

Côte d'Ivoire

Law No. 2016-555 of July 26, 2016 on Copyright and Related Rights¹

EIFL recommendations for Marrakesh-compliant amendments

Côte d'Ivoire ratified the Marrakesh Treaty on September 17, 2020 and it entered into force on December 17, 2020. The next step is to implement the Treaty into domestic law. The relevant provisions of the Copyright Act are set forth below.

Article 1 defines visually impaired person (that seems to track the definitions in the Marrakesh Treaty).

Article 16 provides an exclusive right of reproduction and distribution, and Article 17 elaborates on the reproduction right.

Article 18 discusses the exclusive right of distributes (that seems to encompass importation and exportation).

Article 19 provides an exclusive right of communication to the public and making available.

Article 24 sets forth the right of users to make private copies.

Article 32 provides an exception for reproduction and performance for visually impaired persons.

Article 35 allows a natural person to import five copies for personal use (but it does not permit exportation).

Article 108 seems to say that technological protections measures cannot be used to prevent a lawful use.

Article 109 prohibits the manufacture or importation of a device that circumvents technological protection measures.

Article 138 sets forth punishments for infringements, including by importation and exportation.

Article 32, that provides an exception for the benefit of visually impaired persons, does not appear to comply with the requirements of the Marrakesh Treaty. As set out below, it should be amended accordingly.

¹ Text available at <https://wipolex.wipo.int/en/legislation/details/16840>. Machine translation. Original language: French.

Copyright & Neighbouring Rights Act (2016)	Comments	Suggested Marrakesh-compliant amendments
<p>Article 32. - Without prejudice to the author's right to obtain equitable remuneration, the work may be reproduced or represented, in the appropriate form, by legal persons or organizations which use the works for aid purposes. visually impaired, with a view to strictly personal consultation of the work by a visually impaired person.</p> <p>The list of legal persons or authorized organizations is jointly drawn up by the Minister responsible for Culture and the Minister responsible for of Social Affairs.</p>	<p>Article 32 provides an exception for reproduction and “representation” - which we think means performance - for visually impaired persons.</p> <p>There are three problems with Article 32.</p> <p>1. It only permits reproduction (and performance). It does not appear to permit the distribution, making available, importation, or exportation of an accessible format copy, as set out in Articles 4, 5 and 6 of the Marrakesh Treaty. (Article 35 is not much help because it permits importation, but not exportation, for personal use). Therefore, Article 32 should be expanded to permit distribution, making available, import and export.</p> <p>2. Reproduction is currently subject to remuneration. If the exception is made subject to the payment of a royalty fee, it would have a chilling effect on the making of accessible copies, especially for libraries in low-income countries, thus restricting the freedoms allowed under the treaty.</p> <p>It is important to note that the work has already been purchased or otherwise lawfully obtained by the library, the accessible copy is made for the sole purpose of providing equal access to the</p>	<p>Replace Article 32 with the following text:</p> <p>An accessible format copy of a work may be created, distributed and made available, including by import and export, for persons who are visually impaired.</p> <p>Option: While it is not necessary for compliance with the Marrakesh Treaty, Article 1 Definitions of the 2016 Act could additionally define the category of entities permitted to create accessible format copies - see Article 2(c) of the Marrakesh Treaty.</p>

	<p>work, and the activity is undertaken on a non-profit basis. The vast majority of countries do not require remuneration, including France, Spain and the U.S. Therefore, the requirement for remuneration should be removed.</p> <p>3. Article 32 doesn't create a category of entities permitted to create accessible format copies. Instead, the Ministry of Culture and the Ministry of Social Affairs jointly are to create a list of the people and entities permitted to make accessible format copies. We are concerned that this approach is cumbersome and impractical. It places an administrative burden both on the beneficiaries and the ministries tasked with maintaining the list. There is a strong danger that the list will rarely be updated and thus many libraries might not be permitted to provide essential services to people with print disabilities. Therefore, this paragraph should be deleted.</p>	
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For a compilation of known implementing legislation for countries that have ratified or acceded to the Marrakesh Treaty, see www.arl.org/publications-resources/4347-marrakesh#.WYTqhXA8BIH (Revised September 19, 2019)