



SUOMEN
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STATEMENT ON THE EVALUATION OF THE MARRAKESH AGREEMENT AND THE EFFECTS OF THE EU DIRECTIVE 2017/1564 AND EU REGULATION 2017/1563

The Marrakesh Directive & Regulation and the Finnish Copyright Act

In Finland, the EU Directive 2017/1564 (“the Marrakesh Directive”) and the accompanying EU Regulation 2017/1563 (“the Marrakesh Regulation”) were included in sections 17 a–17 d of the national Copyright Act on November 9, 2018. These articles define the authorized entity and its obligations and regulate the right of such an entity to publish copies of literary titles and make them available to the public. Section 17 b also defines the author's right for compensation if the copy remains in permanent possession of the beneficiary.

Equal opportunities to enjoying literary culture for all while respecting authors' copyright

The Marrakesh Directive introduced a mandatory exception to copyright legislation for the benefit of blind people and those with a vision impairment or a reading difficulty. It is very important that all citizens are guaranteed an equal opportunity to enjoying literary culture and being active members of society. However, all this has been made possible by a copyright exception, and therefore, it is also important to consider the right of literary authors to receive compensation for the use of the works they have created.

Our main messages

- The damage caused to the authors by using their work in accordance with the restriction provision is not insignificant. The balance between the rights of the beneficiaries and the rights of the authors must be considered when evaluating the directive.
- Authors must be guaranteed the right to a reasonable compensation, regardless of whether the form of use is traditional lending or streaming.
- As the number of beneficiaries grows, it must be ensured that the benefit is directed solely to people referred to in the Directive and that the use of literary works based on the restrictions corresponds to the purpose of the Directive. The author's copyright should not be restricted any more than necessary.

1. The balance between the rights of beneficiaries and the rights of literary authors must be considered when evaluating the Directive

The scope of the copyright restriction provision enacted for the benefit of the visually impaired has continuously expanded over the past decades, and the number of beneficiaries has subsequently increased. The number of customers of Celia, which produces accessible literature in Finland, is growing by well over 10,000 per year, which is a significant growth rate for a small language area. In Finland, the activities of other

authorized organizations can be considered to cause little damage to authors, but Celia is an exception, annually producing approximately 30% of all fiction and non-fiction published in Finland in an accessible form. Also, the annual number of loans made through Celia is already at the same level as the number of e-loans made in all public libraries.

2. Authors must have the right to reasonable compensation, regardless of the form of use of their work

As the number of beneficiaries has grown, the ways of using literary have changed from traditional lending of physical copies towards unlimited use of electronic audio books. In Finland, the most common way for the beneficiaries to use audiobooks is streaming: Celia's selection includes approximately 45,000 different audio titles that can be listened to online without limitation, and 89 % of the beneficiaries already use the online service. When restriction regulations enable the use of books in ways that clearly fall within the scope of the authors' and other rights holders' livelihood, it is important to ensure reasonable compensation for this use.

In Finland, authors are only compensated when a copy of their work remains in permanent possession of the beneficiary. In the past ten years, the compensable loans reported by Celia have decreased by about 60 %, as lending has shifted from physical copies to streaming and thus out of the scope of the compensation obligation. In order for the stipulated compensation right to meet its purpose, it should be implemented in a technology-neutral form, taking into account modern ways of using literature. In countries introducing a compensation system, the compensation paid to authors should be financed by the state.

3. The use of literary works based on the restriction must correspond to the purpose of the directive, and the authorized entities must have effective ways to prevent unauthorized use

The goals of the Marrakesh Directive are extremely relevant. Along with the assessment of the realization of the Directive's objectives being met, the evaluation should focus on whether there is an overlap in the forms of use enabled by the copyright exception (overlap with the so-called *normal exploitation of the works*, i.e. with commercial reading time services) and whether the obligations of the authorized entities to limit the use of accessible materials only to the beneficiaries referred to in the Directive are being fulfilled.

From the copyright holders' point of view, it is important that the use of literary works based on restrictions corresponds to the purpose of the directive and that the works are used only by people entitled to do so according to the Directive. When evaluating the Directive, it must be ensured that the authorized community also has effective procedures and practices to prevent unauthorised use.

On behalf of Finnish authors and literary translators, we want to highlight the points mentioned above and we hope that they are considered when European Commission is evaluating the Marrakesh Directive and the Marrakesh Regulation.

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SANASTO is a Finnish literary copyright society that works for the development of the rights of writers and translators. Sanasto represents over 16 000 literary authors. Sanasto's member organisations are the Union of Finnish Writers, the Finnish Association of Nonfiction Writers, the Society of Swedish Authors in Finland and the Finnish Association of Translators and Interpreters. | **THE UNION OF FINNISH WRITERS** represents fiction authors writing in Finnish. The Union has 800 members, and it aims to develop and improve the material and non-material conditions of writers' work as well as to promote Finnish literature. | **THE ASSOCIATION OF FINNISH NONFICTION WRITERS** is a cultural and professional organisation dedicated to protecting the interests of nonfiction writers and promoting Finnish nonfiction. The Association has 3 300 members.