

9. Enhancing access to digital goods and services for consumers with disabilities: the transformative and yet untapped potential of the European Accessibility Act

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1. INTRODUCTION

In 1999, the Treaty of Amsterdam conferred upon the former European Community (EC) competence to combat discrimination on the ground *inter alia* of disability, and included a declaration requiring European institutions to take into account the needs of persons with disabilities in drawing up harmonisation measures within the remit of the internal market.² This declaration supported the embedding of an array of accessibility requirements in sectorial legislation, for example in the area of transport, as well as with regard to

¹ This chaptermode_comment is part of a larger research project entitled ‘Protecting the Right to Culture of Persons with Disabilities and Enhancing Cultural Diversity through European Union Law: Exploring New Paths – DANCING,’ which commenced in September 2020 (<https://ercdancing.maynoot-huniversity.ie/>). This project has received funding from the European Research Council (ERC) under the European Union’s Horizon 2020 research and innovation programme (Grant Agreement No. 864182). This chapter reflects only the author’s views and does not necessarily reflect those of the European Union or the ERC. I am grateful to Dr Ann Leahy and Ms Eva Krolla for their support in the data collection process and in carrying out the interviews. I also wish to acknowledge with thanks the contributions of interview participants. The chapter takes into account legal developments up until 30 July 2024.

² L Waddington, *From Rome to Nice in a Wheelchair: The Development of a European Disability Policy* (Europa Law Publishing 2005).

certain physical facilities – such as cableway installations and lifts – or specific goods, for instance medicinal products.³

In 2010, the ratification⁴ of the UN Convention on the Rights of Persons with Disabilities (CRPD)⁵ gave new impetus to the European Union (EU) action on disability⁶ and prompted renewed attention to accessibility. The ‘European Disability Strategy 2010–2020’ (EDS),⁷ which laid out a ten-year-long disability policy framework to implement the CRPD, constituted accessibility as a precondition ‘for participation in society and in the economy’. It envisaged a range of diverse legislative and other instruments with the view of improving access for people with disabilities to a wide range of goods and services and complementing existing accessibility requirements included in EU sectorial legislation. The most recent ‘Union of Equality: Strategy for the Rights of Persons with Disabilities 2021–2030’ (Strategy 2021–2030)⁸ defines accessibility as an ‘enabler of rights, autonomy, and equality’. It indicates that the European Commission (Commission) ‘will pay close attention to the correct implementation and evaluation of all EU rules regulating accessibility’, and will support the effectiveness of these rules through standardisation, as well as other non-legislative instruments. Among the latter, the Strategy 2021–2030 lists, for example, the resource centre ‘AccessibleEU’, which was set up in 2023.⁹

While accessibility is pursued by an array of EU norms and measures, the centrepiece, and probably the most significant tool in this portfolio, is Directive (EU) 2019/882 on the accessibility requirements for products and services, better known as the European Accessibility Act (EAA).¹⁰ The EAA was adopted

³ L Waddington, ‘A Disabled Market: Free Movement of Goods and Services in the EU and Disability Accessibility’ (2009) 5 *European Law Journal* 575.

⁴ Council Decision 2010/48/EC of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities [2010] OJ L23/35.

⁵ UN Convention on the Rights of Persons with Disabilities, 13 December 2006, in force 03 May 2008, UN Doc A/RES/61/106.

⁶ D Ferri and A Broderick, ‘Introduction’ in D Ferri and A Broderick (eds), *Research Handbook on EU Disability Law* (Edward Elgar 2020) 1–10.

⁷ European Commission, ‘European Disability Strategy 2010–2020: A Renewed Commitment to a Barrier-Free Europe’ COM(2010) 636 final.

⁸ European Commission, ‘Union of Equality: Strategy for the rights of persons with disabilities 2021–2030’ COM(2021) 101 final.

⁹ European Commission, ‘About AccessibleEU’ available at https://accessible-eu-centre.ec.europa.eu/about-accessibleeu_en accessed 20 May 2025.

¹⁰ Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (European Accessibility Act – EAA) [2019] OJ L151/70.

in 2019. While, thus far (perhaps surprisingly), it has not attracted much attention within the consumer law domain, it covers a wide range of digital products and services in the private sector, including computers, ATMs, banking services, ticketing and check-in machines, smartphones, TV equipment, services that give access to audio-visual media, services related to air, bus, rail, and waterborne passenger transport, e-books, and e-commerce. By complementing the Web Accessibility Directive (WAD),¹¹ which mandates accessibility of websites and mobile applications of public services,¹² it has great potential to enhance disabled consumers' access to the EU digital market. This is so because it aims to dismantle barriers to purchasing certain goods and services by ensuring accessibility of, for example, ticketing machines, but also to guarantee that actual goods and services purchased are accessible to people with disabilities. The initial impact assessment study on the EAA, while focussing on the fragmentation of the internal market and the need for EU action, did hint at obstacles faced by consumers with disabilities as well as limited choice of products and high costs.¹³ In a similar vein, a recent UK study highlights how accessibility is a key condition for people with disabilities to actually become consumers and to buy goods and services.¹⁴ The report indicates that 43% of respondents to the study said that they abandoned their shopping frequently because of the various barriers they encountered when shopping – both online and in-person.¹⁵

Thus far, scholarly work has reviewed the compliance of the EAA with the CRPD,¹⁶ or examined how the EAA would interact with standardisation

¹¹ Directive (EU) 2016/2102 of the European Parliament and of the Council on the accessibility of the websites and mobile applications of public sector bodies [2016] OJ L327/1.

¹² D Ferri and S Favalli, 'Web Accessibility for People with Disabilities in the European Union: Paving the Road to Social Inclusion' (2018) 8(2) *Societies* 40.

¹³ European Commission, 'Commission Staff Working Document Impact Assessment Accompanying the Document Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States as regards accessibility requirements for products and services', SWD(2015) 264 final.

¹⁴ Business Disability Forum, 'What disabled consumers choose to buy and why' available at https://businessdisabilityforum.org.uk/knowledge-hub/resource/category/what-disabled-consumers-choose-to-buy-and-why/?sort_by=date accessed 20 May 2025.

¹⁵ *Ibid.*

¹⁶ S Charitakis, *Access Denied: The Role of the European Union in Ensuring Accessibility under the United Nations Convention on the Rights of Persons with Disabilities* (Intersentia 2018).

rules,¹⁷ or other areas of EU law and policies.¹⁸ In previous contributions, I have looked at the EAA from an EU constitutional perspective and discussed the balance between social and market objectives.¹⁹ While building on such scholarship, this chapter adopts a socio-legal approach and, almost five years after the publication of the EAA in the Official Journal, it aims to appraise its role in enhancing the opportunities for persons with disabilities to partake in the EU market on an equal basis with others. It does so by looking at how the EAA is now perceived by persons with disabilities and which effects it has displayed so far, with a view to understanding how this directive is positioned in the social context, blending legal research with empirical findings from a set of semi-structured interviews conducted with representatives of organisations of persons with disabilities or umbrella non-governmental organisations acting at the EU level and engaging with EU policymakers.

After this introduction, the chapter proceeds as follows. It briefly outlines the conceptual framework upon which this analysis is based, recalling the meaning of disability and accessibility for the purpose of this analysis (Section 2). It then locates the chapter within the remit of socio-legal research and expounds the methods used (Section 3). In doing so, it places emphasis on the strengths of empirical (qualitative) research in the context of EU law and it highlights the role of interviews in assessing a societal understanding of the EAA and its effects. After recalling the main features of the EAA, it discusses the strengths, potential, and drawbacks of the EAA in light of the empirical research conducted (Section 4). It concludes with a few general remarks on the role of the EAA in enhancing accessibility, highlighting the importance of socio-legal approaches in EU law (Section 5).²⁰

¹⁷ D Hosking, 'Promoting Accessibility for Disabled People Using EU Standardisation Policy' (2017) 42(2) *European Law Review* 145.

¹⁸ A Drabaz, 'Harmonising Accessibility in the EU Single Market: Challenges for Making the European Accessibility Act Work' (2020) 43(4) *Review of European and Comparative Law* 83–102.

¹⁹ D Ferri, 'The European Accessibility Act and the Shadow of the "Social Market Economy"' (2020) 45(5) *European Law Review* 660–80; D Ferri, 'The Role of the European Union in Ensuring Accessibility of Cultural Goods and Services: All About That ... Internal Market?' (2023) 48(3) *European Law Review* 257–80.

²⁰ In line with the CRPD and the social-contextual understanding of disability, recalled in Section 2, this chapter uses person-first language (i.e., persons/people with disabilities). KL Best, WB Mortenson, Z Lauzière-Fitzgerald, and EM Smith, 'Language Matters! The Long-standing Debate between Identity-first Language and Person-first Language' (2022) 34(2) *Assistive Technology* 127–8.

2. CONCEPTUAL FRAMEWORK: A SOCIAL-CONTEXTUAL UNDERSTANDING OF DISABILITY

The CRPD has not only been a major driver of EU disability policies, supporting the use of internal market legislation to foster accessibility, it has also informed the way in which disability is conceived of in EU law. In line with the CRPD, and albeit not always consistently, the EU has adopted a social-contextual understanding of disability,²¹ whereby disability is conceived of as deriving from the interaction between individual impairments and external barriers.²² In fact, the preamble of the EAA cites the open conceptualisation of Article 1(2) CRPD,²³ while Article 3 EAA defines ‘persons with disabilities’ as ‘persons who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others’.

In line with this social-contextual understanding of disability, the CRPD places emphasis on ‘the importance of accessibility to the physical, social, economic and cultural environment, to health and education and to information and communication’.²⁴ In fact, the CRPD includes accessibility among its general principles, and the Committee on the Rights of Persons with Disabilities (CRPD Committee), in its General Comment No. 2, articulates it as a ‘precondition’ for the enjoyment of all civil, political, economic, social, and cultural rights.²⁵ In that connection, the CRPD is said to embrace a capacious and multifaceted concept of accessibility.²⁶ Charitakis asserts that, in the CRPD, accessibility comprises different distinct dimensions, that

²¹ A Broderick and D Ferri, *International and European Disability Law and Policy. Text, Cases and Materials* (Cambridge University Press 2019).

²² L Lourenco and P Pohjankoski, ‘Breaking Down Barriers? The Judicial Interpretation of “Disability” and “Reasonable Accommodation” in EU Anti-Discrimination Law’ in U Belavusau and K Henrard (eds), *EU Anti-Discrimination Law beyond Gender* (Hart Publishing 2018).

²³ Recital 3 of the Preamble highlights: ‘The [CRPD] states that persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others’.

²⁴ Preamble lett (v) CRPD.

²⁵ Committee on the Rights of Persons with Disabilities (CRPD Committee), ‘General Comment No. 2 on Article 9 of the Convention’ (11 April 2014) CRPD/C/GC/2 para 13.

²⁶ A Lawson, ‘Article 9: Accessibility’ in I Bantekas, MA Stein, and D Anastasiou (eds), *The UN Convention on the Rights of Persons with Disabilities: A Commentary* (Oxford University Press 2018).

is, ‘attitudinal accessibility, economic accessibility or affordability, physical accessibility, information accessibility and communication accessibility’.²⁷ The first dimension of accessibility ‘refers to the removal of stigma and other negative behaviour that people with disabilities, their families and their care-takers experience throughout their lives’.²⁸ The second dimension relates to ‘the idea that facilities, goods and services must be affordable to people with disabilities’, which encompasses the ‘economic capacity of people with disabilities to afford the costs of using such facilities, goods and services’.²⁹ The third and physical aspect of accessibility concerns the interrelation with the external environment. This entails that all spaces, facilities, goods and services must ‘be adjusted so that they are accessible to persons with disabilities, with or without assistance’.³⁰ Finally, Charitakis suggests that information accessibility requires that general information about facilities, goods, and services, as well as about accessibility, is to be made available to all. This dimension is interlinked with communication accessibility, which concerns making available information in alternative modes and means of communication (e.g., Braille, large print, audio formats, etc.). While all these dimensions are deeply intertwined and somewhat overlapping, they well showcase the layers that characterise accessibility obligations within the CRPD and their complexity.

The EAA overtly embraces the CRPD’s broad conception of accessibility, given that Recital 50 of its preamble explicitly establishes that accessibility should be interpreted in line with General Comment No. 2 by the CRPD Committee. However, quite differently from what the CRPD prescribes,³¹ accessibility requirements provided for in the EAA ‘should only apply to the extent that they do not impose a disproportionate burden on the economic operator concerned’³² or do not require a ‘fundamental alteration’ of the product.³³ In this way, as will further be discussed later in the chapter, the EAA attempts to strike a balance between a capacious concept of accessibility and its economic costs for economic operators.

²⁷ Charitakis (n 16) 25.

²⁸ Ibid.

²⁹ Ibid 26.

³⁰ Ibid 28.

³¹ According to the CRPD Committee, accessibility is subject to progressive realisation, but it is unconditional.

³² Recital 64 of the Preamble of the EAA. See also Recitals 65 *et seq.* of the Preamble.

³³ Article 14 EAA.

3. METHODOLOGY

3.1 Embracing the Socio-Legal ‘Turn’ of EU Law

Legal research has conventionally been anchored in the doctrinal legal method, which heavily relies on the ‘letter of the law’ and uses interpretive techniques, either carved out by scholarship or emerging from the law itself.³⁴ While doctrinal research remains well rooted in legal scholarship, the need to better understand how law is translated into practice and to generate knowledge that produces or supports social change has given rise to the multifaceted field of ‘socio-legal research’. Without engaging with the wide scholarly debate about what socio-legal research is (and is not), this chapter refers to socio-legal research as encompassing the ‘examination of how law, legal phenomena and/or phenomena affected by law and the legal system occur in the world, interact with each other and impact those who are touched by them’,³⁵ but also refers to research that employs theoretical approaches borrowed from other disciplines or uses empirical – either qualitative or quantitative – methods. In that regard, this chapter qualifies as socio-legal because of its purpose, in that it aims to evaluate the potential of the EAA to enhance disability rights, assessing it from the perspective of persons with disabilities. It takes into account the call of the CRPD for inclusive research that responds to and includes persons with disabilities, in line with the disability movement motto ‘nothing about us, without us’ (which is also embedded in the text of the Convention, particularly Article 4 CRPD). It is a typically socio-legal chapter because it blends legal and qualitative methods, in line with the remit of the present volume. While qualitative methods are often deemed to be less rigorous than, for example, quantitative methods, they allow for a more nuanced understanding of complexities and subtleties. In this respect, they complement positivistic and doctrinal legal approaches well, deepening the understanding of legal phenomena.³⁶ Further, interviews can be considered particularly helpful as they

³⁴ T Hutchinson and N Duncan, ‘Defining and Describing What We Do: Doctrinal Legal Research’ (2012) 17(1) *Deakin Law Review* 83–119; G van Dijck, S Sverdllov, and G Buck, ‘Empirical Legal Research in Europe: Prevalence, Obstacles, and Interventions’ (2018) 2 *Erasmus Law Review* 105–19.

³⁵ L Webley, ‘The Why and How to of Conducting a Socio-Legal Empirical Research Project’ in N Creutzfeldt, M Mason, and K McConnachie (eds), *Routledge Handbook of Socio-Legal Theory and Methods* (Routledge 2019).

³⁶ L Webley, ‘Qualitative Approaches to Empirical Legal Research’, in P Cane and HM Kritzer (eds), *The Oxford Handbook of Empirical Legal Research* (Oxford University Press 2010; online edn).

go beyond mere ‘fact-finding’ to unveil perceptions and understandings of the law, which are key to appraising its actual impact.³⁷

Besides locating the broad stream of ‘socio-legal’ research, this chapter links to the growing strand of scholarly work that approaches EU law from non-doctrinal standpoints.³⁸ As noted by De Witte, the dominant method for EU legal scholars is still ‘doctrinal research based on adherence to legal positivism’.³⁹ However, the ‘additional use of non-doctrinal methods helps to get an even better understanding of institutional practices’,⁴⁰ and, more generally, of how legal norms embed into social reality.⁴¹ In fact, this chapter also connects to ‘law-in-context’ perspectives.⁴² The latter are deemed to allow the use of ‘theoretical input to tackle concrete legal questions’, which ‘far from being methodologically peripheral, is actually key to producing meaningful research on European integration’.⁴³

3.2 Methods

As mentioned earlier, this chapter blends legal with qualitative research. In particular, it draws on the findings from a set of ten semi-structured interviews conducted as part of the wider project DANCING, involving a multi-method approach.⁴⁴ These ten interviews were designed, deployed, and conducted between June 2023 and January 2024, via video conference, allowing the

³⁷ T Joltreau and A Smith, ‘Chapter 10: Qualitative Research on the European Union: What Interviews and Observatory Participation Bring to the Party’ in S Faure and C Lequesne (eds), *The Elgar Companion to the European Union* (Edward Elgar 2023).

³⁸ See R Deplano *et al.* (eds), *Interdisciplinary Research Methods in EU Law. A Handbook* (Edward Elgar 2024); see also P Leino-Sandberg, *The Politics of Legal Expertise in EU Policy-Making* (Cambridge University Press 2021).

³⁹ B De Witte, ‘Legal Methods for the Study of EU Institutional Practice’ (2022) 18 *European Constitutional Law Review* 637.

⁴⁰ Ibid.

⁴¹ E Korkea-aho and P Leino, ‘Interviewing Lawyers: A Critical Self-reflection on Expert Interviews as a Method of EU Legal Research’ (2019) SI *European Journal of Legal Studies* 17–47.

⁴² C Harlow, ‘The EU and Law in Context: the Context’ (2022) 1(1) *European Law Open* 209–15.

⁴³ K Caunes, ‘Some Triple Q Reflections: On Journal Rankings, Methodology and Scholarship with Impact’ (2022) 28 *European Law Journal* 110–23.

⁴⁴ See ‘Protecting the Right to Culture of Persons with Disabilities and Enhancing Cultural Diversity through European Union Law: Exploring New Paths – DANCING’ available at <https://ercdancing.maynoothuniversity.ie/> accessed 20 May 2025.

maintenance of the face-to-face element of interviewing. Participants included representatives from umbrella non-governmental organisations (NGOs) working on disability issues at the EU level and organisations of people with disabilities (OPDs), many of whom were working at a senior level, including policy officers. For the purpose of this research, OPDs were identified according to the definition proffered by the CRPD Committee in its General Comment No. 7.⁴⁵ The CRPD Committee ‘considers that organizations of persons with disabilities should be rooted, committed to, and fully respect the principles and rights recognised in the Convention. They can only be those that are led, directed, and governed by persons with disabilities’. Interviewees were recruited based on a mainly purposive sampling process,⁴⁶ having identified and selected organisations that could provide ‘information-rich cases’.⁴⁷ Sampling took into account the distinct expertise of interviewees. Notably, some of the organisations are part of the Disability Platform, the expert group set up by the Commission in 2021,⁴⁸ which represents a forum for close cooperation and the exchange of information between the institutions of the Member States, the Commission, and civil society on disability.

A semi-structured approach to interviewing was essential for the collection of contextual data on the EAA and its impact. An interview guide was used flexibly to allow for participants to present information that was important to them. Participants were *inter alia* asked to highlight and discuss EU legislation that promotes and protects disability rights and accessibility and were then asked about the EAA. In line with well-established best practices in qualitative research, participants received information on the study, as well as on specific issues such as anonymisation, data protection, and data storage, and gave informed, written consent to participate. Ethical approval for the study was obtained from the relevant Maynooth University Ethics Committee.

Interviews were transcribed verbatim, and transcripts were analysed using a reflexive approach to thematic analysis (TA), in line with the method outlined

⁴⁵ CRPD Committee, ‘General comment No. 7 Article 4.3 and 33.3: Participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention’ (21 September 2018) CRPD/C/GC/7 para. 11.

⁴⁶ LA Palinkas *et al.*, ‘Purposeful Sampling for Qualitative Data Collection and Analysis in Mixed Method Implementation Research’ (2015) 42(5) *Administration and Policy in Mental Health and Mental Health Services Research* 533–44.

⁴⁷ MQ Patton, *Qualitative Research and Evaluation Methods* (3rd edn, Sage Publications 2002).

⁴⁸ European Commission, ‘Commission Decision of 27.10.2021 setting up the group of experts “Disability Platform”’ COM(2021) 7591 final.

by Braun and Clarke.⁴⁹ TA is particularly helpful in socio-legal research because, as Braun and Clarke contend, it is not strictly tied to any specific theory or epistemology and offers great flexibility.⁵⁰ It allows the identification of themes or patterns in the data that are important and use these themes to address a research question. Reflexive TA approaches, like the one propounded by Braun and Clarke, are ‘characterized by organic and open procedures for coding and theme development that centre the researcher’s interpretative engagement with the data’.⁵¹ The analysis of the interviews followed the steps for TA outlined by Braun and Clarke and encompassed: familiarisation; coding; generating initial themes; reviewing and developing themes; and refining, defining, and naming themes.⁵² The coding was open, unstructured, and largely inductive, but the themes developed from codes took into account key legal aspects of the EAA, which are further expounded in the following section.

Anonymised interviews have been archived in the Irish Qualitative Data Archive. When quoting extracts from interviews, the chapter uses the acronym NGO/OPD associated with the number of the interview.⁵³

The use of interviews is not without limitations, as issues of anonymity and confidentiality arise when presenting findings, especially considering the limited sampling. The latter can also be considered a limitation, although the use of information-rich cases provides significant insights into the EAA. Findings can also be more difficult to characterise, but looking at the themes developed in light of data gathered through desk-based research, for example, comparing them with press releases of umbrella organisations, supports the identification of themes. All in all, this chapter showcases that qualitative research helps

⁴⁹ V Clarke and V Braun, ‘Thematic Analysis’ (2017) 12(3) *The Journal of Positive Psychology* 297–8; V Braun, V Clarke and N Hayfield, ‘“A Starting Point for Your Journey, Not a Map”: Nikki Hayfield in Conversation with Virginia Braun and Victoria Clarke about Thematic Analysis’ (2022) 19(2) *Qualitative Research in Psychology* 424–45; V Braun, *Thematic Analysis: A Practical Guide to Understanding and Doing* (Sage 2021).

⁵⁰ V Braun and V Clarke, ‘Using Thematic Analysis in Psychology’ (2006) 3(2) *Qualitative Research in Psychology* 77–101.

⁵¹ V Braun and V Clarke, ‘A Critical Review of the Reporting of Reflexive Thematic Analysis in Health Promotion International’ (2024) 39(3) *Health Promotion International* 1.

⁵² V Clarke and V Braun, ‘Teaching Thematic Analysis: Overcoming Challenges and Developing Strategies for Effective Learning’ (2013) 26(2) *The Psychologist* 120–23.

⁵³ As a further measure to preserve the anonymity of the interviewees, it does not identify the gender of the interviewees and uses the pronoun ‘they’ as a further safeguard.

gain a deep understanding of how the EAA is perceived by persons with disabilities and people working on disability issues, complementing a traditional legal analysis.

3. THE EUROPEAN ACCESSIBILITY ACT: ‘HERE COMES THE SUN’?

3.1 Key Features and Core Provisions

Before discussing the strengths and drawbacks of the EAA, this section briefly recalls the core tenets of the act. As mentioned above, the EAA was adopted by the EU legislators in 2019 with the explicit aim of improving the functioning of the internal market for accessible products and services by removing regulatory barriers across the EU. In line with the CRPD, it embeds a social-contextual understanding of disability and envisages accessibility as an essential precondition for societal participation.

The EAA provides for the accessibility of a range of key digital products and services placed on the market after 28 June 2025, such as ‘consumer general-purpose computer hardware systems and operating systems’, self-service and consumer terminals, e-readers, electronic communications services, services providing access to audiovisual media services, digital services related to transport, consumer banking services, e-books and dedicated software; and e-commerce services.

The EAA places a range of accessibility obligations on manufacturers, authorised representatives, importers, distributors, and service providers. It applies equally to economic operators from the public and private sectors. However, microenterprises are exempt from complying with the accessibility requirements and any obligations relating to compliance with those requirements. Manufacturers, when placing their products on the market, have to ensure that the products ‘have been designed and manufactured in accordance with the applicable accessibility requirements of this Directive’, and that ‘procedures are in place for series production to remain in conformity with this Directive’. Importers must ‘place only compliant products on the market’. They also have to carry out a conformity assessment before placing a product on the market. Distributors must ‘act with due care in relation to the requirements of [the] Directive’, and ‘ensure that, while a product is under their responsibility, storage or transport conditions do not jeopardise its compliance with the applicable accessibility requirements’. Finally, service providers must

‘ensure that they design and provide services in accordance with the accessibility requirements’ of the EAA.⁵⁴

As established in Annex I, ‘products must be designed and produced in such a way as to maximise their foreseeable use by persons with disabilities and shall be accompanied where possible in or on the product by accessible information on their functioning and on their accessibility features’. Thus, accessibility obligations extend to design, labelling, instructions, user interface, and support services. According to Article 15 of the EAA, products and services which conform to harmonised standards are presumed to be in conformity with the accessibility requirements of the EAA insofar as those standards or parts thereof cover accessibility requirements. A Standardisation Request intended to provide the Harmonised Standards to support accessibility requirements of products and services in line with the EAA was submitted by the Commission to standardisation bodies.

Article 14 of the EAA establishes that accessibility requirements do not apply where they would impose a disproportionate burden on the economic operators concerned. Further, accessibility requirements are not applicable when they would imply a significant change in a product or service that results in the fundamental alteration of its basic nature. However, economic operators are required to document the reasons for which they are not subject to accessibility duties, and, if they receive funding to ensure accessibility, they cannot rely on the disproportionate burden defence.

Member States are obliged to put in place adequate enforcement measures to avoid businesses circumventing or disregarding accessibility obligations, and to provide clear and proportionate ‘penalties applicable to infringements of national provisions adopted pursuant to [the EAA]’. The EAA sends a clear message to Member States in that they should avoid accessibility legislation being a paper tiger. Transposition was due by June 2022, although some Member States did transpose the directive after the deadline,⁵⁵ and some did not transpose it. In July 2024, the Commission decided to refer Bulgaria to the Court of Justice of the European Union (CJEU) as the EAA has not yet been incorporated into Bulgarian national law.⁵⁶

⁵⁴ Notably, these obligations as well as the reference to certification, somewhat echo the obligations laid out in consumer legislation, particularly in relation to product safety under the New Legislative Framework. See European Commission, ‘New Legislative Framework’ available at https://single-market-economy.ec.europa.eu/single-market/goods/new-legislative-framework_en.

⁵⁵ This is the case for Ireland, which implemented the EAA only at the end of 2023.

⁵⁶ European Commission, ‘Commission decides to refer BULGARIA to the Court of Justice of the European Union for failing to incorporate the European

3.2 Transformative ... But Not Yet Impactful

Most interviewees, either explicitly or implicitly, consider the EAA a specific tool to implement the CRPD, somewhat overlooking the internal market rationale.⁵⁷ Some participants have recalled that ‘accessibility is a precondition to participation’ (NGO/OPD_8). Some have further highlighted that, thus far, the EU has deployed legislative action to give effect to the CRPD predominantly with regard to accessibility. This is in fact an interesting proposition that points to the stalemate in the non-discrimination field⁵⁸ compared to the EU activism on issues related to access. As one interviewee put it, ‘so most implementation links to accessibility for people [with disabilities]’ (NGO/OPD_3). In that regard, the majority of interviewees conceive of the EAA as ‘disability rights’ legislation, and do not engage with aspects related to market access or consumption *per se*.

Alongside the link to the CRPD, the EAA is generally considered a landmark piece of legislation with great potential that is, however, still untapped. One interviewee stated that the EAA: ‘is a very transformative law. I truly believe it is a turning point for Europe as for accessibility policies, but its impact has not yet reached the everyday life of persons with disabilities’ (NGO/OPD_1).

The limited impact is sometimes connected to gaps in the text of the EAA, or to the fact that it is not ambitious enough. Although scholars like Miller posit that ‘[o]f the many pieces of EU secondary legislation that now refer – directly and indirectly – to the rights of individuals with disabilities [the EAA] stands out as the most comprehensive in scope’,⁵⁹ a few interviewees suggested that it is still not ‘comprehensive’ enough (NGO/OPD_7). One interviewee highlighted:

we regretted that the built environment was also not included, ... maybe ... [also the EAA could have better covered] ... people with other types of disabilities. But, again, we would have liked something a little bit more ambitious in terms of scope

Accessibility Act into national law’ (Press Release, 25 July 2024) available at https://ec.europa.eu/commission/presscorner/detail/en/ip_24_3801 accessed 20 May 2025.

⁵⁷ This was mentioned overtly only by one interviewee (NGO/OPD_7) who stated: ‘Of course it does have also a very limited remit because it is about the EU market’.

⁵⁸ European Commission, ‘Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation’ COM(2008) 426 final.

⁵⁹ JA Miller, ‘Strengthening the Rights of Persons with Disabilities in Europe to Access Goods and Services’ (2024) 15(2) *European Journal of Legal Studies* 173–213.

and ... we hope that in the future there will be some other initiative again to complement it. (NGO/OPD_6)

Some participants also mentioned that the EAA's impact is limited because the directive itself fails to specifically address the needs of certain groups within persons with disabilities (particularly cognitive and intellectual disabilities or neurodivergent conditions). One participant, for example, stated: '[m]aybe a bit more emphasis on cognitive accessibility, I mean, for example, also marking in public places, signposting and so on, all these kinds of aspects could have helped a bit more autistic people. And I don't think they are very present in the current legislation' (NGO/OPD_6).

They also indicated: 'the European Accessibility Act was a step in the right direction but in terms of real impact for autistic people we considered it was quite limited. ... I don't think it made a huge impact on the everyday life of autistic people' (NGO/OPD_6).

In a similar vein, another participant specified: 'because for Deaf people it is really more than that, it is more than the provision of sign language interpreting, we really want to be able to use sign languages in all aspects, in all spheres in life' (NGO/OPD_3).

Another interviewee suggested that the EAA is an 'important [step]' but does not take into account enough of the perspective of older persons (NGO/OPD_7).

The choice for accessibility requirements to be applied from 2025 onwards was considered a key drawback that diluted the effects of the directive. However, it was acknowledged that 'accessibility ... will not be fixed overnight' (NGO/OPD_1). Further, besides limits that are inherent to the text and, evidently, relate to the internal market focus and the limits of EU competences, interviewees also indicated that the choice of a directive, which requires transposition, somewhat hampers the impact of EU legislation *per se* and pointed to late transposition as a major factor for the limited impact:⁶⁰ 'I think it is a bit complicated because the direct impact of European action is of course a bit slow by the time it is implemented and so on, you know, the process. So it is complicated to see the direct impact' (NGO/OPD_5).

Other elements that have been considered as hampering the impact of the EAA so far relate to the interdependence between the EAA and the adoption of standards. One interviewee stated: '[B]ut obviously not all the elements of the [European] Accessibility Act are yet ready and everyone concerned is aware of it. So, for example, at European level we are now starting to develop the

⁶⁰ This was mentioned by various OPDs.

harmonised European standards that will prove conformity with the Directive' (NGO/OPD_1).

Another significant issue somewhat hampering the effectiveness of the EAA is the fact that market players and those who are subject to accessibility requirements under the EAA are not always aware of the Directive or its obligations. For example, one interviewee suggested that '[n]ot all the industries are on top of things when it comes to accessibility and not even some of them are aware that they are affected by this legislation' (NGO/OPD_1). This tallies with what scholarly work had already emphasised. For example, Alexander suggests that the publishing industry is willing to make printed material accessible but faces staffing problems, a lack of technical knowledge, and experience.⁶¹ With particular regard to ebooks, an interviewee, in fact indicated the need to promote 'best practices', alongside standardisation (NGO/OPD_4). This echoes what Baarslag had suggested, that is to say, that 'more communication with the publishers is necessary for them to understand their role and responsibility' and that there is the need to 'educate publishers'.⁶² Some participants highlighted the limited knowledge and understanding of accessibility in general. One, for example, stated:

so I think the accessibility and inclusion element is not understood. I think the main thing that is understood is ramps when we look at the physical activities ... there is an element there of thinking about how can I make this accessible to most, rather than just a few, [that is missing]. (NGO/OPD_10)

Other interviewees highlighted that the EAA 'will help to move things in the right direction' (NGO/OPD_9), but other pieces of legislation are equally impactful. This hints at what I defined elsewhere as the 'accessibility jigsaw' and the need to consider the interrelations among different pieces of EU legislation.⁶³ One interviewee suggested that, for example, for people with dyslexia, the Marrakesh Directive,⁶⁴ implementing the Marrakesh Treaty to Facilitate

⁶¹ H Alexander, 'Are We There Yet? The State of Accessible Publishing in 2022' (2022) 35 *Learnt Publishing* 697–703; on the lack of knowledge of stakeholders see also G Veldt, 'Empirical Insights to Better Inform Product Safety and Product Liability Law in E-Commerce' in this book.

⁶² A Baarslag, 'Hurdles on the European Road to Accessibility' (2022) 8 *Txt* 11–20.

⁶³ D Ferri and K Donnellan, 'The Implementation of the Marrakesh Treaty in the European Union: An Important Piece in the Accessibility Jigsaw?' (2022) *Legal Issues of Economic Integration* 49.

⁶⁴ Directive (EU) 2017/1564 on certain permitted uses 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 and amending

Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled⁶⁵ can be even more transformative than the EAA in allowing access to accessible formats of books and printed material (NGO/OPD_9).

4. CONCLUDING REMARKS

In 2019, the EAA was welcomed by persons with disabilities and OPDs. After five years since its adoption, it is still heralded as one of the key EU advancements in the protection of the rights of persons with disabilities by scholars and OPDs alike.

In the interviews conducted, OPDs tend to downplay the EAA's internal market rationale, which has instead been emphasised in my previous work⁶⁶ and most recently by Miller.⁶⁷ The latter author recently stated that 'the Commission's strategy to frame the EAA as a business-friendly venture rather than an anti-discrimination initiative has important negative implications for its material scope'.⁶⁸ The limited material scope of the EAA is pointed to as a major gap, and yet OPDs do not focus on its consumeristic or economic slant but rather conceive it as a key piece of legislation to comply with the CRPD. In their assessment of the EAA, they do not place emphasis on its ability to remedy the limited accessibility of digital goods and services, which has emerged dramatically during the pandemic, but they tend to recognise that it is a landmark piece of legislation. The delayed effects of accessibility obligations that will be fully in force from 2025 onwards have significantly limited the impact of the EAA. However, there is the recognition that the EAA is a very technical piece of legislation and that accessibility *per se* is complex:

[S]o the implementation, let's say, has been slow but we also need to recognise that it is a complex legislation. Accessibility, when it comes to implementing it into practice it is a technical and complex topic that requires expertise, requires accessibility professionals, requires that all stakeholders are aware of it and work together to achieve it. (NGO/OPD_1)

Further, as one interviewee put it:

Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society [2017] OJ L242/6.

⁶⁵ Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled [2018] OJ L48/3.

⁶⁶ Ferri (n 19) 'The European Accessibility Act'.

⁶⁷ Miller (n 59).

⁶⁸ Ibid.

even if we can definitely say that the impact is not visible or tangible at the moment, I believe that it is coming, it is a wave that is unstoppable and we need to build up on that and finalise all the different elements and address all the different elements that are necessary for accessibility to be a reality in the everyday lives of all of us. (NGO/OPD_1)

On the whole, the EAA is seen as a major achievement and an important step to promote the rights of persons with disabilities, whose effects, when they are fully in place, will be longstanding and life-changing. The discussion of insights coming from interviews with OPDs and NGOs may support more robust awareness-raising activities to spread knowledge of accessibility and of the EAA among all categories of duty bearers. It also unveils the need to complement the EAA with future legislation that addresses the accessibility of other services remaining outside the scope of the EAA and to tackle outstanding accessibility issues. Although the OPDs that participated in the research reported here did not engage with enforcement issues, it is apparent that the CJEU will also have an important role to play to further defining the actual scope of the EAA and boosting the protection offered by it. The recent referral of Bulgaria to the CJEU will most likely proffer a significant opportunity for the Luxembourg judges to support the EAA implementation.

The chapter also showcases that socio-legal research can support an appraisal of EU law that is rooted in the societal context in which it applies. It allows for a better understanding of how EU law is perceived, which is key to its full implementation. More specifically, when it comes to the rights of consumers with disabilities in the EU, socio-legal research, which blends doctrinal and qualitative methods, allows for the involvement of OPDs and persons with disabilities in the research, in compliance with the CRPD. It also supports a better appraisal of the impact of EU law on the protection and promotion of disability rights. The EAA is a relatively new piece of legislation, and more research will be needed to detect its actual effects within the EU digital market, but this chapter represents a starting point to further investigate whether its transformative potential will eventually be realised.