

Universal design in non-discrimination law

Only a few countries require the application of universal design and establish that inaccessibility is a matter of discrimination. In Europe, Norway is, along with Spain, one of those countries that actively promote both concepts and practice in universal design. In Norway universal design is an enforceable legal standard.

ANTI-DISCRIMINATION AND ACCESSIBILITY ACT & EQUALITY AND ANTI-DISCRIMINATION OMBUD AND TRIBUNAL

Year of existence:	2008
Country/region of origin:	Norway
Beneficiaries targeted:	Persons with a disability
Responsible body:	Ministry of Children, Equality and Social Inclusion
Stakeholders:	Public and private sector

FACTS & FIGURES

- Norway's Ombud annually receives 320 requests regarding universal design.
- By 2012, it completed 291 cases on universal design. 26 out of the 96 attested violations were referred to the Tribunal.

IN BRIEF

Norway's Anti-Discrimination and Accessibility Act of 2008 is the country's first disability-specific, nationwide non-discrimination act. It introduced legal safeguards against discrimination of people with disabilities in all sectors of society. It focuses on the built environment, transport and ICT, establishes that inaccessibility is a matter of discrimination, contains the obligation to use universal design and refers to sector legislation as well as specific regulations elaborating on the Act itself.

INNOVATIVE ASPECTS

Obligation to universal design

The Act promotes both concepts and practice in universal design. The way in which standards are incorporated into the operation of the law is important.

Inaccessibility is discrimination

In particular, the obligation to provide universally designed ICTs has been legally enshrined, without any reference to disproportionate burden.

The Equality and Anti-Discrimination Ombud

Together, the Equality and Anti-Discrimination Ombud and Tribunal constitute a well-functioning low-threshold enforcement system. The Ombud is a reporting and monitoring mechanism, while the Tribunal can impose moratorium fines on those who do not abide by the Tribunal's decision.

HISTORY

Before 2008, Norway had statutory provisions against discrimination only in the field of employment, as Norway implemented the EU directive 2000/78/EC in 2001. In 2002, the Ministry of Labour and Social Inclusion set up a draft committee to prepare a proposal for legislation to improve the legal safeguards against discrimination against people with disabilities in all sectors of society. The committee looked into experiences in the USA, the UK, Australia and Canada, and presented its report in May 2005. After a broad public consultation was completed, the Act was finally enacted on June 2008, and entered into force in 2009. In 2008, the Ministry of Children, Equality and Social Inclusion, launched an ambitious Action Plan, which sets the goal of Norway being universally designed by 2025. In 2010, Norway amended its Planning and Building Act to include universal design.

«Very few countries have made universal design a legal concept in their anti-discrimination legislation, which means that universal design is an enforceable legal standard.»
(Berit Vegheim, Stop Diskrimineeringen, Norway)



Outside Oslo central station, the edges of the steps were marked due to complaints of a breach of § 9 (© Berit Vegheim)

KEY FEATURES

The Anti-Discrimination and Accessibility Act (AAD) aims to promote equality and ensure equal opportunities and rights to social participation for all persons and to prevent discrimination on the basis of disability. It applies to all areas of society, and with regard to accessibility its main focus is on the built environment, transport and ICT. In each field, the AAD refers to sector legislation as well as specific regulations elaborating on the provisions in the AAD itself. The AAD includes a universal design obligation, which is a minimum requirement and has been introduced as a legal standard, whose content is determined when detailed requirements regarding accessibility to buildings, ICT, means of transport, etc. are specified. Universal design is defined in accordance with the original concept invented by the Centre for Universal Design at North Carolina State University. The breach of the obligation to uni-

versal design amounts to discrimination. The AAD contains a positive duty of public and private entities offering goods and services to the general public to promote universal design. In particular, it legally enshrines the obligation to provide universally designed information and communication technologies, without any reference to disproportionate burden.

IMPLEMENTATION

Many of the AAD's provisions become enforceable through regulations specifying detailed accessibility requirements. Together, the Equality and Anti-Discrimination Ombud and Tribunal are responsible for enforcement of the AAD. Everyone can appeal, without any cost, to the Ombud. The Ombud reviews the complaint, asks for a statement from the perpetrator of the discriminatory act and issues an opinion. The Ombud asks the perpetrator to stop the discriminatory practice. If the case is not solved, it will be forwarded to the Tribunal, which is a semi-court composed of lawyers and disability experts. The Tribunal can give legally binding statements and impose fines.

FUTURE DEVELOPMENT

The Act includes no right to reasonable accommodation in the access to goods and services, and the definition of universal design does not include products. Legally binding timeframes need to be established in order to ensure universal design of existing buildings and transportation. The Tribunal should be able to decide on redress for non-economic loss and compensation.

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SOURCES Norway, Act No 42 of June 20, 2008 relating to a prohibition against discrimination on the basis of disability (Anti-Discrimination and Accessibility Act): <http://bit.ly/1hQuajP>

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