

LATIN-AMERICAN BLIND UNION

Effective implementation of the Marrakesh Treaty in the South American region

BACKGROUND

In June 27, 2013 the Marrakesh Treaty was adopted, a treaty to facilitate the access to published works for the blind, visually impaired or people with other print disability.

The Marrakesh Treaty is the second instrument at the international level that specifically refers to the rights of persons with disabilities. The first one is the Convention on the Rights of Persons with Disabilities (CRPD) of the United Nations. That new treaty will assist to put in practice a number of articles of the CRPD, eliminate copyright barriers to accessible information and culture. The articles 9, 21, 24 and 30 of the CRPD are specially relevant in this context.

The main objective of the Marrakesh Treaty is help ending the book famine, the global situation where only a small percentage of published books is available in formats that the blind or people with other print disabilities can read. Helps this goal to allow that people with visual impairment and the organizations that provide them services can produce books and other publications protected by copyright and send them through national borders without the need of asking authorization form the author, publisher or other right owners (frequently a process that is expensive and bureaucratic making impossible to achieve that in the necessary time.)

On September 30, 2016 the Treaty entered into force for Argentina, Australia, Brazil, Canada, Chile, Democratic Republic of Korea, Ecuador, El Salvador, Guatemala, India, Israel, Mali, Mexico, Mongolia, Paraguay, Peru, Republic of Korea, Singapore, United Arab Emirates and Uruguay.

In this framework, the sub regional workshop “Towards an effective implementation of the Marrakesh Treaty” and the event on exchange and production of accessible works, in Buenos Aires from October 18 – 21, 2016, organized by the Dirección Nacional de Derechos de Autor, la Editora y Libro Parlante y la Federación Argentina de Instituciones de Ciegos y Amblíopes, with the support of WIPO and ULAC. Both events had the participation of seven countries that are members of the Marrakesh Treaty.

JUSTIFICATION

In the countries from South America there is a wide diversity of organization with experience in the production and distribution of materials in accessible formats, all possible to be recognized as authorized entities according to the provisions of the Marrakesh Treaty.

Those organizations have works in braille, audio, large print, Daisy, analogic and digital formats that could be made available through a cross-border exchange.

Notwithstanding, the information is not organized in databases that are uniform making it difficult its availability even locally.

Still, the alternatives to access the information by the Treaty beneficiaries must be taken by the authorized entities, respecting at all moment the freedom that each one has to choose the format according to his or her need. This includes all the existing formats and those that may exist in the future.

IMPLEMENTATION PLAN

General Objective

That persons with a print disability have works in accessible formats according to their needs and choice, in time and without facing other restrictions to obtain it.

Specific Objectives

- Authorized entities in Latin America become part of a exchange network for works in accessible formats.
- The works in accessible formats are available to the beneficiaries of the Marrakesh Treaty.
- That clear and precise information about works and accessible formats is available
- That accessible format exists independently of the nature of the original work.

It has been identified four priority areas towards an effective implementation of the Marrakesh Treaty in the region:

1. Recognition of the authorized entities.
2. Systematization of the accessible works in the authorized entities.
3. Recovering of collections stored in analogical formats.
4. Storage of the works for a cross-border exchange.

DEVELOPMENT

1. Recognition of the authorized entities

Each country member of the Marrakesh Treaty will regulate according to its legal system, in a time no longer than 12 months, the registration of authorized entities. For that, it should take into account the following criteria:

1.1. Together with the organizations for people with disability, prepare a list of potential authorized entities. It is understood by authorized entities those that produce works in accessible formats for people with a visual impairment and not for profit.

1.2. Establish a permanent and open registration system that the requirements for recognition will be formal (legal entity, experience in the production of accessible formats, etc.) but not restrictive at any case.

1.3. Establish a follow-up mechanism of the implementation of the Marrakesh Treaty integrated by the stakeholders: copyright offices, authorized entities, book chambers, authors' representatives, etc.

1.4. Identification of one organization as national repository for keeping the information about works in accessible format in the country.

The public entities (copyright offices, directorate, etc.) will have under its competence to implement this priority area.

2. Systematization of the accessible works in the authorized entities

Before the diversity of catalogues in accessible formats and aiming at prepare an uniform registry that allows the access to works that are available and their cross-border exchange, as well as the integration into global/regional networks, it is proposed that:

2.1. Recompile the databases of the authorized entities.

2.2. Analyze the information obtained and establish, with the support of a group of experts, the common criteria for the cataloguing and migration into a new catalogue.

2.3. Undertake the systematization/migration of databases to this common system and make available to authorized entities this new catalogue, or develop a mechanism of automatic migration.

2.4. The future production should be guaranteed to be registered in the new system.

For this priority area it is recommended to identify a person in charge who should base on focal points in each country, and who would be responsible the planning and development of the stages highlighted. It will be fundamental that this persons works in coordination with ULAC, IFLA, WIPO and ABC.

3. Recovering of collections stored in analogical formats

A number of authorized entities from the region hold collections in analogical formats. Their recovery into digital formats would make available to beneficiaries valuable works, in that it would avoid the destination of resources for the production of the accessible format of the same works. Considering that some of the entities are recovering such collections, it is proposed that:

- 3.1. Disclose the information about collections in analogical formats from the authorized entities of the region taking into account its relevance, size, technology employed and technical aspects.
- 3.2. Establish which collections could be recovered.
- 3.3. Train the personnel of the authorized entities to recover such works in analogic formats and provide them the necessary technology.
- 3.4. Incorporate the recovered works into the catalogue.

For this priority area, it is recommended to request the tasks to the person identified under number 2.

4. Storage of the works for a cross-border exchange

In this area it should be analyzed according to the regulation of each country and if there will be a legal deposit of accessible works that functions as storage, or if each authorized entity possess the materials and make them available through links to download.

In any case, it is suggested that the cross-border exchange is based on the catalogue to be created as mentioned in point 2. Notwithstanding, to move forward in the implementation of the Marrakesh Treaty, it is recommended that until the national regulation and catalogue are in place, a cross-border exchange is articulated point-to-point between the authorized entities or between the latter and the beneficiaries.

APPENDIX

The Marrakesh Treaty establishes mechanisms for access and relevant definitions that should be taken into account during its implementation:

- Defines “accessible format” in a wide and useful manner, allowing the transcription and adaptation of works through different methods and in different media in order to meet the needs of all types of public.
- Defines in general terms the organizations that can apply the Treaty to produce and send books in accessible formats. It calls them “authorized entities.”
- Defines in broad terms the persons who can be served from the Treaty as “beneficiaries”, among which it is included the blind, visually impaired or people with print disability.
- Allows the exchange throughout the borders of published accessible works, from one entity to another and also from one entity to a beneficiary, what allows a user with a disability from one country to access directly a library of accessible books in another country.