No. 990

MINISTRY FOR INCLUSION AND THE VOLUNTARY SECTOR

Accessibility Measures (European Accessibility Act) Regulations, 2022

Explanatory Notes[1]

1. Introduction

In 2019, the European Parliament and the Council adopted Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (hereinafter referred to throughout as the "Directive"), more commonly known as the European Accessibility Act. Malta had supported this Directive throughout the negotiations, having also made it a key pillar of the programme of its 2017 EU Presidency.

2. Summary and background

This Directive is being transposed into Maltese law, by virtue of horizontal subsidiary legislation, mirroring the horizontal nature of the Directive.

Transposition is being effected in exercise of the powers conferred by article 8 of the United Nations Convention on the Rights of Persons with Disabilities Act (Cap. 627), of the Minister responsible for disability and the development of this sector. This is being done further to the requirement to enact appropriate measures contained in Article 9 of the Second Schedule thereof.

The subsidiary legislation in question was prepared following consultation with the relevant line Ministries and entities responsible for different sectors covered by the Directive.

Outreach to the business community commenced prior to the implementation deadline, by the Directorate for Disability Issues (DDI) within the Ministry for Inclusion and the Voluntary Sector (MIV), and the Commission for the Rights of Persons with Disability (hereinafter referred to throughout as CRPD).

CRPD was designated the market surveillance authority in terms of the Directive, for products, services and the built environment in relation to the latter, further to article 22(1)(v) of the Equal Opportunities (Persons with Disability) Act (Cap. 413).

This role will be fulfilled further by a Memorandum of Understanding concluded with the Malta Competition and Consumer Affairs Authority (MCCAA), in respect of technical aspects of the Directive such as CE marking and product withdrawal, and with other sector-specific entities in respect of necessary expertise concerning accessibility within those sectors, such as the Malta Communications Authority (MCA).

3. Structure of the instrument and relevant commentary.

Part I covers implementation deadlines for the regulations, as well as relevant definitions, and its applicability.

[1]This Explanatory Note is in accordance with and for the purpose of article 3(2)(c) of the Small Business Act (Chapter 512 of the Laws of Malta).

Regulation 1 specifies that the regulations transpose the Directive (into Maltese law, while laying out deadlines for implementation of different provisions within the regulations. While the regulations, in line with the Directive, come into force on 28 June 2025, later deadlines are put in place for certain specific products or services, such as self-service terminals. The maximum extensions in respect of each such product or service were applied when transposing this Directive into Maltese law.

More specifically:

- The 112 emergency services number must comply with the regulations' requirements by 28 June 2027;
- Service providers that were lawfully using non-compliant products covered by the regulations, prior to their entry into force, to provide services covered by the regulations, have until 28 June 2030 to ensure they start using products compliant with the regulations;
- Service contracts that are not compliant with the regulations, but were agreed prior to 28 June 2025, may continue in force without alteration, up until 28 June 2030;
- Service providers that were lawfully using non-compliant self-service terminals, to provide services covered by the regulations, before 28 June 2025, may continue to use such self-service terminals to provide such services, until the end of the economically useful life of said terminals, or until 28 June 2045, whichever date would be earliest.

Regulation 2 lists relevant definitions used throughout the regulations, aligned with relevant national legislation transposing other Union acts mentioned in the Directive.

Regulation 3 specifies the products and services covered by the regulations, following their entry into force, as well as specific exclusions in respect of products and services:

Products

(a) consumer general purpose computer hardware systems and operating systems for those hardware systems;

(b) the following self-service terminals:

(i) payment terminals;

(ii) the following self-service terminals dedicated to the provision of services covered by these regulations:

(-) automated teller machines;

(-) ticketing machines;

(-) check-in machines;

(-) interactive self-service terminals providing information, excluding terminals installed as integrated parts of vehicles, aircrafts, ships or rolling stock;

(c) consumer terminal equipment with interactive computing capability, used for electronic communications services (within the meaning of the European Electronic Communications Code);

(d) consumer terminal equipment with interactive computing capability, used for accessing audiovisual media services (within the meaning of the Audio-Visual Media Services Directive); and

(e) e-readers.

Services

electronic communications services (within the meaning of the European Electronic Communications Code) with the exception of transmission services used for the provision of machine-to-machine services;

(b) services providing access to audiovisual media services (within the meaning of the Audio-Visual Media Services Directive);

(c) the following elements of air, bus, rail and waterborne passenger transport services, except for urban, suburban and regional transport services (which in the Maltese context means applicability only to air and domestic inter-island/ international ferry services) for which only the elements under sub-paragraph (v) apply:

(i) websites;

(ii) mobile device-based services including mobile applications;

(iii) electronic tickets and electronic ticketing services;

(iv) delivery of transport service information, including real-time travel information; this shall, with regard to information screens, be limited to interactive screens located within the territory of the Union; and

(v) interactive self-service terminals located within the territory of the Union, except those installed as integrated parts of vehicles, aircrafts, ships and rolling stock used in the provision of any part of such passenger transport services;

(d) consumer banking services;

(e) e-books and dedicated software; and

(f) e-commerce services.

Emergency Services

The answering of emergency communications to the single European emergency number '112', using a combination of text, voice and video.

Exceptions

1. The regulations do not apply to the following content of websites and mobile applications:

(a) pre-recorded time-based media published before 28 June 2025;

(b) office file formats published before 28 June 2025;

(c) online maps and mapping services, if essential information is provided in an accessible digital manner for maps intended for navigational use;

(d) third-party content that is neither funded, developed by, or under the control of, the economic operator concerned;

(e) content of websites and mobile applications qualifying as archives, meaning that they only contain content that is not updated or edited after 28 June 2025.

2. The regulations shall be without prejudice to provisions of EU legislation implementing the Marrakesh Treaty, and namely Regulation (EU) 2017/1563, and the Permitted Use of Certain Works and Other Subject Matter Protected by Copyright and Related Rights for the Benefit of Persons who are Blind, Visually Impaired or Otherwise Print-Disabled Order (S.L. 460.36) within the Maltese context.

Part II covers accessibility requirements for products, services and related to the built environment within the Scope of the regulations, as well as free movement considerations.

Regulation 4 lays down the accessibility requirements with respect to products and services mentioned in Part III, as well as of the built environment linked to the delivery of such services, with reference to detailed specifications and non-exhaustive indicative examples contained in the Annexes to the regulations.

The regulations provide an exemption from relevant accessibility requirements to Microenterprises providing services. Concurrently, the regulations place an obligation on CRPD, as the national market surveillance authority, to develop guidelines and tools for microenterprises, to facilitate the application of these regulations, in consultation with relevant stakeholders.

The relationship with other Union acts covering passenger transport services, is tackled by **regulation 5**, whereby services complying with the requirements on the provision of accessible information and of information on accessibility laid down in existing Union law on passenger rights, shall be deemed compliant with the regulations, saving where the regulations mandate additional requirements.

Additionally, free movement of products and services within the Union market is not to be impeded for reasons related to accessibility requirements, in terms of **regulation 6**.

Part III covers the obligations of economic operators dealing with products.

Regulation 7 deals with the obligations of manufacturers placing products on the Union market. These are the responsibility of economic operators to ensure compliance of products with the regulations' accessibility requirements, and ensuring relevant processes therefor, and the obligation to draw up and keep relevant technical documentation in respect of the prescribed self-assessment procedure, including the preparation of an EU Declaration of Conformity, the affixing of a CE mark, and respecting other prescribed labelling requirements, such as in the case of batch and serial numbers.

The obligations on economic operators are to provide this information to CRPD upon request, and to take the necessary corrective measures in case of non-compliance, as well as to keep a register documenting non-compliance of products, are also covered. Additionally, this regulation deals with the responsibility of an economic operator to provide information to another competent national authority within the EU, following a reasoned request from such, and to take relevant measures in this respect to end non-compliance.

Regulation 8 covers authorised representatives, that are appointed following a written mandate by a manufacturer in terms of these regulations, with such mandate not able to include a responsibility on the authorised representative to draw up technical documentation, such as an EU Declaration of Conformity.

However, such mandates must include, at the least, keeping technical documentation received from the manufacturer at the disposal of CRPD and of other competent national authorities for a period of five years, providing relevant information and documentation to competent national authorities further to reasoned requests, and cooperation with competent national authorities in cases of non-compliance.

Regulation 9 covers importers, and their obligation to carry out the conformity assessment procedure outlined in Annex IV to the regulations, before importing a relevant product. There is also a responsibility on importers to ensure that a manufacturer has fulfilled the relevant obligations under the regulations, in respect of relevant elements related to CE marking, technical documentation, and labelling of products.

Importers are not authorised to place a product onto the market until it has been brought in conformity with the regulations' accessibility requirements. Importers also have the responsibility to ensure that storage or transport conditions of products will not jeopardise the accessibility requirements of such products.

The obligation to keep and make available relevant documentation to CRPD, and to other competent national authorities, such as a product's EU Declaration of Conformity, and other technical documentation, is also covered by this regulation, as is the obligation for the importer to take necessary corrective measures, or else effect withdrawal, in case of the product's non-compliance with the regulations' accessibility requirements. The responsibility to cooperate with competent national authorities to demonstrate compliance, or in taking necessary measures to address non-compliance, is also covered.

Regulation 10 addresses distributors, and their obligation to undertake verification procedures with respect of labelling & relevant documentation for products. Additionally, this regulation specifies that a distributor shall not place a product on the market unless such product is compliant with the accessibility requirements in the regulations, or else the distributor is obliged to take necessary measures in case of non-compliance of products.

Distributors also have the responsibility to ensure that storage or transport conditions of products do not jeopardise the accessibility requirements of such products, and the obligation to cooperate as necessary with competent national authorities.

Regulation 11 additionally deals with circumstances in which obligations of manufacturers under the regulations also apply to importers and distributors, namely where an importer or distributor places a product on the market under their name or trademark, or modifies a product already placed on the market in such a way that compliance with the requirements of these regulations may be affected.

Obligations of all economic operators to identify other economic operators who had supplied them with, or to whom they had supplied products, are addressed in **regulation 12**, with this regulation specifying that such economic operators should be able to present this information for a period of five years after they have been supplied with the product, and for a period of five years after they have supplied the product.

Part IV covers the obligations of service providers in terms of the regulations, including relevant procedures to be followed by said service providers, in order to ensure compliance with the provisions of the regulations, further to **regulation 13**.

These include a reference to the necessary information to be provided by service providers, in terms of Annex V to the regulations, in both written and oral formats, as well as an obligation that such information is to be retained for as long as a service is in operation.

Change management procedures, such as in the case of alteration to services, as well as necessary corrective measures to be taken by a service provider in case of non-compliance, are also covered by this regulation.

Furthermore, the obligation of service providers to cooperate with CRPD, and with competent national authorities, is also mandated, in respect of information to demonstrate compliance with the accessibility requirements of the regulations, or necessary action to be undertaken by service providers to end instances of non-compliance.

Part V deals with the issues of fundamental alteration of products or services, and the possibility of a disproportionate burden affecting economic operators.

Regulation 14 specifies limits to the earlier-described accessibility requirements, when an economic operator is faced with the possibility of having to effect fundamental alterations to products or services to comply with the regulations, or when such compliance could lead to disproportionate burden.

Relevant self-assessment procedures for economic operators are outlined, and reference to Annex VI of the regulations is made in this respect, also covering relevant documentation of assessment procedures by economic operators, retention of relevant documentation, and possible requests for documentation by CRPD as market surveillance authority, or by other national competent authorities.

An exemption is provided for microenterprises dealing with products, in respect of the requirement to document their assessment. However, if CRPD as market surveillance authority, or another competent national authority so requests, microenterprises availing themselves of such exemption shall still provide the requesting authority with any relevant facts.

The effects of additional support received by economic operators to be able to apply the provisions of these regulations are also covered.

Assessments would have to be repeated by economic operators every five years, or whenever a service is altered, or when otherwise requested to do so by CRPD, or by another competent national authority responsible for checking compliance of services.

Part VI deals with Harmonised Standards and Technical Specifications of Products and Services at EU level, specifying in **regulation 15** that products and services which are compliant with said existing standards, would be considered as compliant in terms of the regulations, in so far as said Standards or Technical Specifications cover the regulations' requirements or parts thereof.

Part VII tackles the EU Declaration of Conformity for Products covered by the regulations, as well as the topic of CE Marking.

Regulation 16 specifies that compliant products shall have, in their respect, an EU Declaration of Conformity drawn up, further to the provisions of Decision No 768/2008/EC.

CE Marking of products in terms of the regulations is to follow the provisions of Regulation (EC) No 765/2008, with **regulation 17** covering general principles in this respect, and **regulation 18** tackling rules and conditions for affixing CE marking on compliant products, in which respect the Market Surveillance and CE Marking Regulations (S.L. 427.73) shall apply.

Part VIII deals with the market surveillance of products covered by the regulations, and the Union safeguard procedure linked to such.

The requirements in respect of market surveillance, to be observed by CRPD as the designated market surveillance authority for products, are covered by **regulation 19**.

This regulation states that Article 15(3), Articles 16 to 19, Article 21, Articles 23 to 28 and Article 29(2) and (3) of Regulation (EC) No 765/2008 shall apply to products. Furthermore, it mandates that CRPD is to check and review assessments performed by economic operators in terms of these regulations, as well as the results of such assessment procedures, while checking relevant compliance with the accessibility requirements contained in these regulations.

In this respect, reference is also made to Annex VI of the regulations in terms of issues of fundamental alterations and disproportionate burden.

Information that can be requested in respect of such market surveillance by CRPD, as the national market surveillance authority is also covered by said regulation, while the regulation also specifies that information held by CRPD in this respect shall be made available to consumers upon request, in an accessible format, except where that information cannot be provided for reasons of confidentiality as provided for in Article 19(5) of Regulation (EC) No 765/2008.

Regulation 20 covers the procedure to be followed by the market surveillance authority, for dealing with products not complying with the applicable accessibility requirements of the regulations.

This procedure includes an appropriate evaluation by CRPD, prescription of relevant measures to be undertaken by the economic operator within a reasonable time to end such non-compliance. This procedure also includes that if a determination of non-compliance is made, and if the prescribed corrective action is not taken, the CRPD may order the withdrawal of the product from the market by the economic operator within an additional reasonable period.

When non-compliance is not restricted to the Maltese national territory, CRPD is also obliged to inform the European Commission (hereinafter referred to as the "Commission") and other Member States, as well as to take any additional provisional measures as appropriate, which shall be deemed justified, if no objections are raised by the Commission or by a Member State to these measures within three months.

Where non-compliance is raised by the Commission or by another Member State, CRPD is to enforce appropriate measures locally to ensure compliance with the accessibility requirements contained in the regulations.

Regulation 21 deals with Union safeguard procedures, in respect of when the Commission examines a measure, and finds said measure to be either justified or unjustified, when a measure is linked to corrective action taken by CRPD concerning a product placed on the Union market, or further steps to prohibit access to the Union market of such product, or withdrawal of said product from the Union market, when the economic operator would not have taken corrective action prescribed within a reasonable period.

This would have been done further to a concern raised with the Commission by a competent national authority, in respect of said measure taken by CRPD, in terms of the regulations, having been contrary to Union law.

Where such measure is found by the Commission to have been justified, CRPD is to take the measures necessary to ensure that a non-compliant product is withdrawn from the market, and shall inform the Commission accordingly, while where the national measure is considered unjustified, CRPD shall withdraw the measure.

Where a measure is deemed justified and non-compliance is due to the shortcomings in harmonised standards at EU level, then the Commission is obliged to address this by applying the procedure in Article 11 of Regulation (EU) 1025/2012. If the measure is deemed justified, and said non-compliance is due to shortcomings in technical specifications at EU level, the

Commission is obliged to adopt implementing acts without delay, to rectify matters, following the examination procedure in Article 27(2) of the main Directive.

Formal instances of non-compliance of products with the regulations, such as CE marking not having been affixed, or the EU Declaration of Conformity not having been drawn up, in addition to instances of non-compliance determined by CRPD in terms of regulation 20, are covered by **regulation 22**.

Part IX deals with the compliance of services with the applicable provisions of the regulations, directing in **regulation 23** that the market surveillance authority adopt appropriate procedures in this respect.

In this respect, the regulation mandates that CRPD is to check and review assessments performed by economic operators in terms of these regulations, as well as the results of such assessment procedures, while checking the relevant compliance with the accessibility requirements contained in these regulations. Reference is also made to Annex VI of the regulations in terms of issues of fundamental alterations and disproportionate burden.

Outreach to the public by the market surveillance authority is also addressed in this regulation, in respect of the public being informed of the existence, responsibilities, identity, work and decisions of CRPD as the competent national market surveillance authority with regard to compliance of services, with said information being made available in accessible formats upon request.

Part X deals with instances in which other legislation, also contains accessibility requirements, further to the accessibility requirements stipulated in the regulations.

Regulation 24 specifies that the accessibility requirements contained in the regulations shall constitute mandatory accessibility requirements in terms of the public procurement legislation listed in this regulation, being the:

- Public Procurement Regulations (S.L. 601.03);
- Public Procurement of Entities operating in the Water, Energy, Transport and Postal Services Sectors Regulations (S.L. 601.05);
- Emergency Procurement Regulations (S.L. 601.08); and
- Concession Contract Regulations (S.L. 601.09).

Regulation 25 states that conformity with EU harmonised standards and technical specifications shall create a presumption of compliance in so far as those standards and technical specifications or parts thereof meet the accessibility requirements of these regulations.

Part XI tackles enforcement to ensure compliance with the provisions of the regulations, as well as the application of relevant penalties in instances of non-compliance.

Regulation 26 specifies that relevant enforcement procedures shall be carried out in terms of article 32A of the Equal Opportunities (Persons with Disability) Act (Cap. 413).

Furthermore, it indicates the individuals and entities that have standing in respect of relevant redress procedures, in terms of article 3 of the United Nations Convention on the Rights of Persons with Disabilities Act (Cap. 627), and through any other means of redress available in terms of applicable legislation from time to time. Said individuals and entities are consumers,

as well as public bodies or private associations, and organisations or other legal entities which have a legitimate interest and are acting on behalf of said consumers.

Exemptions from this regulation are provided for procurement procedures, which are to be regulated by existing sectoral legislation instead.

Penalties further to non-compliance with the provisions of the regulations, as well as specific considerations in this respect, are addressed by **regulation 27**, which mandates that action in this respect be taken in terms of article 32C of the Equal Opportunities (Persons with Disability) Act (Cap. 413), which directs that the Minister responsible, by means of regulations made under said Act, enact provisions in respect of administrative fines issued in terms of the Act. This regulation also directs that penalties shall also be accompanied by effective remedial action in case of non-compliance of the economic operator, in terms of the Act.

Exemptions from this regulation are also provided for procurement procedures, which are to be regulated by existing sectoral legislation instead.

Annex I provides detailed accessibility requirements for products and services covered by the Scope of the regulations, further to the stipulations, exceptions and exemptions contained in said regulations.

Annex II contains a non-exhaustive list of indicative, non-binding examples of possible solutions that contribute to meeting the accessibility requirements detailed in Annex I of the regulations.

Annex III deals with specific accessibility requirements concerning the built environment used in respect of delivery of services falling within the Scope of the regulations.

Annex IV outlines the conformity assessment procedure for products covered by the Scope of the regulations, further to relevant stipulations contained in said regulations.

Annex V specifies the information to be included by service providers in assessing how a service meets the accessibility requirements referred to in regulation 4 of the regulations.

Annex VI contains criteria for assessment of disproportionate burden in terms of the regulations, further to relevant stipulations contained in said regulations.

4. Concluding Section

The regulations shall come into force on such dates as specified in regulation 1(3) of the regulations.

For any queries, kindly contact the Directorate for Disability Issues (DDI) within the Ministry for Inclusion and the Voluntary Sector (MIV), on email address ddi@gov.mt.

N.B. This Explanatory Note is not intended to be an exhaustive description of the instrument nor a substitute thereof or a legislative supplement to it. This Note does not purport to be an authoritative ruling on the interpretation of the legislation.

The Accessibility Measures (European Accessibility Act) Regulations, 2022 were promulgated through Legal Notice 214 of 2022 on 29th July 2022, as Subsidiary Legislation 627.03: (https://legislation.mt/eli/sl/627.3/eng).

27th June, 2025