

## **Barrier-free access in the field of transport, building and housing** **- a win-win situation!**

### **he Disability Discrimination Act**

**(reation of equal opportunities for people with disabilities)**

The **Disability Discrimination Act** entered into force on **1 May 2002**. Following the Act on Combating Unemployment among People with Severe Disabilities and Book IX of the Social Code, it represents the third significant act in the field of disability policy adopted in the years 2000-2002.

The act serves to implement for people with disabilities the ban on discrimination laid down in Article 3 para. 3 of the Basic Law of the Federal Republic of Germany ("No people shall be disadvantaged because of disability"). The objective is to establish equal opportunities and barrier-free access in fields covered by public law.

At the **core** of the act is the creation of **areas of life that are accessible without barriers**. People with disabilities are to be given broad access to all areas of life and they are to be able to use them without any restrictions.

In the future, **target agreements** aimed at the establishment of barrier-free access will play an important role. Enterprises and recognized associations are to be given the opportunity to conclude, on their own authority, agreements stipulating how and by when barrier-free access will be implemented. Target agreements will be suitable instruments whenever there are no general legal provisions governing barrier-free access and whenever it is not possible to adequately regulate barrier-free access by means of such general provisions.

The law **obliges the Federal Government** and its authorities to ensure a large degree of barrier freedom:

- In the future, the Federal Government will erect barrier-free buildings. This applies both to the construction of new civilian buildings and to large-scale conversions and extensions of federal buildings.

- In addition, when exercising their rights in administrative procedures, people with hearing or speech impairments have the right to communicate with all federal authorities in German sign language or using other suitable aids to communication.
- Step by step, federal authorities will design their websites in such a way that, in principle, people with disabilities will be able to use them without restrictions.
- In the future, **restaurants, cafes, bars** and the like that are located in newly constructed, considerably modified or extended buildings are to be barrier-free. Elements to ensure this include, for instance: ground-level entrances for wheelchair users, lifts or ramps as well as accessible toilets.
- Blind and visually impaired people will be given the opportunity to use templates for ballot papers in order to participate in **parliamentary elections in Germany and the EU**. As far as possible, barrier-free access to polling stations is to be ensured.

*Here you will find more information on barrier-free access in the transport and building sectors.*

**External links:**

- ⇒ *Official website of the European Year of People with Disabilities 2003*
- ⇒ *Federal Ministry of Labor and Social Affairs: Overview of legislation with regard to people with disabilities (only in German)*
- ⇒ *The Federal Government Commissioner for the Interests of the Disabled (only in German)*
- ⇒ *European Conference of Ministers of Transport (ECMT): Group on Access and Inclusion*

**Transport sector**

The **transport sector** is a **main focus** of the Disability Discrimination Act. In this context, the **Federal Ministry of Transport, Building and Housing has made valuable contributions**. Particularly in the fields of infrastructure, transport, building and housing, the principle of barrier-free access is seen as synonymous with quality improvement for **all citizens**. Therefore, in our field of responsibility, i.e. rail transport, public transport and aviation, we have amended important laws.

Mobility opportunities have a decisive influence on the ability of individuals to participate in social life and thus on their personal, social and professional development. This applies in

particular to the degree to which transport infrastructure is accessible to disabled and mobility-impaired people and can be used by them.

- People with disabilities belong in the center of our society. Approximately **6.6 million people with severe disabilities** currently live in Germany. 4.5% of them (around 300,000) were born with their disabilities. Most of them have developed their disabilities in the course of their lives, for instance due to an illness, accident or because they have aged. These facts show that disability can affect all of us.
- Our **ageing population** represents a major challenge to society. The population structure is clearly changing, life expectancy continues to increase. The share of people over the age of 65 will increase by 40% over the next 30 years, i.e. it will double.
- Against this background, we need to reach a new social consensus as to what our society expects from older people and what role they can assume in society. This means that, here too, we have to create the conditions for senior citizens to be able to continue participating in social life for as long as possible and to maintain their independence.

However, apart from officially recognized severely disabled people, consideration must also be given to disabled people with a level of disability below 50%. The same applies to other mobility-impaired people such as the elderly, small children, expectant mothers, mothers or fathers with prams and pushchairs or people carrying heavy luggage.

The fact that this applies to significantly more than 20% of our population shows that disability policy must not and cannot be of marginal importance to policymakers.

The elimination of barriers encountered by people with disabilities, e.g. by providing clear information, barrier-free access to buildings or level access to vehicles (as far as possible) leads to an increase in the **comfort and safety of all** citizens.

Many people who have not studied the - admittedly quite complicated - structure of the act believe that the establishment of barrier freedom will require **investments in the order of one billion** Euros or more.

But it is important to point out that:

- Measures to create barrier-free access will in general only be realized in the case of the purchase of new assets or major new construction or conversion work.
- The structure chosen for the act ensures that the relevant decision-makers can make provisions on their own authority regarding the specific conditions for the establishment of barrier-free access in each individual case.
- The Local Authority Transport Infrastructure Financing Act and the Local Public Transport Regionalization Act ensure funding of local public transport from the federal budget. In 2001, these funds amounted to around 8 billion Euros.
- Moreover, severely disabled people are entitled to use local public transport free of charge. Here, too, the Federal Government spends around 140 million Euros per year.
- Another argument against exaggerated statements about costs is the way in which European law has developed. It shows that something that has become standard practice in Germany, namely the purchase of low-floor buses (currently approx. 90% throughout Germany) has developed into a mandatory standard in Europe. In November 2001, the European Parliament adopted the so-called "Bus and Coach Directive" which stipulates that urban buses (class I) must be equipped with kneeling systems and ramps or lifts.

The Disability Discrimination Act contains provisions for the establishment of barrier-free access in the different modes of transport.

The interests of people with disabilities are taken into account by giving them the right to participate directly. It has become apparent that, very often, ignorance and heedlessness lead to **planning deficiencies**. Here, the early involvement of these "experts by their own experience" will not only ensure transparency but also avoid high costs that would otherwise have to be paid for remedying deficiencies in planning and construction.

With regard to establishing barrier-free access, **airport operators and airlines** have to take special account of the interests of people with disabilities. This objective is to be achieved primarily by means of the conclusion of target agreements.

(Civil Aviation Act, sections 19d and 20b)

In the field of the construction and maintenance of **federal trunk roads**, the interests of people with disabilities should be taken into account with the aim of ensuring the largest possible degree of barrier freedom as long as this does not conflict with overriding public interests, in particular those of road safety.

(Federal Trunk Roads Act, sections 3 and 8)

**Financial assistance from the Federal Government** for investments to improve the transport situation in municipalities is only provided for barrier-free projects. Here too, representatives of disabled peoples' interest groups are to be consulted.

(Local Authority Transport Infrastructure Financing Act, sections 3 and 8)

For many people with disabilities who do not have their own cars, the use of means of **public transport** such as railways, buses and trams is an important prerequisite for them to be able to participate in the life of the community.

The **Carriage of Passengers Act** (Carriage of Passengers Act, sections 8, 12 and 13) contains special provisions on barrier-free access to local public transport. It must be stated that, in general, it is the federal states that are responsible for organizing and delivering local public transport. Therefore, it has been particularly important here to find a solution that is both reasonable and takes into account the specific conditions of each individual case.

- The provisions on local transport plans contained in section 8 para. 3 of the Carriage of Passengers Act are used as a basis. According to these provisions, the federal states are entitled to regulate the drawing up of local transport plans and to identify the authority responsible for local public transport who - within the framework of the government's obligation to provide the services necessary for public welfare - will also have the financial responsibility for ensuring that sufficient transport services are provided for the general public. So far, fifteen federal states have made use of this right and have adopted state acts on local public transport (Hamburg being the exception). In the majority of cases, the authorities responsible for local public transport - normally districts or municipalities - are obliged to draw up local transport plans. In the remaining cases, they are at least required to carry out a due assessment of the circumstances before deciding whether to draw up of local transport plans.

- The local transport plan, which is adopted by the representative body of the authority responsible for local public transport as a comprehensive master plan for the development of local public transport, is thus the right framework for any statement on the establishment of the largest possible extent of barrier freedom with regard to the use of local public transport.
- The new provisions introduced as a result of the Disability Discrimination Act contain requirements, under federal law, the contents of local transport plans. The effect is to give a specific emphasis to the interests of people with disabilities or other mobility problems within the overall process of weighing up different aspects in the drawing up of local transport plans. The provisions stipulate that, with a view to the objective of ensuring extensive barrier-free access to local public transport for this group of people, their interests must be taken into consideration. Local transport plans contain statements on the measures envisaged and the time required for their implementation.
- This legal structure ensures that it will be the local decision-makers who decide, on their own authority, the conditions for the establishment of barrier-free access in each individual case. They also determine the scale and nature of the financial implications.
- In order to ensure that the interests of people with disabilities, and existing knowledge of low-cost solutions for the elimination of access barriers, are taken into account in drawing up local transport plans, a right to be consulted is introduced for the commissioners for the interests of the disabled and the disabled people advisory committees of the authorities responsible for local public transport. According to procedural principles, this means that they are given the possibility to influence both the course and the results of the procedure. In drawing up local transport plans, the authorities responsible for local public transport must give serious consideration to the opinions presented by these commissioners or advisory councils and must concern themselves with their contents. They must guarantee that the most important results of these consultations find their way into the process of formulating objectives and taking decisions so that adequate account can be taken of them.
- The above-mentioned provisions on local public transport have been incorporated in the procedure to issue authorizations for the carriage of passengers under the Carriage of Passengers Act. The request filed by the operator for authorization to operate services for the carriage of passengers is to include details of how the operator intends to

meet the requirements of the local transport plan for the achievement of extensive barrier-free access regarding the service for which authorization has been requested.

- When issuing authorizations of this kind, the competent authority has to comply with the details stipulated in the local transport plan. According to the Carriage of Passengers Act, the competent authority may refuse to grant authorization in local public transport on the grounds that the service for which authorization has been requested is not consistent with the statements in the local transport plan. Thus, in the future, it will also be possible to refuse to grant authorization on the grounds that the service for which authorization has been requested is not consistent with the statements made in the local transport plan with regard to the achievement of extensive barrier-free access. This has also been made clear by inserting a relevant paragraph in the Disability Discrimination Act.

In terms of **rail transport**, the legal provisions on railways apply. An amendment to the Construction and Operation of Railways Regulations (Construction and Operation of Railways Regulations, section 2) obliges the railways to draw up programs concerning the design of infrastructure, rolling stock and operational measures with the aim of achieving extensive barrier-free access in this field.

The programs are drawn up after consultation with the associations which, in connection with the Disability Discrimination Act, have been recognized by the Federal Ministry of Labor and Social Affairs.

The act does not require the programs to be authorized by the competent supervisory authority. On the one hand this is to ensure that the scope of action of railway operators is not restricted; on the other hand there is already a possibility for the rail supervisory authority to intervene if the legal requirements are not fulfilled. For this purpose, the second act on the amendment of the legal regulations governing rail transport introduces the possibility of levying an administrative fine of up to 0.5 million Euros. (In particularly serious cases, the operating license of the railway undertaking may be withdrawn.)

This means that the system used in railway law is the same, i.e. that it will be up to the decision-makers in any given case to make provisions on their own authority with the aim of creating the preconditions for extensive barrier-free access. As in the case of the Carriage of Passengers Act, it must be ensured that the main results of any consultation find

their way into the process of formulating objectives and taking decisions so that adequate account can be taken of them.

### **Building sector**

A multitude of binding legal regulations deal with accessibility in the field of building which can be achieved, for instance, by means of ramps, lifts and lowered kerbs.

In general it must be stated, however, that **building regulations** do not belong to the sphere of competence of the Federal Government. The federal states who are responsible in this field have introduced in their state building codes provisions concerning barrier-free building.

The most important material requirements of barrier-free building result from comprehensive provisions on, for instance, step-free access, door width, ramps and clear space. There are different ways in which the individual federal states implement these requirements, e.g. by means of regulations, introductory decrees or guidelines and, most importantly, by introducing specific **DIN standards** to be used by the authorities responsible for building supervision:

- DIN 18 024 Part 1 "Barrier-free building - roads, spaces, paths, public transport and green spaces as well as playgrounds".
- DIN 18 024 Part 2 "Barrier-free building - buildings and places of employment that are open to the public".
- DIN 18 025 Part 1 and Part 2 "Barrier-free housing".

By voluntarily stipulating the requirement of barrier-free building in the Disability Discrimination Act, the **Federal Government**, as opposed to some of the federal states, has introduced in a **binding** manner the generally accepted technical regulations such as the above-mentioned DIN standards on **barrier-free access**.



When the **law on housing construction was reformed**, a special promotion principle and the possibility of granting additional support for particularly accessible equipment were introduced for the area of social housing promotion in order to ensure barrier-free access there.

The act to reform the law on housing construction of 13 September 2001 is thus based on the principles of barrier-free building and expressly defines people with disabilities as one of the target groups for the promotion of rented housing and owner-occupied housing.

Apart from this, according to the constitutional division of competences between the Federal Government and the federal states, it is now up to the federal states to take account of the criteria of barrier-free access in their state building codes and in their provisions governing the promotion of social housing.

The forthcoming **revision of the model building regulations** to be carried out before the end of this year, will also provide the federal states with an opportunity to adjust their state building codes and to modernize them with the objective of barrier-free access in mind.