

Getting Marrakesh Ratification Right – a Toolkit

This document offers some simple steps to follow in order to contribute to the successful ratification of the Treaty of Marrakesh in your country. There are also some frequently asked questions, and a link to the EIFL guide on libraries and Marrakesh. It is a living document, and so suggestions and/or additions are welcome.

Seven Steps: Actions You Can Take Now to Help

- **Contact your local World Blind Union or EIFL coordinator** – you can find out who your local WBU representative is [here](#). Find out how engaged they are, and discuss how you can work together on Marrakesh ratification and implementation. [Contact us](#) if you need help identifying your local EIFL coordinator.
- **Find out where the implementation process stands in your country.** How soon might they ratify? What does the current version of the law say?
- **Find out who is responsible for Marrakesh Treaty issues within government.** As well as copyright issues, you may also want to get in touch with the ministry responsible for the disabled, the ministry responsible for library issues, and your permanent mission in Geneva. You may find clues in the list of attendees at last December's meeting of the Standing Committee on Copyright and Related Rights, at the end of [this report](#).
- **Identify other influential people with an interest in copyright or disability issues** – MPs, mayors, academics or NGO heads for example. They could be useful allies in calling for positive reform.
- Depending on how things work in your country, **you might want to seek meetings with these people** in order to highlight the importance of ratifying Marrakesh, and highlighting why this needs to be done well. Encourage non-governmental contacts to use their influence to push for change. Make sure that governmental contacts understand the needs of libraries.
- In parallel, you could **write letters to influential newspapers**, potentially using the messages included in the IFLA Statement. You could try to **get articles printed in relevant (social) media**, in collaboration with your local blind union.
- **Let us know how you are getting on!**

Frequently Asked Questions

Below you will find responses to some high-level questions on the Treaty of Marrakesh. You can find more in EIFL's [excellent guide](#) to libraries and Marrakesh.

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What does the Treaty say exactly?

The Treaty obliges those who ratify it to create an exception to copyright in order to allow visually impaired people or authorised entities (libraries, as well as other organisations) to make accessible copies of copyrighted works without asking permission from the rightholder. Authorised entities can then also distribute these to visually impaired people on a not-for-profit basis. The transformation made to a book must be no more than is necessary to allow the beneficiary to enjoy it just as easily as a fully sighted person. There is no need to seek the permission of the copyright holder to do this.

It also allows authorised entities to supply accessible copies of works to authorised entities or users in other countries which have signed up to the Treaty. This means that libraries in France, for example, will be able to supply accessible books to Francophone countries around the world. Here too, there is no need to seek permission from the copyright holder to do this.

What is an authorised entity?

According to the Treaty, this is “an entity that is authorized or recognized by the government to provide education, instructional training, adaptive reading or information access to beneficiary persons on a non-profit basis. It also includes a government institution or a non-profit organization that provides the same services to beneficiary persons as one of its primary activities or institutional obligations.” As such, libraries and charities working for the visually impaired are likely to fall into this category.

Who has already ratified the Treaty?

Twenty countries have ratified the Treaty of Marrakesh (Argentina, Australia, Brazil, Canada, Chile, Ecuador, El Salvador, Guatemala, India, Israel, Mali, Mexico, Mongolia, North Korea, Paraguay, Peru, Singapore, South Korea, the United Arab Emirates and Uruguay).

Which countries are currently looking to do so?

We do not have a clear idea of this, although we are aware of plans in Kenya, Ghana, Lesotho and Moldova. In the European Union, draft legislation is due to be published on 21 September. But for further information, we are relying on you.

Who is responsible for Treaty implementation in my country?

This will vary from country to country. Your national copyright office will be a useful place to start. You might also want to contact your permanent mission in Geneva (which will have an important role in engagement at WIPO). Levels of openness vary, but you can see who attended the Standing Committee on Copyright and Related Rights at the end of last year at the end of [this document](#).

Why is record-keeping a problem?

In countries such as the US, there is strong pressure for authorised entities (libraries) to make a record of each time they make or supply an accessible copy of a book on behalf of a visually impaired person. The marginal benefit this may offer to publishers, is far outweighed by the cost to libraries.

Not only does extensive form-filling take staff time away from more useful work, but the registering and sharing of highly personal information about beneficiaries’ disabilities and reading preferences jeopardises both their right to a private life and their intellectual freedom. A record keeping obligation is at best misguided, and at worse an effort to sabotage the implementation of the Treaty of Marrakesh.

Why is remuneration a problem?

The Treaty of Marrakesh leaves open the possibility for national governments to allow for use of Treaty exceptions to be subject to remuneration to rightholders. This is akin to creating a licensing

scheme for accessible books. In such a situation, funding would be drained away from both acquisition of new books and the creation of accessible copies.

Some may argue that the unremunerated making of copies will deprive publishers of revenue. This ignores both that libraries have long had a right to copy works for their users, and that the people being served are amongst the most vulnerable in society. Moreover, as the Treaty underlines, authorised entities can only make and supply accessible copies on a non-profit basis.

If visually impaired people in developing countries had had sufficient resources to convince publishers to produce accessible versions of their books, there would have been no need for the Treaty of Marrakesh.

Why is restricting the exceptions granted under Marrakesh to works which are not commercially available a problem?

As highlighted in the statement, this is one of the potential restrictions that national governments can choose to apply to the rights granted under Marrakesh. It was included in order to make it easier for countries with such a provision already to sign, not as an invitation for other countries to introduce one.

While it is important to support local accessible-format publishing, implementing such a provision would create uncertainty. It obliges authorised entities (in particular libraries) to undertake a search of what is available in the correct format. This can require a major commitment of time and resources, at the expense of other activities.

Moreover, even after a diligent search, there is still a chance that a library or other authorised entity misses a commercial offering. An honest mistake could lead to litigation that libraries are ill-equipped to deal with. Many will choose not to take the risk.

Not applying a 'commercial availability' provision need not hurt the development of local publishing. Library and commercial production can complement each other, and there is room for both. But the book famine – the lack of accessible books in developing countries in particular – proves that depending on commercial publishing alone is a dead-end.