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NEWS REPORT

Country:	The Netherlands
Title:	Ministerial decree regarding a general duty to realize accessibility for persons with disabilities
Date:	11 August 2017
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<u>Context</u>	
Issue at stake:	A Ministerial Decree regarding the general duty to realize accessibility for persons with disabilities as provided for in the Disability Discrimination Act (DDA) has come into force on 21 June 2017
Ground of discrimination:	Disability
Source:	Secondary legislation, Minister of Security and Justice
Field:	Employment, access to goods and services, education, housing
Applicable law:	Disability Discrimination Act

Content

Legislation: As of 1 January 2017 the DDA puts a more general duty on all those bound by the DDA to improve accessibility for people with disabilities in addition to the duty to provide reasonable accommodation in individual cases (Article 2a (1)).¹ As the DDA covers not just employment, but also access to goods and services including housing and education, the scope of this provision is wide. This pro-active, general duty entails the duty to realise at least *gradually* ('geleidelijk') accessibility for persons with disabilities, unless this creates a disproportionate burden. To further implement this provision Article 2a(2) provides for the adoption of a Ministerial Decree that has now come about and entered into force on 21 June 2017.

The Decree stipulates in Article 6 that the duty of gradual realisation of accessibility entails at least the duty to provide for 'simple' facilities ('voorzieningen van eenvoudige aard'), that is for easy to achieve facilities in terms of effort and cost, and to gradually provide for general accessibility for persons with disabilities, unless this entails a disproportionate burden. The former means that easy to achieve measures to realise accessibility must be taken immediately. As regards the latter it will be crucial how much leeway the 'disproportionate burden' criterion will leave for justifying exceptions to the general duty to realise accessibility.

In addition the Decree requires the Minister of Security and Justice to promote the development of action plans to realise general accessibility in all the sectors covered by the DDA in cooperation with representative organisations of persons with disabilities

¹ This amendment of the DDA was already adopted in 2016 as part of the acts on ratification and implementation of the Convention on the Rights of Persons with Disabilities, but its entry into force was postponed to 1 January 2017. See <https://zoek.officielebekendmakingen.nl/stb-2016-215.html>.

(Article 2), to monitor the gradual realisation of general accessibility, and to report to Parliament on the progress made on a yearly basis.

Key points of analysis: The Ministerial Decree is an important step towards realising more general accessibility for persons with disabilities in addition to the duty to provide reasonable accommodation in individual cases. Though we will have to wait and see how much effect it will have on the ground, it provides for several incentives to improve general accessibility and for a monitoring mechanism that will at least ensure that the issue remains on the political agenda. The way in which it explicitly requires the involvement of representative organisations of people with disabilities is also a positive aspect.

Internet link source: Decree General accessibility for persons with a disability or chronic illness (*Besluit algemene toegankelijkheid voor personen met een handicap of chronische ziekte*) of 7 June 2017, *Staatsblad* 2017, 256 of 20 June 2017.
<http://wetten.overheid.nl/BWBR0039653/2017-06-21>
(last accessed 9 August 2017).