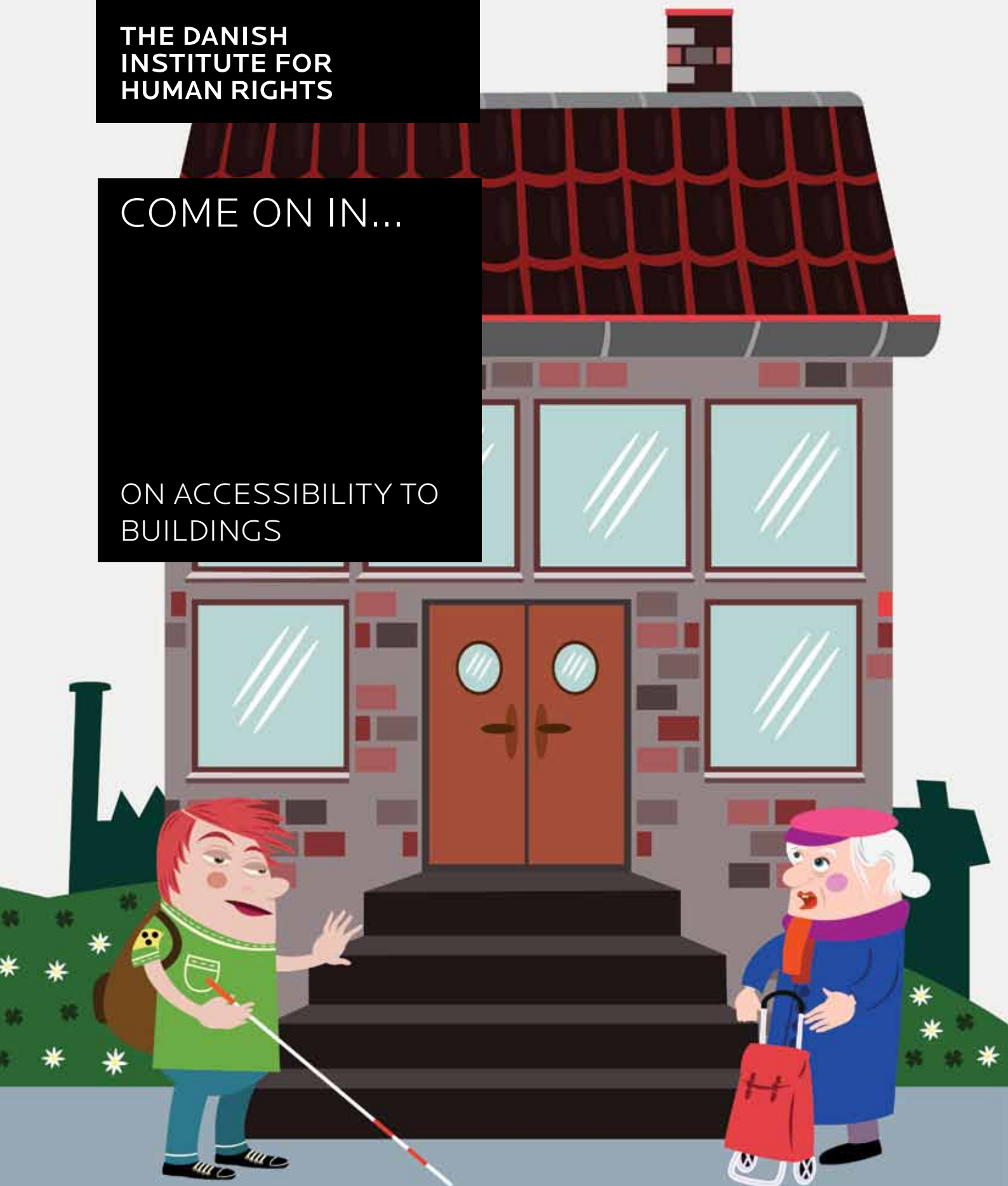


THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

COME ON IN...

ON ACCESSIBILITY TO
BUILDINGS



THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

COME ON IN...

ON ACCESSIBILITY TO
BUILDINGS

COME ON IN...

Department of Equal Opportunity, Danish Institute for Human Rights

Editors: Signe Stensgaard Sørensen, Susanne Nour Magnusson (responsible)

Authors: Signe Stensgaard Sørensen, Danish Institute for Human Rights, and Pia Justesen, Justadvice.

ISBN 978-87-91836-81-7
EAN 9788791836817

Graphic design: Hedda Bank
Lay out: Christine Bendixen
Illustrations: Hanne Louise Nielsen

Print run: 300
Print: Handy-Print

© 2013 Institute for Human Rights
Denmark's National Human Rights Institution
Wilders Plads 8K
DK-1403 Copenhagen K
Phone + 45 32 69 88 88
www.menneskeret.dk

Publications from the Danish Institute for Human Rights can be freely quoted, clearly indicating the source.

At the Danish Institute for Human Rights, we endeavour to make our publications as accessible as possible. We use large type, short columns, limited hyphenation, uneven margins and strong contrasts. We are working on producing more accessible PDFs and easy-to-read summaries. Read more about accessibility on www.menneskeret.dk.

CONTENTS



- 07** Chapter 1: Summary in easy-to-read language
- 11** Chapter 2: Introduction
- 12** Chapter 3: Buildings for all
- 15** Chapter 4: The right to accessibility
- 17** Chapter 5: Building legislation
- 19** Chapter 6: A building takes form
- 28** Chapter 7: Recommendations



CHAPTER 1

SUMMARY IN EASY-TO-READ LANGUAGE

Human rights apply to all people, including persons with disabilities. The Danish Institute for Human Rights works to ensure that all people can enjoy their human rights.

Persons with disabilities should be part of society

The UN Convention on the Rights of Persons with Disabilities states that persons with disabilities should be a part of society. In order to be a part of society, persons with disabilities should be able to be in the same places as other people.

Therefore, persons with disabilities should be able to use the same premises as other users. These can be schools, libraries, hospitals, town halls, shops and cinemas

Today there are buildings that cannot be used by persons with disabilities. Sitting in a wheelchair, you cannot enter a building with stairs. If you are blind, it can be difficult to walk up stairs if there is no railing.



Things must improve. When we build new houses, we must build them so that everyone can use them.

Recommendations

Several measures need to be taken so that in the future, everyone can use the same buildings. The Danish Institute for Human Rights has formulated good advice on what needs to be done.

1. A plan must be formulated

The Danish State should formulate a plan for how persons with disabilities can become a part of society. The plan should include guidelines for how we should build houses so that we can all use the buildings.

2. Discrimination should be prohibited

You can feel excluded if you cannot use the buildings that others use. The UN Convention on the Rights of Persons with Disabilities says that persons with disabilities should be a part of society. Therefore, it should be forbidden to discriminate against persons with disabilities.



3. Building legislation

There is a law on how to build. But the law is difficult to understand. The law should be written so that everyone can understand it.

4. More knowledge

When building a new house, there are many who participate. Everyone who participates in the building process needs to know how to build houses that everyone can use.

5. Housing inspection

When a house is completed, an inspection should be made to ensure that everyone can use it. If everyone cannot use the house, it should be refurbished.

Read more

You can read more about the rights of persons with disabilities on www.handicapkonvention.dk





CHAPTER 2

INTRODUCTION

The Danish Institute for Human Rights has a mandate to promote the implementation of the UN Convention on the Rights of Persons with Disabilities. Therefore, the Institute focuses on sectors of Danish society where efforts must be made to live up to the Convention.

With this publication, the Danish Institute for Human Rights wishes to emphasize the importance of constructing buildings open to the public so that they are accessible to all. At the same time, the Institute wishes to point to some necessary measures so that in the future, everyone can be a part of society.

This publication is aimed at all those who work with accessibility to buildings. This can include people who formulate building policies or people who train those who will work in the building professions. Also relevant are developers or individual owners who may construct a building only once in their lives, voluntary and disability organisations fighting for the right to inclusion in society.

The Institute hopes that with this publication, all parties can find arguments to help ensure that in the future we will have more accessible buildings.

This publication has its background in a longer report regarding accessibility issues. The report contains a legal analysis of the UN Convention on the Rights of Persons with Disabilities and Danish legislation relating to accessibility. In addition, the report is based on interviews with a number of the key actors implicated in issues of accessibility to buildings in Denmark. The quotations in this booklet stem from these interviews.

You can read the background report (in Danish only) on: www.handicapkonvention.dk

Here you can also find more information about the UN Convention on the Rights of Persons with Disabilities and the work of the Danish Institute for Human Rights on issues related to the Convention.



CHAPTER 3

BUILDINGS FOR ALL

New buildings must be constructed so that everyone has a real possibility to enter and use them. This is particularly true for buildings intended for public use. Thus, when building a new school, town hall, library, cinema or clinic, one must ensure that they will be accessible to persons with disabilities.

No single clear and unambiguous definition of 'accessibility' exists. In essence, an accessible building is a building in which persons

with disability can move about without the help of another person, hear what is being said, experience adequate lighting and a comfortable interior climate, etc. Accessibility is about ensuring that persons with disabilities take active part in our society on their own terms.

Having accessible buildings is also important because:

ACCESSIBLE BUILDINGS ARE AN OBLIGATION UNDER THE UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES



Human rights apply to all people, including persons with disabilities. Denmark has ratified the UN Convention on the Rights of Persons with Disabilities and has thereby committed Denmark to safeguarding and promoting human rights for persons with disabilities. Accessible building premises are a prerequisite

so that persons with disabilities can fully enjoy their rights. For example, only by building in an accessible way can persons with disabilities fulfill the right to enter an inclusive school, live independent lives and participate in society on an equal basis with others.



ACCESSIBLE CONSTRUCTION HELPS ENSURE THAT NO ONE SUFFERS DISCRIMINATION



Discrimination can exclude or otherwise limit persons with disabilities. And discrimination can begin at the very front door of a building. If you cannot enter or move around in a building, you do not have the same opportunities as

others to take an active part in the community. In order not to discriminate against anyone, it is therefore essential that we build accessibly, and if necessary, undertake reasonable renovations or refurbishments to existing buildings.

ACCESSIBLE BUILDINGS BENEFITS ALL OF US



An accessible building enables persons with disabilities to make use of the building, while also making movement easier for people with a pram, shopping bags or a suitcase, persons on crutches, children who have just learned to walk, etc. Accessible buildings also meet the needs of the group of elderly persons, who

represent an ever larger share of the population in Denmark. In other words, an accessible building will be perceived as an advantage by many citizens.



ACCESSIBLE HOUSING IS A GOOD INVESTMENT



There are also more tangible benefits of building accessible premises.

Firstly, more persons with disabilities will be self-reliant and need less assistance for taking part in social life, if buildings are accessible. A more accessible society will thus lead to savings in relation to personal assistance for persons with disabilities.

Secondly, persons with disabilities are consumers, just like other people. By enabling persons with disabilities to use facilities such as hotels, restaurants and cultural offerings, it enhances the customer base of these shops and service-providers and thereby their earnings potential.

And thirdly, the accessible solutions are not necessarily more expensive than other solutions. It is first and foremost about having an eye for and integrating accessibility solutions into the planning and execution of construction. Otherwise, it can be quite costly to re-build after having built an inaccessible construction.

In sum, when we construct new buildings to which the public is to have access, buildings must be accessible to persons with disabilities. Fortunately, this obligation also helps create buildings that do not discriminate and benefits everyone, making them both sustainable in relation to the demands of an aging population and good for the wallet today.



CHAPTER 4

THE RIGHT TO ACCESSIBILITY

The rights cited in human rights conventions apply to all people, including those with disabilities.

The UN Convention on the Rights of Persons with Disabilities, however, recognizes that persons with disabilities cannot necessarily or automatically make use of all their rights here and now. It is often necessary that states not only respect but also support these rights. The Convention therefore obliges States Parties to take active measures to create societies where persons with disabilities can be included, participate and live a dignified life. Through various social initiatives, the state can ensure that persons with disabilities can use their right to freedom of expression, freedom of assembly, can have a private life, etc.

One of the prerequisites for creating an inclusive society is to ensure that society is accessible to all. Accessibility is therefore one of the basic principles of the UN Convention on the Rights of Persons with Disabilities. When we build accessible buildings, we are helping to remove barriers and ensure access and opportunities for persons with disabilities.

An accessible school ensures equal access to education, an accessible hospital allows for equal access to health and an accessible office building enables persons with disabilities to be part of the labour market. This is only to mention some of the rights provided by the UN Convention on the Rights of Persons with Disabilities. In other words, accessibility is a prerequisite for persons with disabilities being able to enjoy many of the Convention's other rights.

Accessibility is more than just a basic principle and a prerequisite for the other rights in the UN Convention on the Rights of Persons with Disabilities. Accessibility is an obligation of states and an independent right of persons - a human right!

Embedded in the right to accessibility also lies a right not to be discriminated against on grounds of disability. The right to non-discrimination and reasonable accommodation is also an independent right which Denmark has been required to ensure from the moment the Convention entered into force in Denmark, in 2009.



Specifically in relation to new buildings, the UN Convention on the Rights of Persons with Disabilities provisions entails the need to ensure a genuine level of accessibility. This means that the Danish government is committed:

- **To consider accessibility as a fundamental principle when developing policy and legislation;**
- **To prohibit discrimination on grounds of disability and make it clear that lack of access may constitute discrimination;**
- **To enforce accessibility requirements in building regulations and give individuals the right to complain about the lack of accessibility.**



CHAPTER 5

CONSTRUCTION LEGISLATION

The question is whether Danish laws support the obligations of the UN Convention on the Rights of Persons with Disabilities when it comes to accessibility to new buildings.

Danish building legislation contains a number of regulations aimed at building accessible structures. The regulations stipulate, among other things, that there should be zero-step entranceways to buildings, that there shall be parking places for disabled persons' vehicles, specially constructed toilets, elevators, guiderails, signage and assistive listening systems (room loops) to aid those who are hard of hearing.

The accessibility requirements must always be followed in the construction and design of new buildings intended for public use. Only in exceptional circumstances will dispensation be granted from these provisions.

There is general agreement that the Danish building legislation supports the building of accessible construction.

” Today it is possible for a restaurant owner to do nothing, although he has built a new and comfortable restaurant which is quite impossible for a wheelchair user or blind person to enter. In this way, he can say: You are not welcome in my restaurant.

In practice, however, it is repeatedly found that in practice new constructions are not built to accessible standards.

The question is why accessible buildings are not built in accordance with the legal requirements on accessibility.



CHAPTER 6

A BUILDING TAKES FORM

A building is a complicated affair with many different actors and an often lengthy building process.

In Denmark, the various actors involved in a construction project will typically be:

- **The builder** (client or developer);
- **The builder's advisors**, who may be architects, engineers and building contractors.
- **The executor**, who may be contractors, craftsmen and technicians.
- **The municipal authority**, typically a building case worker or inspector.

The actors in the construction process have different tasks and sometimes conflicting interests. It may be that the builder values cost-cutting over aesthetics, while aesthetics may be the primary concern of the architect, who in turn has seen some ideas fail because of technical obstacles during the actual construction of the building. Hence, changing agendas can arise during construction. And if the need to make the building accessible to persons with disabilities is not constantly kept in mind, solutions can easily arise during the process that result in an inaccessible building.

In the following you can read how a new building takes form. You can also read about some of the barriers that impede accessibility in Denmark.



” Architects see themselves probably most of all as artists. So a ramp with a particular incline can be seen as an inappropriate limitation.

FROM IDEA...

In Denmark, it is the builder who sets the building process in motion, and who is responsible for the finished construction. Therefore, it is also the builder who is responsible for the building's accessibility.

The builder may then delegate various tasks to architects, engineers, construction technicians and others. As one of the first tasks, the builder will often need to involve an architect to design the building, and an advisor who assists with specialized knowledge of construction and design. But it is still the builder who has ultimate responsibility towards the authorities and the justice system regarding the legality of the building.

It is often the case that municipalities or regions will construct buildings to which the public shall have access. Such buildings may be new kindergartens, town halls, sports centers

and hospitals. Private individuals may also be constructing new buildings for public access, such as a new store, restaurant or doctor's office. Hence, there is a great difference in the background knowledge that various builders have. For some it is part of their professional work, while for others the building project will be a one-off task.

BARRIER

It helps to ensure accessible buildings if it is clear to everyone who is responsible for ensuring that the building is accessible to persons with disabilities. Presently this is not the case, as the rules are often perceived as opaque and confusing. All too often, the builders do not know that they are responsible for ensuring that the building conforms to the accessibility regulations. On other occasions, the builders are not aware of the extent of their liability.





BARRIER

If accessible buildings are to be constructed, it is a requirement that virtually all persons involved in the construction process know what it means to build accessibly. For it does not happen by itself.

However, not everyone has the necessary knowledge about accessibility in order to carry out their tasks in accordance with the law.

This is due to the fact that accessibility is not included as a compulsory part of the curriculum in relevant courses. This is certainly the case with schools of architecture, where the focus of education is more on aesthetics than accessibility.



” When you have a PERMIT in your hand, is it any wonder that you think – Now everything is O.K. I’m just itching to get on with the construction.

For architectures, legislation requiring conformity with certain standards can be experienced as constricting, and traditional images of accessible solutions rarely fit nicely in the architectural conceptions.

If an architect is also not aware of why the regulatory requirements are the way they are, it may be difficult to design new, imaginative accessible solutions.

BARRIER

The builder must apply for a construction permit from the municipality. With permit in hand, the actual building can begin.

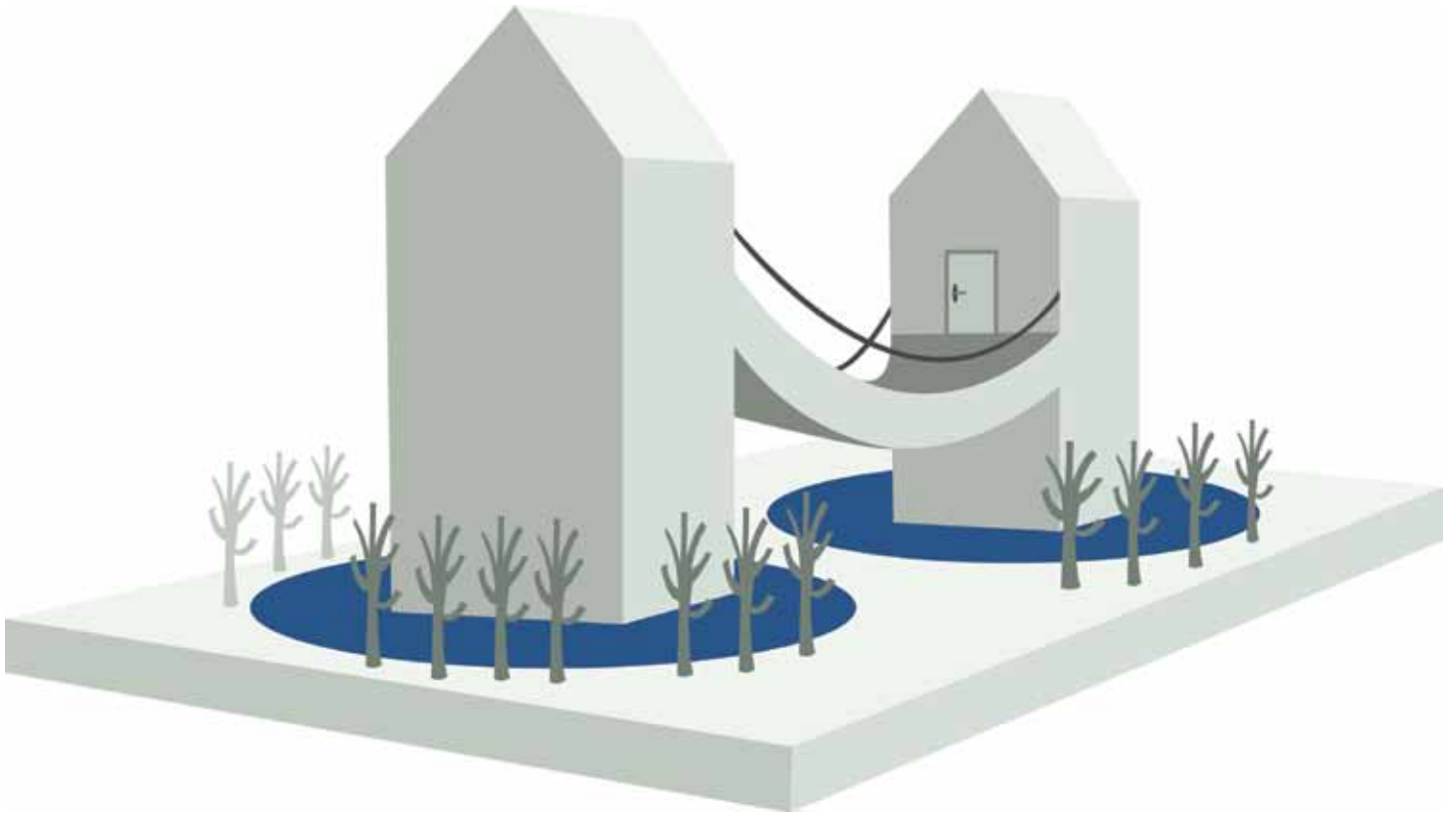
When the builder receives the construction permit, it may specify a requirement for a

parking space for persons with disabilities. The client may get the impression that a parking for persons with disabilities space is all that is needed for the building to live up to the accessibility requirements in the Building Act.

But this is not necessarily the case. A building permit is not a guarantee that the building ends up being accessible.

For example, municipalities vary in the kind of details they pay attention to and what they know about accessibility in practice. Similarly, there are great differences in the amount of details that the builder needs to submit to the municipal building authorities. This may be because construction permits are sometimes





applied for at an early stage in the construction process, when detailed designs for all parts of the building may be lacking.

It is therefore not necessarily the case that a building permit will state the provisions for all the errors and shortcomings concerning accessibility.

The result is that building permits can be very diverse. Some building permits may make

reference only to the need to comply with the accessibility provisions in the Building Act. It will then depend on the actual construction how these provisions are implemented.

In general, the building permit can muddy the picture of who is responsible for ensuring that the building will be accessible, and quite specifically what must be done to make the building accessible.



...TO EXECUTION...

And suddenly there had to be room for a ventilation pipe in the bathroom. And before we noticed, it was placed so that a person in a wheelchair couldn't get to the toilet.

When drawings and permits are in place, construction begins. Now there are several actors involved in the process: contractors, craftsmen and technicians.

BARRIER

As a point of departure, one must expect that if the drawings for the building indicate an accessible construction, then it will end up like that.

In practice, this does not necessarily happen. Unforeseen events often occur that call for quick decisions. This means that the accessibility solutions may disappear. For example, the necessary distance between the toilet and the sink may be reduced, or the zero-step entranceway may be elevated a few centimeters so that rainwater does not penetrate the front door.

It is especially in this phase, where practical solutions have to be found, that it is critical that all actors have an understanding of the basic values, principles, needs and rights which underlie the requirements for accessible buildings. It is about non-discrimination and equal opportunities for all people, including those with disabilities.

Such an understanding will give all players a greater awareness of the importance of continually meeting the accessibility requirements



”

I've seen plenty of examples of new buildings that have fundamental shortcomings in accessibility, but which are nevertheless taken into use without anyone taking notice. And once this has happened, it is both expensive and difficult to fix. So it doesn't happen.



...TO FINISHED BUILDING

When completed, the builder must apply for a usage permit from the municipality. But even here, it will not necessarily be determined whether the building is accessible to persons with disabilities.

BARRIER

To obtain a usage permit, the building must undergo a fire inspection. However, there is no requirement that the municipality inspect the building to see whether it is accessible to persons with disabilities. The permit is thus not a guarantee of the building's legality, although it may be perceived that way.

Although the municipality usage permit indicates that certain mistakes or shortcomings need to be rectified with respect to accessibility, in practice there is nothing that prevents the builder from taking the building into use. This is the case even though improvements have not been carried out.



A building is thus the result of a complicated process with many different actors. With the above description, we have attempted to illustrate that a number of barriers may lead to a building being inaccessible to persons with disabilities. It is all the actors involved who face these barriers. And barriers to creating accessible buildings can be found in all stages of the construction process.



CHAPTER 7

RECOMMENDATIONS

What needs to be done so that future buildings in Denmark will be built accessibly? Below are some recommendations from the Danish Institute for Human Rights. The recommendations should help to remove some of the barriers that hinder the building of accessible new constructions in Denmark.

The list of recommendations could be significantly longer. The goal of the Institute is to highlight those issues which we see as crucial to improving accessibility for new buildings. Moreover, it is our ambition to present concrete and applicable recommendations.

ACTION PLAN FOR THE DISABILITY SECTOR



The Danish Government's ongoing work on a long-term disability action plan should include accessibility as a distinct focus area.

It is clear that structural barriers to building accessibly exist throughout the construction process and that these barriers affect all the actors involved. There is no single measure that will be able to remove them all.

A thorough and long-term action plan for the entire disability area, and thus also for accessibility, is a precondition for Denmark being able to ensure the implementation of all elements of the UN Convention on the Rights

of Persons with Disabilities. A national action plan for disability does not yet exist, but the work has been initiated and is expected to be completed by the end of 2013.

It is essential that accessibility to new buildings be included as an objective in the action plan. Accessibility is a fundamental principle of the UN Convention on the Rights of Persons with Disabilities, which can help to ensure fulfillment of other Convention rights and it is also a right in itself. Accessibility should therefore be high on the agenda of the national disability action plan.



PROHIBITION ON DISCRIMINATION



Introduction of a general prohibition on discrimination on grounds of disability, which also includes access to new public construction.

In Denmark, there is currently no general legal protection against discrimination on the grounds of disability outside of the labour market. This means that it can be a case of unlawful discrimination if a workplace is not accessible to a person with disabilities.

However, it does not constitute illegal discrimination if a newly constructed building for public use, such as a school, library or town hall, is inaccessible to a person with disabilities. This is the legal position despite the fact that lack of accessibility in relation to buildings can undoubtedly be discriminatory to persons with disabilities. And this is despite the fact that the UN Convention on the Rights of Persons with Disabilities actually commits Denmark to

ensure that persons with disabilities receive equal and effective legal protection against discrimination.

Therefore, it is the Institute's assessment that there is a need for a legal ban on discrimination based on disability that goes beyond the existing prohibition on discrimination in employment. There is a need for non-discrimination in all areas of society. Such a general prohibition against discrimination is a prerequisite for Denmark to meet the provisions of the Convention. In addition, a general prohibition on discrimination will also help support the building of more accessible constructions in practice.



REVIEW AND DISSEMINATION OF BUILDING LEGISLATION



The Danish building legislation should be reviewed so that it becomes more uniform and clear which rules apply when, as well as who is responsible for ensuring that a building meets the accessibility regulations.

The review of legislation should be followed up by communication efforts that can ensure that the building law's accessibility requirements are easy for all actors to locate and to understand.

Although most agree that the building legislation goes a long way to supporting the building of accessible constructions, it is also the view of many that it can be difficult to identify the rules that apply to the specific type of construction that is to be built. And when the correct rules have been identified, they can be difficult to understand. The guidelines accompanying the law use the terms 'may' and 'should', which can be confusing and probably contributes to the failure to comply with accessibility requirements.

One of the specific challenges of the current building legislation is that it is not clear who is actually responsible for ensuring that a building is accessible. It should therefore be clarified that it is the builder and existing owner who are responsible for fulfilling the building regulations. It should also be clarified that it is the builder and the current owner who are responsible for correcting any deficiencies in a building, including lack of accessibility.

In practice, there are builders who only build once in their lives. Hence, they have no special knowledge of accessibility and regulatory requirements. Many builders believe that the municipality is partly responsible for accessibility because it is the municipality that issues building permits and usage authorizations. It is therefore essential that information about the regulations be available in simple-to-understand form. It is also essential that the information be targeted to the builders, as they are ultimately responsible for constructing the building.

MORE KNOWLEDGE AMONG THE RELEVANT ACTORS



There is a need for more education and training in accessibility among all actors in the construction process.

There should be a special focus on building up an understanding of why it is important to build in an accessible manner.

There is a fundamental good will among the vast majority of actors in relation to building accessibly. Nevertheless, neglect and inappropriate solutions still thrive.

More knowledge about accessibility among all those involved in the building process is crucial



to ensuring that future construction is more accessible. Generally, there is a need for more education and training in accessibility among architects, building designers, builders and municipal building inspectors.

At the same time, there is a need to disseminate an understanding of why it is crucial to build accessibly. Today one can hear statements such as:

'It's a great idea to build accessibly. But I have ten employees, and none of them are in need of a toilet for persons with disabilities.'

Statements such as this may be avoided if all those involved in the building process have a better sense of the underlying reasons why we need to build accessible facilities. It is not just about special consideration to a particular group, it is about persons with disabilities having the right to be included in society, and we all have a common interest in and a commitment to ensuring that it is possible.

ENFORCEMENT



The municipality should be subject to an obligation to conduct random inspections and to check for accessibility in newly constructed buildings.

The importance of building accessibly should be emphasized by obligating the municipality to conduct random inspections of finished buildings and to verify that they were constructed with accessible facilities. In the Institute's view, compliance with accessibility requirements can be enhanced if enforcement is carried out through such monitoring.

In order for this oversight to have a preventive effect, the municipality, in issuing its building permits, should inform the builder that random inspections will be carried out in order to ensure that the completed building meets the accessibility requirements of the building code. And that the usage permit should be granted only when the building has met these requirements.



The Danish Institute for Human Rights has the task of promoting the implementation of the UN Convention on the Rights of Persons with Disabilities.

With this publication, the Institute thus focuses on why we in Denmark have not been better at building accessible premises. In addition, the Institute provides a number of recommendations for how buildings can be built to be more accessible to persons with disabilities in the future.

