

How can legal action support accessibility – the example of MEOSZ



MEOSZ

26 January 2023 Budapest, Hungary

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What can an NGO do to enforce accessibility?

- Advocacy
- Research
- Training
- Awareness raising
- Litigation

Do we have an effective legal and institutional framework?

- Legal – more or less yes
 - Legislation (international, domestic)
 - Accessibility deadlines have expired (Hungary: in 2013)
 - Accessibility is a present obligation (buildings providing public services and public buildings)
 - The lack of accessibility: direct discrimination
- Institutional – mostly no
 - Government bodies, authorities, courts, equality bodies, etc.
 - No overall public accessibility strategy
 - No adequate control mechanism
 - No dedicated public body responsible for accessibility (Accessibility agency?)
 - The state itself violates the law

What types of legal action can be taken?

- Taking random individual cases
 - Effective but only in the specific case
 - It is not possible to sue in every case where there is an inaccessible building (no NGO capacity, no capacity of authorities in ex officio cases)
 - The outcome of these cases has little chance of achieving systemic change
- Strategic litigation (courts, equality bodies, ombudsperson)
 - Comprehensive impact, systemic and legislative change can be achieved
 - Can be used even if the legislative framework is appropriate but the case-law is inadequate (the sanctions applied have no dissuasive effect: low fines)

Inquiry of the Ombudsperson on the Accessibility of the Built Environment

- Comprehensive inquiry
- Capable of identifying systemic flaws
- Cannot impose sanctions
- Can call on legislators and government bodies to take action by making recommendations
- Possibility for us to provide an overview, a comprehensive analysis of the legal and practical issues regarding the built environment and make recommendations on the gaps identified
- Recommendations may be a basis of reference in strategic litigation and in our advocacy work

We identified areas where conceptual change, legislative amendment or a change of approach is needed:

- Reviewed the **legislative framework** and other regulatory instruments (e.g.: standards) governing accessibility and equal access
- Examined the different steps of the **investment and construction process**
- Examined the regulatory and practical issues of accessibility in **public spaces and open spaces** (e.g.: streets)
- Analyzed the obstacles arising from conflicts between **accessibility and the protection of the built environmental heritage**
- Analyzed the rules on **tendering and public procurement** (A significant proportion of the built environment in Hungary today is built and renovated through tendering funded by the EU)
- Examined the **rights and obligations of the professionals** involved in the tender process
- Examined the shortcomings in the **training of engineers** and environmental rehabilitation engineers
- Examined the impact of private companies providing **accessibility certification** on the basis of their own criteria
- Analyzed two specific areas of particular importance for people with disabilities in terms of accessibility of the built environment: **accessibility of housing and accessibility of workplaces.**

We found that various factors are adding up to and resulting in serious violations of the right to equal access for people with disabilities. These include the following:

- **Lack of compliance with international and national legislation**
- **Incomplete and contradicting legislation and other regulatory instruments** (e.g.: the definition of ‚public services‘ is different in various laws)
- **Lack of a comprehensive accessibility strategy**
- **Lack of the training of professionals**
- **Lack of adequate control mechanisms in the construction process**
- **Inadequacy of official procedures** (e.g.: subsequent changes to the plans concerning accessibility are not subject to authorization)
- **Inconsistencies in tendering requirements concerning accessibility**
- **Inadequate controlling mechanisms concerning EU funded tenders**

Are legal proceedings useful?

- Legal solutions alone do not lead to results, but they can be very useful
- Legal procedures and other NGO activities complement each other and amplify each other's effects
- In a successful legal procedure systemic shortcomings can be identified and it can also be used in advocacy work and awareness raising
- It also works the other way around (if there is awareness of the problem, it may affect the judge and other decision makers, they may be more receptive to the argument)

TAKE LEGAL ACTIONS!