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**TÍTULO:** Restricciones de derechos de autor para ciegos y discapacitados visuales en la Federación Rusa.

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**RESUMEN.** El Tratado de Marrakech se dedica a las restricciones de derechos de autor, disposiciones que determinan los derechos exclusivos de los autores y otros titulares de derechos y permiten a los consumidores utilizar material con derechos de autor sin el permiso de los autores y otros titulares de derechos. El 5 de diciembre de 2017, la Federación Rusa se une a este acuerdo, que conlleva a la reforma de la legislación en el campo de los derechos de autor y hace posible anticipar las formas de reforma de la legislación interna. El artículo destaca ventajas de la adhesión de la Federación de Rusia a este acuerdo.

**PALABRAS CLAVES:** Tratado de Marrakech, restricciones de derechos de autor, personas con discapacidad visual, personas con discapacidades para percibir información impresa.

**TITLE:** Copyright restrictions for blind and visually impaired persons in the Russian Federation.

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**ABSTRACT:** The Marrakesh Treaty is dedicated to copyright restrictions, provisions that determine the exclusive rights of authors and other rights holders, and allow consumers to use copyrighted material without the permission of the authors and other rights holders. On December 5, 2017, the Russian Federation joins this agreement, which leads to the reform of legislation in the field of copyright and makes possible to anticipate the forms of reform of domestic legislation. The article highlights the advantages of the accession of the Russian Federation to this agreement.

**KEY WORDS:** Marrakesh Treaty, restrictions on copyright, visually impaired persons, persons with disabilities to perceive printed information.

**INTRODUCTION.**

The access to information and knowledge is a basic human right and a necessary first step towards personal, economic and social development.

Currently, there are unique opportunities for the qualitative improvement of life among millions of people with visual impairments. Thereby, the barriers to information access are eliminated. One of the mechanisms for the elimination of these barriers is the Marrakesh Treaty. The Marrakesh Treaty "On Facilitating the Access of the Blind and the Persons with Visual Impairment or Other Restricted Abilities to Read Printed Information of Published Works" was adopted on June 27,

2013. The Treaty entered into force on September 30, 2016, three months after the deposit of the documents on the ratification or accession by 20 authorized parties to WIPO Director General [Key terms and benefits of the Marrakesh Treaty.

[http://www.wipo.int/edocs/pubdocs/ru/wipo\\_pub\\_marrakesh\\_flyer.pdf](http://www.wipo.int/edocs/pubdocs/ru/wipo_pub_marrakesh_flyer.pdf)].

The main goal of the Marrakesh Treaty is to increase the availability of published materials, including books and magazines, for the people with disabilities around the world. According to the World Health Organization in October 2017, they estimated that 253 million people worldwide have various visual impairments, including blind people [Helen Adams, The Marrakesh treaty and why it is important to library advocates.

<http://www.ilovelibraries.org/article/marrakesh-treaty-and-why-it-important-library-advocates>].

It is important to note that on 1 October 2018, the European Union joined the Marrakesh Treaty, which facilitates the creation and the transfer of the texts specifically designed for use by visually impaired people across national borders.

The ambassador Elizabeth Tishi-Fislberger, the Permanent Representative of Austria at the United Nations in Geneva and the representative of the European Union (EU) handed over to the WIPO Director General Francis Garriri, the EU ratification document of the Marrakesh Treaty together with 28 members. After the EU ratification, the Marrakesh Treaty will cover 70 countries of the world [European Union Joins WIPO's Marrakesh Treaty, Greatly Expanding Coverage.

[http://www.wipo.int/pressroom/en/articles/2018/article\\_0008.html](http://www.wipo.int/pressroom/en/articles/2018/article_0008.html)].

## **DEVELOPMENT.**

### **Methods.**

In accordance with the Marrakesh Treaty, the participating countries must create “copyright exceptions that allow to create and distribute the copies of available formats, such as Braille type or

audiobooks, including through import and export,” to the benefit of persons with visual impairments.

The article “Why should your country ratify the Marrakesh Treaty”, published on the "Benetech" website, lists 9 arguments for joining this treaty which will have a positive effect on the social policy of the state [Why Your Country Should Ratify the Marrakesh Treaty, <https://benetech.org/why-your-country-should-ratify-the-marrakesh-treaty/>]. "Benetech" is a non-profit organization that provides software to communities for social benefits. This organization acts as the link “between the social sector and Silicon Valley”, working closely with both communities to identify the needs and policy decisions that can lead to positive social changes [Our story. <https://benetech.org/about/our-story/>]. "Benetech", being a non-profit operator of "Bookshare", strongly recommends to ratify the Marrakesh Treaty.

"Bookshare" is the world's largest accessible online library for the people with visual disabilities. More than 425,000 people in 70 countries have the access to the "Bookshare" collection of 629,819 titles. More than 820 US and international publishers contribute to the social mission by providing their digital files and allowing "Bookshare" to serve the users around the world and make the content accessible to people with visual disabilities [About Bookshare. <https://www.bookshare.org/cms/about>].

According to "The International Union of Blinds", less than 10 percent of all published books are available in accessible formats, such as Braille fonts, large print and audio books. The Marrakesh Treaty makes it easier for non-profit organizations, schools, government agencies and people with disabilities to convert inaccessible printed books into available equivalents. The contract does this by making the creation of books of an accessible format legal, without requiring the permission of an author or a copyright holder. It also allows you to import and export such accessible books across state borders.

Nowadays, copyright restrictions are provided for in paragraph 2, Article 1274 of RF Civil Code (hereinafter - RF CC). In accordance with the paragraph 2, Article 1274 of RF CC, it is allowed to create the copies of legally published works in the formats intended solely for the use by the blind and visually impaired (relief-dot type and other special methods) (special formats), as well as the reproduction and the distribution of such copies without the purpose of profit extraction are allowed without the author's consent or other exclusive right holder and without paying him some remuneration, but with the obligatory indication of the author's name, whose work is used, and the source of borrowing.

Also, according to this article, libraries can provide blind and visually impaired the copies of works created in special formats for temporary free use with home delivery, as well as by the provision of access to them through information and telecommunication networks. However, no further reproduction is allowed and the making available to the public in a different format copy of the work intended solely for use by the blind and visually is also prohibited.

The provisions of the paragraph 2, Article 1274 of RF CC are not applied to the works created for use in special formats, as well as to the phonograms consisting mainly of musical works.

In order to implement the provisions of this standard, they adopted the Decree No. 32 of the Government of Russia (dated on January 23, 2016) "About the approval of a list of formats intended solely for the use by blind and visually impaired (relief-dot type and other special methods), the list of libraries providing the access for blind and visually impaired through information and telecommunication networks to the copies of the works created in the formats intended solely for the use by the blind and visually impaired (relief-dot font and other special methods), as well as the Rules for libraries concerning the provision of access to the copies of works to blind and visually impaired created in the formats intended solely for use by the blind and

visually impaired (relief-dot type and other special methods) through information and telecommunication networks”.

The appendix to this resolution establishes the list of libraries that provide the access for blind and visually impaired to the copies of works created in the formats intended solely for the use by blind and visually impaired people through (relief-dot type and other special methods) information and telecommunication networks.

### **Results and Discussion.**

Russian Federation is the party to many international treaties in the field of copyright [Vallecov D.K., Sitdikov R.B., Sidikova R.I., Gabidullina A.I., 2016].

On December 2017, the number of these contracts increased. In accordance with the Federal Law No. 369-FZ “On the accession of Russian Federation to the Marrakesh Treaty to facilitate the access of the blind and the persons with visual impairments or other limited abilities to perceive printed information of published works” issued on 5 December 2017, Russia acceded to the Marrakesh Treaty [Federal Law No. 369-FZ “On the accession of Russian Federation to the Marrakesh Treaty facilitating the access of the blind and the persons with visual impairments or other limited abilities to perceive printed information of published works” issued on 5 December, 2017 // SPS "Consultant Plus"]. In the Explanatory Note to the federal law draft “On the accession of Russian Federation to the Marrakesh Treaty on the Facilitating of the Access of the Blind and the Persons with Visual Impairment or Other Limited Abilities to Perceive Printed Information of Published Works”, they noted that the amendments to Russian Federation legislation would be required [Explanatory note to the federal law draft "On the accession of Russian Federation to the Marrakesh Treaty facilitating the access of the blind and the persons with visual impairments or other limited abilities to perceive printed information of published works". <http://sozd.parliament.gov.ru/bill/241817-7>]. In particular, it will be necessary to change

the terminology, expand the list of persons who will be covered by the provisions of this article: not only for blind and visually impaired persons, but also for individuals who have visual impairment or limited perception or reading ability, as well as for individuals with the absence of physical disability to hold a book or handle it.

It should be noted that the provisions of the Marrakesh Treaty apply to works in the form of a text, musical note and/or the illustrations associated with them, published or made publicly available otherwise by any information means, including audiobooks. Consequently, in the future, the paragraph 2, article 1274 of RF CC will also contain the list of work format types to which the provisions of this article will be applied.

Besides, according to the Marrakesh Treaty, the national legislation must allow the beneficiary, the person acting on his behalf or the authorized body to import copies in an accessible format without the consent of the copyright holder. This circumstance will also require the introduction of an appropriate provision into the part four of RF Civil Code.

## **CONCLUSIONS.**

The advantages of Russian Federation accession to the Marrakesh Treaty are seen in the following:

First of all, the treaty expands the access to global information. This is because the Marrakesh Treaty allows the cross-border exchanges of copies of available formats created in accordance with the limitations and the exceptions provided by the Marrakesh Treaty.

Secondly, the treaty supports basic human rights. The Marrakesh Treaty embodies the principles set out in the Article 19 of the United Nations Universal Declaration of Human Rights [Universal Declaration of Human Rights (adopted at the third session of the UN General Assembly by the resolution 217 A (III) issued on December 10, 1948) // SPS "Garant".] - the right to seek and receive information and the United Nations Convention on the Rights of Persons with Disabilities

[The Convention on the Rights of Persons with Disabilities (adopted by the UN General Assembly on December 13, 2006 and entered into force on May 3, 2008)] set out in Article 21 - the provision of information in accessible formats. The contract emphasizes the concept that everyone has the right to access information in a format that meets their personal needs. In general, it should be noted that the norms contained in the Marrakesh Treaty carry an important social burden. This is reflected in the fact that the persons with disabilities are supported with these norms and their rights to the participation in the cultural and social life of society are ensured.

Thirdly, the norms of this agreement will allow eliminating the shortage of books faced by people who are blind or have another disability that prevents them from reading books.

Fourth, it will help to accelerate the development of the domestic e-book industry in Russia, since e-books are one of the main types for the provision of books in an accessible format.

Fifth, the level of education will be increased. The appearance of accessible formats of books and other publications for the persons with disabilities will be an effective tool in knowledge and vocational education obtaining by a person. In general, the access to education will be expanded.

Summarizing, the reform of Russian legislation in the sphere of copyright restrictions will be aimed at existing terminology change, used by “blind and visually impaired persons”, at the list of book format expansion; the copies of which can be created for the persons with visual impairment.

A rule should be introduced that will allow the importation of copies in an accessible format without the consent of the copyright holder. The reforming of Russian legislation in line with the requirements of the Marrakesh Treaty will help to improve the access to education, employment and social integration.

The scope of copyright restrictions requires a constant adaptation to contemporary realities, which are caused by the digital age, the technical progress and the development of cross-border space. The

implementation of the Marrakesh Treaty norms will undoubtedly have a positive impact on the current state of the norms concerning copyright restrictions in Russia.

In connection with the accession to the Marrakesh Treaty, Russian legislation will take into account the current international trends in the field of copyright, in particular, in the sphere of copyright restrictions.

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