential to the public are made accessible according to common

requirements. Such types were identified in the 2001 E-government benchmarking exercise²⁵ and have been used as a basis for the list in the Annex.

- (20) This Directive lays down web-accessibility requirements for certain types of public sector bodies' websites. In order to facilitate the conformity of websites 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 web accessibility requirements laid down in this Directive.
- (21) The Commission has already issued a mandate M/376²⁶ to the European Standardisation Organisations, to develop a European standard specifying the functional accessibility requirements for ICT products and services, including web content, which could be used in public procurement as well as for other purposes like procurement in the private sector. To this end, the European Standardisation Organisations are required to establish close co-operation with relevant industry standards forums and consortia including the World Wide Web Consortium (W3C/WAI). A harmonised standard that would provide presumption of conformity with the web-accessibility requirements laid down in this Directive should be built upon the outcome of this work.
- (22) Until the references of such a harmonised standard or parts thereof are published, presumption of conformity with the web-accessibility requirements should be provided for the websites concerned which meet the European standards or part thereof that have been determined by the Commission by delegating acts. A candidate could be the European standard which should be adopted on the basis of mandate M/376
- (23) In the absence of such a European standard, presumption of conformity with the web-accessibility requirements should be provided for the websites concerned which meet those parts of the international standard ISO/IEC 40500:2012 covering the Success Criteria and Conformance Requirements for Level AA conformance. The international standard ISO/IEC 40500:2012 is exactly the same as the original Web Content Accessibility Guidelines 2.0. The Success Criteria and Requirements for Level AA conformance specified for web pages in the version 2.0 of the Web Content Accessibility Guidelines (WCAG 2.0) from the W3C are broadly recognised by stakeholders both internationally and at European level, to provide the basis for adequate web-accessibility specifications. This has been underlined in the Council Conclusions on Accessible Information Society²⁷.

²⁵ <http://ec.europa.eu/digital-agenda/en/news/egovernment-indicators-benchmarking-eeurope>

²⁶ <http://www.mandate376.eu/>

²⁷ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/trans/107014.pdf

- (24) The conformity with web-accessibility requirements should be continuously monitored from the initial construction of the public sector bodies' website to all subsequent updates of its content. A harmonised monitoring methodology would cover a way of verifying, on a uniform basis in all Member States, the degree of compliance of the website with the requirements for web-accessibility, the collection of representative samples and the periodicity of the monitoring.. Member States should report annually on the outcome of the monitoring and more generally on the list of actions taken in application of this Directive.
- (25) In a harmonised framework, the web-developers industry should face fewer barriers to operate in the internal market, while costs for governments and others procuring web-accessibility products and services should be reduced.
- (26) In order to ensure that the websites concerned are made accessible in accordance with the requirements for web-accessibility laid down by this Directive, 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 to specify further, where appropriate, these requirements and to determine the European standard or parts thereof which, in the absence of harmonised standards, would provide presumption of conformity with the web-accessibility requirements for the websites concerned which meet such standard or parts thereof. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (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 for the definition of the methodology that Member States should use for monitoring the conformity of the websites concerned with those requirements. The advisory procedure should be used for the determination of the modalities according to which Member States should report to the Commission on the result of this monitoring. 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 public sector bodies' websites, 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. This Directive aims at approximating the laws, regulations and administrative provisions of the Member States related to the accessibility of the content of public sector bodies' websites to all users, in particular people with functional limitations including persons with disabilities.
2. It lays down the rules according to which Member States shall make accessible the content of websites belonging to public sector bodies, the types of which are specified in the Annex.
3. Member States may extend the application of this Directive to other types of public sector websites than those referred to in paragraph 2.

Article 2

Definitions

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

- (1) 'Websites concerned' means those referred to in Article 1(2) of this Directive.
- (2) 'Content of websites' means information to be communicated to the user by means of a user agent, including code or mark-up that defines the content's structure, presentation, and interactions.
- (3) 'User agent' means any software that retrieves and presents web contents for users, including web browsers, media players, plug-ins, and other programs that help in retrieving, rendering, and interacting with web content.
- (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.
- (5) 'International standard' means a standard adopted by an international standardisation body as defined in Article 2(1)(a) 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 1 (9) of Directive 2004/18/EC, and associations

formed by one or several such authorities or one or several such bodies governed by public law.

Article 3

Requirements for web-accessibility

1. Member States shall take the necessary measures to ensure that the websites concerned are made accessible
 - (a) in a consistent and adequate way for users' perception, operation and understanding, including adaptability of content presentation and interaction, when necessary, providing an accessible electronic alternative;
 - (b) in a way which facilitates interoperability with a variety of user agents and assistive technologies at Union and international level.
2. Member States shall apply the provisions of paragraph 1 by 31 December 2015 at the latest.
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 8, to specify further, where appropriate, the requirements for web-accessibility referred to in paragraph 1.

Article 4

Presumption of conformity with harmonized standards

1. The websites concerned 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 covered by those standards or parts thereof, set out in Article 3.

Article 5

Presumption of conformity with European or international standards

1. As long as the references of the harmonised standards referred to in Article 4 have not yet been published, the websites concerned that meet European standards or parts thereof that have been determined pursuant to paragraph 2 shall be presumed to be in conformity with the web-accessibility requirements covered by those standards or parts thereof, set out in Article 3.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 8, in order to determine the European standards or parts thereof referred to in paragraph 1.
3. As long as the references of the European standards referred to in paragraph 1 have not yet been determined, the websites concerned that meet the parts of the ISO/IEC 40500:

2012 covering the Success Criteria and Conformance Requirements for Level AA conformance, shall be presumed to be in conformity with the web-accessibility requirements set out in Article 3.

Article 6

Additional measures

1. Member States shall promote that the websites concerned provide a statement on their accessibility, in particular on their compliance with this Directive and with possibly additional accessibility information in support to users.
2. Member States shall take measures to facilitate the application of the web-accessibility requirements as defined in Article 3 to all public sector bodies' websites beyond those concerned, in particular, to public sector bodies' websites covered by existing national laws or relevant measures on web-accessibility.
3. Member States shall support appropriate mechanisms for consultations on web-accessibility with relevant stakeholders and make public any developments in web-accessibility policy together with the experiences and findings from the implementation of conformity of web-accessibility requirements.
4. Member States shall cooperate at Union level with industry and civil society stakeholders, with facilitation by the Commission, in order to review, for the purpose of the annual reporting referred to in Article 7(4), market and technological developments and progress in web-accessibility and to exchange best practices.

Article 7

Monitoring and reporting

1. Member States shall monitor the compliance of the websites concerned with the requirements for web-accessibility on a continuous basis, using the methodology provided for in paragraph 4.
2. Member States shall report annually on the outcome of the monitoring carried out according to paragraph 4 including the measurement data and, where appropriate, the list of the websites referred to in Article 1(3).
3. This report shall also cover the actions conducted pursuant to Article 6.
4. The Commission establishes, by way of implementing acts, the methodology for the monitoring of the conformity of the websites concerned with the requirements for web-accessibility as set out in Article 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 9(3). The methodology will be published in the *Official Journal of the European Union*.
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; and
 - (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 - whenever available - to the relevant descriptions in the

harmonised standard, or in their absence in the European or international standards referred to in Articles 4 and 5 respectively.

6. The arrangements for reporting by Member States to the Commission shall be established by the Commission by way of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 9(2).

Article 8

Exercise of the delegation

1. The powers to adopt the delegated acts shall be conferred on the Commission subject to the conditions laid down in this Article.
2. The powers to adopt the delegated acts referred to in Article 3 and 5 shall be conferred for an indeterminate period of time from the date of entry into force of this Directive.
3. The delegation of power referred to in Article 3 and 5 may be revoked at any time by the European Parliament or by the Council. A decision of revocation 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.
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 3 and 5 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 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 30 June 2014 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.
2. Member States shall communicate to the Commission the text of the main provisions of national law, they adopt in the field covered by this Directive.

Article 11

Review

The Commission shall carry out a review of the application of this Directive within three 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

ANNEX

Types of public sector bodies' websites

(as referred to in Article 1(2))

- (1) Income taxes: declaration, notification of assessment
- (2) Job search services by labour offices
- (3) Social-security benefits: unemployment benefits, child allowances, medical costs (reimbursement or direct settlement), student grants.
- (4) Personal documents: passports or driving license
- (5) Car registration
- (6) Application for building permission
- (7) Declaration to police, e.g. in case of theft
- (8) Public libraries, e.g. catalogues and search tools
- (9) Request and delivery of birth or marriage certificates
- (10) Enrolment in higher education or university
- (11) Notification of change of residence
- (12) Health-related services: interactive advice on the availability of services, online services for patients, appointments.