

Legislation on audiovisual and media accessibility in Italy and beyond:

Spotlight on SDH

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Abstract & Keywords

English:

Over the years, accessible media services have gained importance in our globalised society, due to the huge amount of information available and the increasing number of people with some kind of sensory impairment. Subtitling for the Deaf and Hard-of-hearing (SDH), as one of these services, is now reaching the state of maturity, but too little attention has been paid so far to the discussion of topics other than the technical characteristics and practice of SDH. As legislation plays a crucial role in the implementation and availability of audiovisual accessibility practices and services, this paper sets out to provide an overview of the Italian legislation on audiovisual accessibility, with a specific focus on hearing impairment. By doing this, the objective of the article is to show where Italy stands in Europe on this topic, therefore suggesting the measures that should be taken to foster greater audiovisual accessibility not only for the hearing impaired, but for all.

Keywords: audiovisual translation, accessibilità, media accessibility, legislation, sdh, Italy, Europe

1. Introduction

There are few doubts that the society in which we live today is deeply influenced by the role played by both traditional and new, emerging media, with 'globalisation' and 'diversification' being the buzz words in the field of Audiovisual Translation (AVT): as Díaz Cintas and Remael (2007: 37) observe, "the global marketing and expansion of the audiovisual industry [...] means that the product becomes increasingly diversified", while De Linde and Kay (1999: Preface) argue that

a growing amount of information is being presented in audio-visual form, through traditional media like television and cinema, and newer technologies such as the Internet and Digital TV. In future, this trend looks set to continue with increased use of computers and network facilities.

Growing quantities of diversified audiovisual products, such as feature films on DVD or at cinemas, TV programmes on digital and satellite television, theatre and opera productions, videogames and also GPS navigators, mobile and smart phones, websites, and many more devices are influencing, and will continue to influence, the lives of an ever-growing community of users. However, not all of them may enjoy the same access to all of the information that is transmitted via these media. As De Linde and Kay (ibid.) rightly point out,

all forms of audio-visual media present a combination of sound and visual information. Access to such information depends on people being fully receptive on both channels. There are many instances where this is not the case.

Therefore, the new media and audiovisual products should be conceived, or at least adapted, so as to cater for the needs of all possible addressees, including those people who, for whatever reason, do not have access to the same amount of information as the rest of the population.

This scenario has brought two concepts to the attention of scholars in Audiovisual Translation: Inclusion and Accessibility. The term 'inclusion' identifies the need to find different solutions that lead to the involvement of as many people as possible in the fruition of media and audiovisual products, with the aim of facilitating social interactions among the citizens of a given community, e.g. the European community. As the number of final users grows and diversifies, the notions of 'TV for all', 'culture for all', 'media for all' – in one word, 'accessibility for all' – have substantiated and laid the groundwork for all future research in the field of Audiovisual Translation.

The term 'accessibility' was "until very recently [...] mostly used in the context of providing assistance to people who are physically challenged" (Díaz Cintas et al. 2007: 13). In particular, as Alonso (2007: 16) testifies,

in the context of disability, the term acquires a retaliatory connotation as it refers to the rights of those people who have physical, sensory or other types of impairment and, because of this, cannot interact with other members of society or with their impaired peers. As a consequence, the term accessibility has become synonymous with overcoming barriers for impaired people. This concept implies interventions which, most of the time, are complex and expensive and favour just one portion of the population. Because of this reasoning, the term accessibility has been traditionally associated with the specific assistance that has to be provided in buildings and public environments for the benefit of a limited group of people, with particular reference to those who sit in a wheelchair.[1]

In reality, this is "a very partial approach which ignores other needs and has had limited remedial impact" (Díaz Cintas et al. 2007: 13). This is why Alonso (2007: 17) underlines the fact that the term 'accessibility' should imply the idea that

each person should have the possibility of having and making use of comfortable and secure environments as well as both physical and virtual services or products [...] in the same way as the rest of the population.

In this sense, as Orero (2007: 12) claims, the term 'accessibility' comes to refer to

the rights of those people who have intellectual, physical or sensory impairment, with the aim of being able to interact with the environment and communicate with others under the same conditions.

From a sociological point of view, Orero's definition brings together different kinds of addressees, who may face accessibility barriers due to:

Language spoken: people who cannot have access to media and audiovisual products because the source language is unknown to them, such as L2 language learners or immigrants who do not master the language spoken in the country they currently live in;

Literacy: for instance, people who did not have the opportunity to continue their studies because of economic reasons, or because of gender and/or race discrimination;

Ageing: due to difficulties or pathological phenomena preventing ageing persons from fully accessing information, in particular media and audiovisual information;

Disability: in particular sensory disability, which may jeopardise the understanding of the 'audio-visual' product, with particular reference to hearing and sight loss.

The figures regarding the last group of possible addressees are all but reassuring: according to Neves (2005: 79, quoted in Díaz Cintas and Anderman, 2009: 5),

between 1% and 5% of the population of any country, are deaf or hearing impaired. The number of people in these categories is growing as more people are living into old age and these account for significant numbers on the continents of Europe and North America.

In Europe, "figures presented at the 2003 international conference *Accessibility for All* projected that by 2015 there will be over 90 million adults affected by hearing loss" (ibid.).

These figures demonstrate that, if we narrow down the broad topic of accessibility for all to the specific issue of accessibility for those who have a sensory disability due to old age or a health condition – for the purposes of this paper, a hearing loss – the topic of media and audiovisual accessibility becomes one very burning issue. While measures like dubbing, interlingual subtitling, voice-over, etc., which are designed to help people who do not speak the source language of an audiovisual product, are currently implemented and are the subjects of research by AVT scholars, the constant growth in offerings of media devices and audiovisual products calls for overarching solutions that may help cater for the specific needs of people with a sensory impairment (e.g. through Subtitling for the Deaf and Hard-of-hearing, hereinafter SDH), helping many more people "to gain access to television and other media" (ibid.). If the concept of accessibility for all is applied to the media and audiovisual domain, it is only possible to agree with Díaz Cintas (2007: 19-20, quoted in Mangiron, 2011: 55) that

the ultimate goal of accessibility is to provide audiences with an audiovisual programme that they would not have the chance to enjoy otherwise. It should be always be borne in mind, though, that the intended recipients of that programme have some kind of impairment, usually a hearing or visual one.

The importance of making audiovisual media services accessible to a wider population, with specific reference to sensory impaired people, could not be stressed more. Nonetheless, so far little attention has been paid to this issue at an institutional level and countries outside and across Europe find themselves at very different stages, as regards the promotion and implementation of legislation on the accessibility of audiovisual media. Italy, in particular, still lags behind as testified by the scarce number of publications devoted to the theme of legislation, in favour of more practical topics of research in SDH.

Given the influential role played by legislation in the implementation and availability of audiovisual accessibility practices and services, the goal of this paper is to

contribute to the knowledge of Italian legislation on audiovisual accessibility for the hearing impaired by means of a review of the key legislative measures taken so far in Italy to promote and ensure audiovisual accessibility for the hearing impaired. Only by looking at this information is it indeed possible to understand, first and foremost, where Italy stands in Europe on this topic and, consequently, what actions should be taken to foster greater audiovisual accessibility not only for the hearing impaired, but for all.

The article is organised in three parts: first, a description of the European regulatory framework on audiovisual accessibility is provided. Then, the exposition focuses on Italy by analysing the situation regarding legislation on SDH, with references to how the current circumstances affect the offerings of accessible media services and SDH in particular. Finally, possible future developments regarding legislative measures on audiovisual accessibility are explored from a European perspective.

2. Legislation on audiovisual and media accessibility

During the last decades, the importance of audiovisual accessibility as a way of granting all citizens the same access to information and culture was acknowledged by policy-makers through the adoption of specific legislative measures.

One of the most significant achievements that has ever been accomplished in this regard is condensed in the United Nations (UN) 'Universal Declaration of Human Rights' of 1948, where Article 19 recites:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, *receive* and impart information and ideas *through any media and regardless of frontiers*. [My emphasis]

This principle, which is recognised by the UN as an inalienable right of all humans, has found a more formal and specific theorisation in the United Nations 'Convention on the Rights of Persons with Disabilities', adopted on 13 December 2006 by Resolution A/RES/61/106. In fact, Article 30, paragraph 1 of the Convention, entitled 'Participation in cultural life, recreation, leisure and sport', reads:

States Parties recognise the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:

- a. Enjoy access to cultural materials in accessible formats;
- b. Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;
- c. Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.

The European Commission played an active role in supporting the reception of the UN regulation, as it recently concluded the ratification process of the Convention. As reported by the European Commission Vice-President, Viviane Reding (2008: online):

most Member States [including Italy] and the European Community signed the United Nations Convention on the Rights of Persons with Disabilities on 30 March 2007. Article 30 provides, *inter alia*, that States Parties shall take appropriate measures to ensure that persons with disabilities enjoy access to television programmes in accessible formats.

The 'Convention on the Rights of Persons with Disabilities' formally entered into force in Europe on 22 January 2011 (European Commission 2012b: online). In Italy, the Convention was ratified by Law No. 18 on 3 March 2009. Article 21 of this Law reads:

Article 21

Freedom of expression and opinion, and access to information

State Parties shall adopt all adequate measures to guarantee that people with disabilities are able to exercise their right to freedom of expression and opinion, including freedom to request, receive and communicate information and ideas on an equal footing with others and using whatever communications medium they choose, as defined in Article 2 of this Convention, taking particular action to:

- (a) make information intended for the general public available to people with disabilities in accessible formats and using technologies which are suitable for the different types of disability, in a timely manner and without additional costs;
- (b) accept and facilitate the use of sign language, Braille, augmentative and alternative communication and all other media, methods and systems for accessible communication of one's own choice by people with disabilities on official occasions;
- (c) ask private entities that provide services for the general public, also on the Internet, to offer information and services using systems that are accessible and usable by people with disabilities;
- (d) encourage the mass media, including those providing information on the Internet, to make their services accessible to people with disabilities;
- (e) recognise and promote the use of sign language.

This important goal achieved by the European Union (EU) and its Member States – indeed “the first comprehensive human rights treaty to be ratified by the EU as a whole” (Euractiv 2011: online) – is just one result of the many actions undertaken by the European institutions in previous years, starting with three European Directives which were passed to address the topic of a shared European audiovisual policy.

2.1. The European audiovisual regulatory framework with a view to accessibility

2.1.1. 1984: The Green Paper on the establishment of a Common market in broadcasting

The first measure taken by the EU to “establish a competitive open information market and for a ‘European Television’” (European Commission n.d.-d: online) took shape in the form of the ‘Green Paper on the establishment of a common market in broadcasting, especially by Satellite and Cable’, presented by the European Commission in 1984 and amended in 1987 with the title of ‘Green Paper on the development of the Common Market for Telecommunication Services and Equipment’.

As explained in detail on the website of the European Commission (n.d.-d: online),

The instruments proposed in the Green Paper on convergence were the liberalisation of the national telecommunication sectors and the abolition of national frontiers. This should *inter alia* be reached by the development of common standards, the “Open Network Provision” (non-discriminatory access to telecommunication networks), the stimulation of new services and the definition of a coherent European position on satellite communications.

The Green Paper on Broadcasting analysed broadcasting in Europe which, at this time, was essentially national and the potential lying in transfrontier television due to satellite and cable distribution. It described sectors that needed legal harmonisation such as advertising, protection of minors and the right of reply to promote trans-border provision of television services.

2.1.2. 1989: The Television without Frontiers Directive

The Green Papers of 1984 and 1987 paved the way for the elaboration of the first official Directive, called ‘Television Without Frontiers (TVwF)’, 89/552/ECC, which was adopted in 1989.

The TVwF Directive (European Commission n.d.-d: online)

covered all forms of transmission of television programmes to the public, except for communication services providing items of information or other messages on demand.

In order to achieve free movement of television services within the Community, TVwF provided for some minimum harmonisation with regard to a number of public policy objectives like the protection of minors and public order, consumer protection (advertising), the promotion of European works and works by independent producers and the right of reply.

Even though this Directive succeeded in establishing the ground rules for a common European audiovisual policy, it nonetheless failed in dealing with the need for television programmes to be fully accessible to sensory disabled audiences.

2.1.3. 1997: The first revision of the Television without Frontiers Directive

The TVwF Directive – renamed 97/36/EC – was revised by the European Commission in 1997, in order to “ensure greater legal certainty and to update the initial rules” (European Commission n.d.-d: online).

More specifically,

[T]he revision concerned the principle of jurisdiction that the Member State responsible for television channels was determined by the location of the head office and the place where programming decisions are made. Furthermore, the updated TVwF placed more emphasis on the protection of minors. Since the revision in 1997, TVwF ensured also that events which were regarded by a Member State as being of major importance for society *may not be broadcast in such a way that a substantial part of the population of that Member State is deprived of viewing the events*. (European Commission n.d.-d: online) [My emphasis].

Also in this case, the revision of the TVwF Directive did not bring about any new rules regarding the topic of accessibility for sensory disabled viewers, even though, as is clear from the last sentence of the quote, it did sow the seeds of what was about to come.

2.1.4. 2007: The Audiovisual Media Services Directive

The last decade of the 21st century saw the rise of new technologies (e.g. the Internet, smartphones, etc.), which came to be used for broadcasting purposes too. As the TVwF Directive only covered television, a review of the regulatory framework “was launched with the Fourth Communication from the Commission on the application of the TVwF in 2002” (European Commission n.d.-d: online). As a result, the new Audiovisual Media Services Directive (AVMSD), 2007/65/EC,

was adopted in December 2005. After some modifications in the course of the Co-decision process the Audiovisual Media Directive was adopted by the European Parliament in November 2007 and entered into force on 19 December 2007 (European Commission n.d.-d: online).

Finally,

a codified version of the AVMS Directive was adopted by the Council on 15 February 2010 and published in the Official Journal. This mainly changes the numbering of the Articles and provides a consolidated set of Recitals (European Commission n.d.-e: online).

The AVMSD is particularly important as it has had significant consequences for audiovisual and media accessibility. In fact, never before had the issue of accessibility “to all services with visual content irrespective of the technology used to deliver the content” (European Commission n.d.-c: online) been raised and addressed in formal European documents.

Chapter III of the AVMSD, entitled ‘Common rules for all audiovisual media services’, contains a set of “rules that apply to both TV broadcasts and on-demand content” (European Commission n.d.-h: online), which dictate that “all audiovisual media services have to respect the basic tier of obligations in the following areas: [...] [including] accessibility for people with disabilities” (European Commission n.d.-c: online).

This was the first time the EU had laid down by law the need to make all audiovisual media services accessible to people with disabilities. Article 7 of the Directive, as updated in codified version 2010/13/EU (enumerated as Article 3c in Directive 2007/65/EC) thus reads:

Member States shall encourage media service providers under their jurisdiction to ensure that their services are gradually made accessible to people with a visual or hearing disability.

With this article, the aim of the EU was to make “audiovisual content increasingly accessible for these groups. Governments must encourage media companies under their jurisdiction to do this [...]” (European Commission n.d.-b: online), and to officially recognise that “sight- and hearing-impaired persons as well as the elderly shall participate in the social and cultural life of the European Union” (European Commission n.d.-a: online). This intention is confirmed in Recital 46 of the AVMS Directive 2010/13/EU, which reads:

(46) The right of persons with a disability and of the elderly to participate and be integrated in the social and cultural life of the Union is inextricably linked to the provision of accessible audiovisual media services. The means to achieve accessibility should include, but need not be limited to, *sign language, subtitling, audio-description and easily understandable menu navigation*. [My emphasis]

Notwithstanding the importance of these norms, it should be noted that “it is incumbent, in the first instance, on Member States to decide on precisely how to implement the new provision,” (Reding 2008). The fact that each Member State has since had the freedom to enforce this regulation autonomously meant that some countries are now better prepared than others, such as Italy, to deal with the issues of audiovisual and media accessibility.

2.1.5. 2013: The Green Paper, ‘Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values’

In the framework of the Digital Agenda for Europe, the European Commission has recognised the key role played by audiovisual and media content in the economic, social and cultural aspects of our lives. For this reason, it has been promoting discussion on media policies by developing a new Green Paper, entitled ‘Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values’. This Green Paper

invites stakeholders including viewers and Internet users to share their views on the changing media landscape and borderless Internet in particular on market conditions, interoperability and infrastructure, and implications for EU rules.

The Green Paper does not pre-suppose any action, but in following up, the Commission might explore regulatory and policy responses, including self-regulation. (European Commission n.d.-g: online)

The Green Paper aimed to open a debate on these issues, by encouraging all those interested to respond to the questions contained therein by the end of August 2013.

Even though this Green Paper did not urge Member States to take immediate actions on the topic of accessibility, it nonetheless recognised that

Technology offers more possibilities to assist visually, hearing and cognitively impaired persons than ever before. However, these opportunities may be lost if accessible content, i.e. subtitles, sign language or audio-description, is not produced or not made available to end users. (European Commission 2013: 16)

2.2. Legislation for accessible media services in Italy: focus on SDH

As no binding obligation was set in Article 7 of the AVMSD regarding the modalities of its implementation, each Member State has so far autonomously decided how to achieve the result of audiovisual and media accessibility for sensory disabled people inside national borders. The application of the suggested means of achieving accessibility (i.e. sign language, subtitling, audio-description and easily understandable menu navigation), too, was indicated as being discretionary, as

there is no requirement in Community law for broadcasters in Member States to provide services such as subtitling and audio description. In fact, provision of assistive services falls under the competences of the Member States in accordance with the [sic] subsidiarity principle (Reding 2006: online).

As far as Italy is concerned, at the moment of writing there are no legal obligations about the implementation of subtitling (European Commission n.d.-f: online), neither regarding a minimum quota of subtitling required of broadcasters by law (the only exception being the Italian public broadcaster, RAI), nor the types of media (e.g. television, DVD, cinema screens, etc.) where it should mandatorily be applied.

However, the issue of inclusion of sensory disabled people has been addressed by the Italian legislation, starting with the Italian Constitution which makes it clear from its very inception that

Article 3

All citizens have equal social dignity and are equal before the law, without distinction of gender, race, language, religion, political opinion, personal and social conditions.

It is the duty of the Republic to remove those obstacles of an economic or social nature which constrain the freedom and equality of citizens, thereby impeding the full development of the human person and the effective participation of all workers in the political, economic and social organisation of the country.

Moreover, during the last two decades, general legislative provisions have mentioned the right to inclusion and accessibility to information for people with disabilities. The first noteworthy attempt at this was made through Law No. 104, passed on 5 February 1992, which regulates the ‘assistance, social integration and rights of persons with a handicap’. Article 25, paragraph 2, of this Law recites:

Article 25

Access to information and communication

At the time of renewal or on the occasion of modifications to the agreements for the concession of radio and television services, initiatives are provided for promoting the reception of information, cultural and leisure programmes, as well as the diffusion of decoders.

After a few years, the so-called ‘Stanca Law’ was passed on 9 January 2004. This Law contained specific provisions to facilitate the use of computers by people with disabilities. Article 1, paragraph 1 of this Law explicitly states that:

The Italian Republic recognises and protects the right of every person to access all sources of information and related services, including those that are provided through computer and telecommunication tools.

In the wake of the ‘Stanca Law’, the so-called ‘Gasparri Law’, No. 112, passed on 3 May 2004, provided a number of principles for the organisation of the Italian broadcasting system and the Italian public service broadcaster, RAI. Among other provisions, Law No. 112/2004 encouraged the active reception of television and radio programmes by people with sensory disability at Article 4, paragraph 2, which reads:

The reception of radio and television programmes by people with sensory disabilities is encouraged. To this end, suitable measures should be adopted, after consultation with representative associations.

This article was later abrogated and inserted in the so-called ‘Unified Text of Radio/TV broadcast’ (2013), that is, the Legislative Decree no. 177 of 31 July 2005, which now primarily governs the Italian radio and television system.

The ‘Unified Text of Radio/TV broadcast’ was later amended by Legislative Decree No. 44 of 15 March 2010, which was issued in adoption of Directive 2007/65/EC,

and “which lays down the general principles for the provision of audiovisual and radio media services” (Telecom Italia Media 2011: online). Article 5, paragraph 6, thus reads:

Article 5

Guarantees for users

The reception of audiovisual media services by people with sensory disabilities is encouraged by providers of such services. To this end, the suppliers of audiovisual media services shall adopt suitable measures, after consultation with representative associations.

In practice, this Article extends the initial intentions to all audiovisual media and indicates the adoption of appropriate measures, after consultation with the associations of the sensory impaired. However, the wording of the article is rather general and no practical implementation measures are specified: hence, the freedom of the Italian broadcasters, and DVD and film producers/distributors, in the application of this legal provision.

The only exception in this regard is represented by the Italian public service broadcaster, RAI, which is obliged to provide protective measures for people with disabilities. As a matter of fact, Article 4 of Legislative Decree 177/2005, as modified by Article 17, paragraph 1, letter B, of Legislative Decree 44/2010, recites:

Article 4

General principles regarding radio and audiovisual services for the protection of users

1. The regulation of the system of radio and audiovisual media services, for the protection of users, guarantees:

- a. That the user has access, according to non-discrimination criteria, to a wide variety of information and contents offered by a multiplicity of national and local operators, thus promoting for this purpose the fruition and improvement, in conditions of pluralism and freedom of competition, of those opportunities offered by technological development by the parties that operate or intend to operate in the telecommunication system.
- b. The diffusion of a conspicuous number of uncoded national and local radio and television broadcasts, thus guaranteeing the adequate coverage of the national or local territory.

More specifically, Article 45, paragraph 2, letter Q, of Legislative Decree 177/2005, as later amended by Legislative Decree 44/2010, Article 17, paragraph 1, letter UU, reads:

Article 45

Definition of radio and television general public service duties

1. The radio and television general public service is granted to a public limited company that, respecting the principles referred to in Article 7, performs it on the basis of a national service agreement stipulated with the Ministry, as well as on the basis of regional and provincial (in the case of the autonomous Provinces of Trento and Bolzano) service contracts, which identify the rights and duties of the authority. Such agreements are renewed every three years.
2. The radio and television general public service, pursuant to Article 7, paragraph 4, guarantees:
 - q) the adoption of appropriate measures for the protection of people with sensory disabilities in implementation of Article 32, paragraph 3.

Even more detailed provisions are contained in the so-called ‘National Service Agreement’, which is stipulated every three years between the Italian Ministry for Economic Development and RAI, as the Italian public service broadcaster (according to Legislative Decree no. 177 of 31 July 2005). The latest version of the Agreement was signed on 27 April 2011 for the period 2010-2012 and contains some specific norms that bind RAI to provide accessible services,

including subtitling and sign language translation [...], adequate access to the multimedia and television offer of analogical, digital and satellite broadcasting to people with sensorial or cognitive disability, even through the use of specific audiodescribed programmes or “telesoftware” programmes for blind people. (2013: 26)

In particular, several paragraphs in the Agreement are devoted to the quality and quantity of accessible media services for people with disabilities.

Article 3

Quality of the offer and public value

4. The monitoring unit for corporate reputation will have to:

[...] e) monitor the actual possibility of access to programming by people with cognitive or sensory disabilities. This will be possible thanks to specific audiodescribed broadcasts and broadcasts in telesoftware mode for visually impaired people. Monitoring should also be directed at the quality of the technical methods used to ensure effective access to programming for people with sensory disabilities, with particular regard to the monitoring of the quality of subtitling in relation to the techniques used; or constantly monitor the offer as is referred to in Chapter III of this Agreement, as well as all types of programme and the individual genres.

Article 13

Offerings dedicated to people with disabilities and social programming

1. RAI, reiterating its commitment to producing and programming in strict compliance with anti-discrimination legislation and undertaking to promote the implementation of the principles laid down in the UN Convention on the rights of persons with disabilities, ratified by law No. 18 of 3 March 2009, in the Treaty of Amsterdam and in the resolutions of the European Forum for disabled people in Madrid, pays special attention to cultural promotion for the integration of people with disabilities and for the overcoming of discrimination due to disability by eliminating any acts of discrimination regarding the presence of people with disabilities in entertainment and information programmes as well as fiction and other programmes produced by RAI.

2. In compliance with the right to information for people with disabilities and for their overall integration and inclusion, RAI is obliged to:

- a) subtitle at least one edition of Tg1, Tg2 and Tg3 newscasts per day and to subtitle one more daily edition for each of these mastheads throughout the triennial period of validity of this Agreement;
- b) translate at least one edition of Tg1, Tg2 and Tg3 newscasts per day into the Italian Sign Language (LIS);
- c) undertake, as soon as possible, to subtitle at least one sport news bulletin per day on general networks and at least one newscast on the RAI News channel;
- d) undertake, in the shortest possible time, to try out subtitling or LIS interpretation on regional newscasts.

3. RAI guarantees access to its media as well as analogue, digital and satellite television services to people with sensory or cognitive disabilities through specific programming [...] also subtitled via special Teletext pages [...]. RAI identifies appropriate modalities and technical solutions so that, during the digital switchover, people with sensory disabilities may continue to make use of subtitling, teletext, LIS interpretation and telesoftware services, without being excluded from any interactive television services that should be implemented in the future, thus ensuring the accessibility of decoders, from their planning stage.

4. RAI:

- a) progressively increases, throughout the triennial period of validity of this Agreement, the volume of subtitled programmes so as to reach a quota of at least 70% of the overall programming on general networks, in the 6:00-24:00 time slot, advertising and service announcements excluded (advertisements, theme songs, etc.) by 2012;
- b) gradually broadens the current scope of subtitling to include different types of programmes including cultural, current events, political, sport and entertainment programmes; [...]
- d) promotes technological research, in order to foster the offer of accessible multimedia services to people with disabilities and with reduced sensory and cognitive capabilities, in collaboration with agencies, institutions and associations pertaining to the world of people with disabilities;
- e) periodically reports on the activities that have been carried out to the Ministry, the Authority, the Parliamentary Committee and the Committee of consultation on social programming, as well as on any issues related to the programming referred to in this article to the Joint Committee as mentioned in article 29.

5. RAI is obliged to implement a suitable system of analysis and monitoring of the quality and quantity of the offer as referred to in paragraphs 2 and 3 and to provide adequate information to the Ministry, the Authority and the Parliamentary Committee. In particular, such a system will have to be realised in collaboration with agencies, institutions and associations pertaining to the world of people with disabilities. The results should be communicated to the Permanent Body referred to in article 30, in order to encourage the adoption of measures aimed at a greater use of programmes by people with disabilities.

In the context of this Agreement and regarding its SDH services, RAI (2011: 6) declares:

RAI [...] has been providing subtitling services for more than 20 years, during which it has achieved a significant increase in the amount of subtitled programming and considerably extended the range of subtitled programming genres.

Pre-recorded programmes which are subtitled in Italian represent 40% of the approximately 10,000 total hours that were subtitled in 2010; about 600 hours of pre-recorded programmes were subtitled in English. The technique employed is traditional transcription, through which subtitles are produced for different television genres such as fiction, films, programmes for children and programmes of cultural interest.

Furthermore, as of 2008 RAI has increasingly been subtitling live programmes thanks to major investments on innovative techniques, such as live and offline shorthand typing (with an increase of 321% in terms of produced hours in the last three years) and speech recognition (+431% over the last three years).

In 2010, subtitles in Italian were produced with shorthand typing technique (46%) and the respeaking technique (14%).

The use of these techniques has allowed the subtitling of public service programmes such as newscasts and programmes of cultural, social and political interest. Thanks to the use and implementation of these techniques, in 2010 about 60% of programming was subtitled in the 6:00-24:00 time slot.

The figures presented above seem quite encouraging, even though numbers are still below those registered in other European countries, such as the United Kingdom, where monolingual subtitling covers around 100% of the total programming (Caimi 2006).

As a concluding remark for this section, it should be pointed out that these obligations are mandatory only for the public service broadcaster RAI, while there are currently no legal obligations for DVD producers, cinema owners and private service broadcasters to provide minimum quantities of accessible media services, even if some of them do it on a voluntary basis.

2.3. A glimpse into the future: accessible media services from a European perspective

In November 2010, the European Commission presented the so-called 'European Disability Strategy', which focuses on outlining different initiatives to be taken in the current decade (up to 2020), aimed at facilitating full participation of people with disabilities in the information society, by "developing new EU legislation on accessibility standards" (Euractiv 2011: online). The Strategy started with the basic assumption that "persons with disabilities have the right to participate fully and equally in society and economy. Denial of equal opportunities is a breach of human rights." (European Commission 2012a: online). The importance of this Strategy is thus highlighted by Reding, who "believes this is important not just for ensuring fundamental rights and equal opportunities, but also as a way of creating jobs and [stimulating] growth by taking advantage of growing market opportunities" (Euractiv 2011: online). On the initiative, Reding noted that

the Lisbon Treaty provides a legal basis for main-streaming disability issues into other policies, and also gives a legal status to the EU's Charter of Fundamental Rights. In this new framework, the Commission is obliged to make sure that the needs of people with disabilities are taken into account during the development and implementation of all EU policies and legislation (ibid.).

On the topic, she also added that

the European Disability Strategy sets an ambitious agenda for the next 10 years. With the Strategy, the EU renewed its commitment to improve the situation of people with disabilities across Europe and to empower people with disabilities so that they can enjoy their full rights, and benefit fully from participating in society and economy (Reding 2011: 3, online).

Accessibility is one of the eight priority areas that will drive actions in the framework of the European Disability Strategy, with the purpose of "making goods and services accessible to people with disabilities and promoting the market of assistive devices." (European Commission 2012a).

As part of the European Disability Strategy, the European Commission has put forward a proposal for a forthcoming European Accessibility Act. Considering that the two main problematic issues regarding the accessibility of goods and services in the EU are:

1. Insufficient supply of accessible goods and services; and
2. Fragmentation of the EU market for accessible good and services (European Commission 2011: 2);

this new Act will have the following policy objectives at heart, according to Ahtonen and Pardo (2013):

to improve the availability of accessible goods and services for persons with disabilities and older people. [...] to harmonise accessibility requirements across Member States, promote freedom of movement of accessible goods and services, and increase the effectiveness of accessibility legislation. Such measures could help to improve daily life for millions of individuals who currently face numerous barriers to their well-being and integration.

In particular,

The European Accessibility Act will not aim to change or amend existing EU legislation that refers to general compliance with accessibility requirements without defining accessibility, but will complement it by providing details on what accessibility means for the goods and services addressed by the Act. It will also play the role of legal framework on accessibility for existing EU legislation regulating in detail particular goods or services (including their accessibility) (European Commission 2011: 4).

Even though the scope of the new European Accessibility Act will not, in all likelihood, legally bind Member States to provide minimum quantities of accessible services on different media, its mission will nonetheless be that of raising awareness on the topic, hopefully succeeding, especially in those Countries which suffered the most from a weak implementation of previous legal provisions. In fact, as is written in the Green Paper 'Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values' (European Commission 2013: 16):

The AVMSD already obliges Member States to encourage media service providers to make their services gradually accessible to people with visual or hearing disabilities. The implementation of this provision by Member States varies considerably. Accessibility services can be included in 'must carry' obligations imposed by Member States.

The Commission [...] is exploring how to further improve the situation of accessible goods and services in the EU market and establishing general accessibility requirements in the forthcoming European Accessibility Act.

The future in Europe therefore seems bright on this front, hopefully bringing new awareness of accessibility issues in general, and audiovisual and media accessibility in particular.

3. Final remarks

This paper set out to review the current Italian legislative situation on audiovisual and media accessibility in the framework of past and future European legal provisions, with a focus on the subject of SDH. This review provided evidence that, from a legislative point of view, the Italian norms on inclusion and accessibility of the media are still not precise enough to address the specific requirements identified by the European institutions. With regards to the key means indicated by the European Union for the achievement of accessibility to all media – that is, sign language, subtitling, audio-description and easily understandable menu navigation – Italy still lags behind. As a matter of fact, except from RAI, there are no legal obligations for broadcasters, DVD distributors, game distributors nor cinema owners (to mention the biggest stakeholders in the audiovisual industry) to provide accessible services on different media, and specifically SDH, not even at a minimum percentage, albeit many Italian law provisions underline the importance of making audiovisual and media products accessible to people with sensory disabilities.

The considerations prompted from this excursus on the Italian legislation therefore suggest a definite need for further, advanced and binding legislation on the topic of SDH in particular and audiovisual accessibility to the media in general, so as to comply with the indications contained in the European Directives and thus prompt providers to offer increasing quantities of accessible media services. This goal ought to be integrated into the political agenda of European Member States, Italy in particular, because, as Diaz Cintas et al. (2007: 13-14) observed,

accepting that accessibility is a human right means that policy-makers must watch over its implementation, as they (usually) do in the case of translation.

Implementing further and more specific legislation on this subject is not just a matter of duty and moral responsibility, but it would also mean stimulating national entities to boost the quantity and quality of accessible media services. As Diaz Cintas et al. (2007: 14) suggest, by implementing EU legislation at a national level, it is possible

to ensure that products are accessible to all people who are disadvantaged, be it because of physical challenges, sensorial impairments, age, social issues, linguistic barriers or any other features that may set one population group apart from another. In this sense, accessibility concerns all of us and not merely a few so-called minorities.

It shall be hoped that, in the wake of the new European Accessibility Act, Italy will take the opportunity to improve its legislation so as to comply with the basic rights of all people, as stated in the Italian Constitution in the first place. If Italy commits to this suggestion in the near future, it will surely have found a successful way into a more inclusive and accessible society for all.

References

Ahtonen, Annika, and Pardo, Romain (2013) "The Accessibility Act – Using the single market to promote fundamental rights". Brussels: European Policy Centre. http://www.epc.eu/documents/uploads/pub_3393_the_accessibility_act.pdf (accessed 25 September 2014).

- Alonso, Fernando (2007) "Algo más que suprimir barreras: conceptos y argumentos para una accesibilidad universal", *TRANS, Revista de Traductología* 11: 15-31.
- Caimi, Annamaria (2006) "Audiovisual Translation and Language Learning: The Promotion of Intralingual Subtitles", *JOSTRANS, The Journal of Specialised Translation* 6: 85-98.
- De Linde, Zoe, and Kay, Neil (1999) *The Semiotics of Subtitling*, Manchester, St Jerome Publishing.
- Díaz Cintas, Jorge (2007) "Traducción audiovisual y accesibilidad" in *Traducción y accesibilidad. Subtitulación para sordos y audiodescripción para ciegos: nuevas modalidades de Traducción Audiovisual*, Catalina Jiménez Hurtado (ed.), Frankfurt am Main [etc.], Peter Lang: 9-23.
- Díaz Cintas, Jorge, and Anderman, Gunilla (2009) "Introduction" in *Audiovisual Translation: Language Transfer on Screen*, Jorge Díaz Cintas and Gunilla Anderman (eds), Basingstoke, Palgrave Macmillan: 1-17.
- Díaz Cintas, Jorge, Orero, Pilar, and Remael, Aline (2007) "Media for all: a global challenge" in *Media for All: Subtitling for the Deaf, Audio Description and Sign Language*, Jorge Díaz Cintas, Pilar Orero and Aline Remael (eds), Amsterdam, Rodopi.
- Díaz Cintas, Jorge and Remael, Aline (2007) *Audiovisual Translation: Subtitling. Translation practices explained*, Manchester Kinderhook, St. Jerome Publishing.
- Euractiv (2011) "Disability: EU promises 'Accessibility Act' in 2012". <http://www.euractiv.com/social/europe/disability-eu-promises-accessibi-news-501294> (accessed 25 September 2014).
- European Commission (2011) "Consultation Document. European Accessibility Act". http://ec.europa.eu/justice/discrimination/files/2011-12-13_consultation_background_document.pdf (accessed 25 September 2014).
- European Commission (2012a) "European Disability Strategy 2010-2020". http://ec.europa.eu/justice/discrimination/disabilities/disability-strategy/index_en.htm (accessed 25 September 2014).
- European Commission (2012b) "United Nations Convention on the Rights of Persons with Disabilities". http://ec.europa.eu/justice/discrimination/disabilities/convention/index_en.htm (accessed 25 September 2014).
- European Commission (2013) "Green Paper. Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values". <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2013:0231:FIN:EN:PDF> (accessed 25 September 2014).
- European Commission (n.d.-a) "Accessibility for people with disabilities (Article 7)". http://ec.europa.eu/avpolicy/reg/tvwf/access/index_en.htm (accessed 25 September 2014).
- European Commission (n.d.-b) "Audiovisual Media Services Directive (AVMSD) What's new?". http://ec.europa.eu/avpolicy/reg/avms/index_en.htm (accessed 25 September 2014).
- European Commission (n.d.-c) "AVMSD- General Principles". http://ec.europa.eu/avpolicy/reg/tvwf/provisions/index_en.htm (accessed 25 September 2014).
- European Commission (n.d.-d) "History of TVwF - The Television without Frontiers Directive". http://ec.europa.eu/avpolicy/reg/history/historytwwf/index_en.htm (accessed 25 September 2014).
- European Commission (n.d.-e) "History: AVMSD Co-Decision process". http://ec.europa.eu/avpolicy/reg/history/codecision/index_en.htm (accessed 25 September 2014).
- European Commission (n.d.-f) "Measures concerning access of visually and hearing-impaired people to television programmes - Answers from Member States – Italy". http://ec.europa.eu/avpolicy/docs/reg/tvwf/national_measures/it_impaired.pdf and http://ec.europa.eu/avpolicy/reg/tvwf/access/measures/index_en.htm (accessed 25 September 2014).
- European Commission (n.d.-g) "Public consultations on media issues". <https://ec.europa.eu/digital-agenda/en/public-consultations-media-issues> (accessed 25 September 2014).
- European Commission (n.d.-h) "What does the new directive cover?". http://ec.europa.eu/avpolicy/reg/tvwf/provisions/scope/index_en.htm (accessed 25 September 2014).
- Mangiron, Carmen (2011) "Accesibilidad a los videojuegos: estado actual y perspectivas futuras", *TRANS, Revista de Traductología* 15: 53-67.
- Neves, Joselia (2005) *Audiovisual Translation: Subtitling for the Deaf and Hard-of-Hearing*, PhD diss., Roehampton University, UK.
- Orero, Pilar (2007) "La accesibilidad en los medios: una aproximación multidisciplinar", *TRANS, Revista de Traductología* 11: 11-14.
- Rai (2011) "Capitolato Tecnico per la fornitura del servizio di sottotitolazione di programmi televisivi preregistrati e in diretta per non udenti, per Televideo. Allegato 3 al Disciplinare di gara". http://www.fornitori.rai.it/bandi/Sottotitolazione_di_programmi_televisivi_preregist.html# (accessed 4 June 2013).
- Reding, Viviane (2006) "Answer to a written question - Audio-visual services for people with disabilities - E-1899/2006". <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2006-1899&language=EN> (accessed 25 September 2014).
- Reding, Viviane (2008) "Answer to a written question - Subtitling of television programmes - P-2422_2008". <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=P-2008-2422&language=EN> (accessed 25 September 2014).
- Reding, Viviane (2011) "Towards an EU accessibility Act". <http://arc.eppgroup.eu/press/peve11/docs/110907reding-speech.pdf> (accessed 25 September 2014).
- Telecom Italia Media (2011) "Television: Consolidated Law on Broadcasting". <http://www.telecomitaliamedia.it/et/content/television> (accessed 25 September 2014).

Notes

[1] All translations are mine unless otherwise noted.

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