

25 July 2013

Recommendation by the Vienna Monitoring Body on the staged plan for the removal of structural barriers in City of Vienna buildings

The Vienna Monitoring Body issues a recommendation in respect of section 10 of the Vienna Anti-Discrimination Act as amended and the obligation ensuing therefrom to draft, by 30 June 2012, a staged plan for the removal of structural barriers for buildings used by the City of Vienna.

The Vienna Monitoring Body is basing its recommendation on the draft staged plan as presented to the Viennese association of persons with disabilities in June 2012. So far, the Vienna Monitoring Body has not been given access to any other draft version or to the finalised staged plan.

Requirements set forth in the Convention on the Rights of Persons with Disabilities

The purpose of the Convention on the Rights of Persons with Disabilities is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity (Article 1).

In this context, it upholds the following principles, among others, as outlined in Article 3:

- **non-discrimination**
- full and effective **participation** and **inclusion** in society
- **equality of opportunity**, and
- **accessibility**

States Parties – which also include the regional (provinces) and local (municipalities) levels of government – are thus obligated to ensure and promote full realisation of all human rights without discrimination of any kind.

To this end, they have to adopt all appropriate measures (Article 4), which include, without limitation,

- legislative, administrative and other measures,
- refraining from engaging in any act or practice that is inconsistent with the Convention on the Rights of Persons with Disabilities,
- ensuring that public authorities and institutions act in conformity with the Convention on the Rights of Persons with Disabilities,
- providing accessible information and assistive technologies, and
- promoting the training of professionals.

A special focus is to be placed on the participation of women (Article 6) and children (Article 7) with disabilities.

Pursuant to Article 9, **accessibility** must be ensured in particular for **buildings, roads, transportation** and other indoor and outdoor facilities, including **schools, residential buildings, medical facilities and workplaces**. The Convention also expressly stipulates the need to provide signage in **Braille** and in **easy to read and understand forms** in buildings and other facilities open to the public.

Accessibility in terms of physical environment, institutions and communications is also key for enabling persons with disabilities to **live independently** and be included in the community (Article 19), for **personal mobility** (Article 20), **education** (Article 24), **health** (Article 25), **habilitation and rehabilitation** (Article 26), **work and employment** (Article 27), an **adequate standard of living** (Article 28), **participation in political and public life** (Article 29) as well as **participation in cultural life, recreation, leisure and sport** (Article 30).

Accessibility is thus one of the key tenets of the Convention on the Rights of Persons with Disabilities, and a prerequisite for many individual rights.

Overall, the Convention on the Rights of Persons with Disabilities calls upon the provinces and municipalities (as well as other entities) to ensure accessibility, in the broadest sense, in new development plans and new buildings, and to put all reasonable effort into removing existing barriers and obstacles as promptly as possible.

The present situation

As indicated by the unit in charge at the City of Vienna Chief Executive Office, the Executive Group for Construction and Technology (Executive Office for Urban Planning, Development and Construction), Building Construction Services Group, the time schedules given in the staged plan are based on major conversion work or planned general refurbishments providing an opportunity for also carrying out the necessary conversion work to achieve accessibility. Obviously, the focus on potentially arising cost has been much stronger than the one on the potential for actual structural implementation in each given case.

One example of how inaccurate the staged plan is

The Vienna Monitoring Body refers to the public administration building at Thomas-Klestil-Platz 8 as a case in point.

This building is not even mentioned in the staged plan. While it can basically be regarded as wheelchair accessible, it is entirely lacking when it comes to support for persons with visual impairments (tactile guidance systems for the blind) or for individuals with hearing impairments (audio induction loops). Using colour schemes as orientation aids for persons with poor orientation skills or learning disabilities has likewise not entered into the design considerations for the building. According to the staged plan as presented, this building would not be scheduled for refurbishment until after 2042, even though the required conversion work seems to be of relatively limited scope. In all probability, installing a tactile guidance system, an inductive loop or a colour scheme will not require a total overhaul.

It is safe to assume that a large number of buildings in Vienna are currently being converted.

At present, the Vienna Monitoring Body is not in a position to check, for all of these buildings, whether the contemplated time schedule for accessibility conversion is really necessary in light of the Convention on the Rights of Persons with Disabilities.

This is mainly due to the fact that the staged plan as currently available fails to provide any information at all about accessibility.

The Convention on the Rights of Persons with Disabilities unequivocally stipulates the obligation for the Province and City of Vienna to

- include accessibility as a specification in the planning and execution of new buildings,
- pay attention to accessibility in the planning and execution of private new-builds and conversion projects, and
- remove existing barriers (in the buildings it owns as well as in the buildings it uses).

Given the obligation set forth in the Convention on the Rights of Persons with Disabilities, the following aspects have to be taken into account when considering the question by what deadline buildings in Vienna have to be converted to meet accessibility standards:

- Full-range accessibility must be given top priority.
- In particular, it has to be borne in mind that accessibility of the physical environment is – as argued above – crucial for meeting the key requirements set out in the Convention on the Rights of Persons with Disabilities (education, personal mobility, work, health, participation in cultural life).
- Therefore, strict standards have to be applied in assessing what is acceptable. Consequently, it is not sufficient to remove barriers only within the scope of already scheduled general refurbishment.
- A point of reference for a reasonable timeline could be the transitional periods set out in the Federal Equal Opportunities for Persons with Disabilities Act (*Behindertengleichstellungsgesetz*),

which provides for conversion to accessibility standards by 31 December 2015 or 31 December 2019.

Conclusions

Section 10 of the Vienna Anti-Discrimination Act demonstrates Vienna's general intention to ensure accessibility in City of Vienna buildings. In formal terms, the present staged plan appears to meet the requirements of section 10 of the Vienna Anti-Discrimination Act. However, in substantive terms, this staged plan fails to ensure what is required under the Convention on the Rights of Persons with Disabilities. The staged plan provides no indications as to what strategy was applied in implementing this project. It seems as if the administration were set to wait which buildings would eventually give rise to most complaints and then respond specifically on a case-by-case basis, to media acclaim. If the present staged plan will be used to justify the existence of barriers in the context of accessibility of public administration buildings, it will have to be designed in such a way that it shows the Viennese population, in actual fact, what strategy will be applied to achieve accessible design.

Recommendations by the Monitoring Body

For this reason, the Monitoring Body recommends to

- **draw up, as promptly as possible, a transparent staged plan that comprises all buildings,**
- **fully involve persons with disabilities from the start, especially with a view to incorporating measures that will ensure accessibility for all persons with impairments, be they physical, sensory or intellectual,**
- **establish an overarching coordination and monitoring body for the implementation of the staged plan within the city administration, endowed with the necessary powers, and**
- **set more ambitious targets in terms of timelines, in alignment with those set at federal level (implementation by 2015 or 2019).**

Background

Vienna has, for years, seen measures being implemented to remove barriers. A case in point is, in particular, the ongoing improvement of conditions in public transportation (stops and stations, vehicles).

With respect to buildings, measures have so far been piecemeal – many buildings owned by the municipality of Vienna (public administration buildings, schools, hospitals, council flats, etc.) are still not fully accessible or only partly so.

The Vienna Monitoring Body believes that the City of Vienna has the general intention of establishing and ensuring accessibility in administration buildings open to the public.

However, one must not forget that structural barriers should be removed as quickly as possible with due consideration of the cost and effort involved in doing so.

The purpose of the present staged plan is thus mainly to show, in a justifiable and comprehensible manner, when which City of Vienna buildings that are open to the public will undergo the necessary conversion work to achieve accessibility.

However, this is exactly the point where the staged plan fails to deliver, making it an unsuitable instrument in terms of the Convention on the Rights of Persons with Disabilities.

In accordance with section 10 of the Vienna Anti-Discrimination Act, the draft staged plan was submitted for review to the Viennese association of persons with disabilities in June 2012.

Within the scope of authority granted to it by law, the Viennese association of persons with disabilities spoke out against this draft of the staged plan in an open statement addressed to the Office of the Vienna Provincial Government of 27 November 2012. The primary point made by the association was that the timeline until up to 2042 was much too long.

While the Viennese association of persons with disabilities was subsequently invited to participate in the revision of the staged plan, the strongly criticised draft was, at the same time, signed by the individual districts and thus, at least de facto, confirmed as the basis for future measures.

So far, the staged plan has not been made available for public scrutiny, which, in the view of the Vienna Monitoring Body, means that it cannot achieve its intended effect.

Under the Convention on the Rights of Persons with Disabilities, physical environment barriers have to be removed as quickly as possible. Inasmuch as Vienna is relying on a staged plan to demonstrate the strategy to be followed in this context, the current plan is not a suitable instrument as it lacks completeness and transparency.

Which articles of the Convention on the Rights of Persons with Disabilities are mentioned in this recommendation?

Article 1, Article 3, Article 4, Article 6, Article 7, Article 9, Article 19, Article 20, Article 24, Article 25, Article 26, Article 27, Article 28, Article 29, Article 30.