



## **Research on Measures to realize Equal Treatment in Employment Relationships for Persons with Disabilities (Research Report No. 105) Summary**

### **[Keywords]**

Convention on the Rights of Persons with Disabilities, equal treatment, reasonable accommodation, Employment quota, job assistance

### **[Key points]**

This report consists of two parts. Part 1 of this report clarifies various consideration and actual condition of support provided by employers when hiring persons with disabilities through questionnaire and interview surveys. Part 2 discusses tasks toward ratification of Convention on the Rights of Persons with Disabilities based on the recent changes observed in Germany and France in various measures concerning ban on discrimination, reasonable accommodation, and employment quota that exist behind Convention on the Rights of Persons with Disabilities.

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## **2. Period of Research**

FY2009 to FY2010

## **3. Composition of the research report**

Introduction Objectives and Method of the Study

Part 1 Survey on actual condition of various supports in companies which employ persons with disabilities

Chapter 1 A questionnaire survey on actual condition of various supports in companies which employ persons with disabilities

Chapter 2 An interview survey on actual condition of various supports in companies which employ persons with disabilities

Part 2 Various supports for employment of persons with disabilities in Germany and France

Chapter 1 Ratification of Convention on the Rights of Persons with Disabilities

Chapter 2 Legal systems and judicial precedents concerning ban on discrimination and so-called “reasonable accommodation”

Chapter 3 Situation of support to promote employment of persons with disabilities

Chapter 4 Summary of the study

References

## **4. Background and Purpose of Research**

The European Union promulgated “the Council Directive on establishing a general framework for equal treatment in employment and occupation” in 2000, which seeks to prohibit discrimination due to disabilities and promote ‘reasonable accommodation’ in employment. The Convention on the Rights of Persons with Disabilities, which also stipulates provisions on non-discrimination and reasonable accommodation, was adopted by the United Nations General Assembly in 2006. As Japan has signed the UN convention in 2007, and is now discussing towards its ratification, it attracts great attention how the international standards can be implemented in this country. This study aims to clarify the actual situation of the provision of reasonable accommodation in Japanese private companies. It also discusses what should be further done to put the measure into practice and to meet the international standards.

## **5. Method**

### **(1) Collection, analysis and interpretation of bibliographic information**

By utilizing library database in and around Japan, information of employment of persons with disabilities, legislation concerning reasonable accommodation, legal precedents, and employment support service etc. in Western nations were collected, organized and translated.

### **(2) Interviews with specialists**

Interviews with specialists were conducted to collect information regarding the non-discrimination against disabilities, reasonable accommodation, and trends of policies for employment of persons with disabilities in EU countries.

### **(3) Questionnaire survey**

In order to survey the actual condition of various considerations at the time of recruitment and after employment at private companies, questionnaires were sent by mail to 5,004 companies with 56 and more employees. Responses from 1,335 companies (response ratio 26.7%) were analyzed.

### **(4) Interview survey**

As the information to be used to supplement the questionnaire survey, 19 companies were selected for interview from the 1,335 companies which responded to the questionnaire survey based on the general information that includes the type of industry, number of employees with disabilities and the types of disabilities, and location of the office.

## **6. Summarized Results of the Study**

### **(1) Result of the Questionnaire survey**

The collected response was analyzed quantitatively by dividing the type of support provided by employers into three areas: [1] support when hiring persons with disabilities; [2] support concerning employment management; [3] support concerning improvement in the work environment. The result was also analyzed in relation with factors that may influence various supports such as company size, type of disability, employment ratio, type of industry, utilization of subsidiaries, and necessary support. The result indicates the significant association with company size in [1], and significant association with type of disabilities in [2] and [3].

#### **a. Support for recruitment of persons with disabilities**

Concerning the effort for recruitment, more companies in smaller size responded [1] we have never thought of hiring persons with disabilities. More companies in larger size responded either [2] we have our own job allocation based on the presence/ absence of disabilities or [3] we have systematically employed persons with disabilities under the instruction of a public organization.

Concerning the response to job applicants with disabilities, the number of companies that said “we seek documents that prove disabilities (Disability Certificates, or comments from the doctor etc) in addition to declaration of the applicant” increased dramatically when the company size exceeds 200 employees.

The number of companies that take special arrangement in consideration of disabilities by saying “interview and written tests will be performed individually by setting different dates, time and methods (e.g. examination in braille or with the use of sign language etc)” increased dramatically when the company size exceeds 200 employees. Although the ratio is merely a fraction, difference by company size is conspicuous.

As for specific measures in consideration of recruitment tests, many companies of various sizes responded “timing and duration of interview or tests are decided based on disabilities” and “assistants or supporters are allowed to join in the interview or tests for smooth communication.” This suggests these arrangements are mainly adopted.

#### **b. Support concerning employment management**

Status of implementation of Support concerning employment management is shown in Table 1: Relation between company size and implementation ratio of various support measures; and Table 2: Relationship between type of disabilities and implementation ratio of various support measures.

Various support measures implemented by companies are categorized into one of the following: [1] Support measures that gain high implementation ratio (Type A); [2] Support measures with high implementation ratio for particular disabilities (Type B); [3] Support measures in high demand for particular disabilities but with low implementation ratio (Type C); [4] Support measures with low implementation ratio in general (Type D).

##### **(a) Type A**

These are support measures with implementation ratio not less than 50% for any type of disabilities. The difference in implementation is significant between companies with disabled employees and without. These measures have been widely implemented by more than 50% of companies of different sizes. Support measures in Type A are: [1] job assignment and allocation that is directly linked to work such as “support in job performance,” “assignment to existing job based on the ability,” “redesign of job assignment,” and “consideration of opinions from disabled employees in operational plans and improvement”; and [2] support for health management that is necessary for disabled employees and that includes hospital visits and medication for mental or chronic diseases as in the response “consultation on health with doctors, nurses, or health nurses” and “arrangement for hospital visit, treatment and medication.” Other supports include “support of consultation (Vocational Life consultant for Persons with Disability).” Support in Type A has factors indispensable to employ persons with disabilities, having high priority.

##### **(b) Type B**

Type B includes support for specific disorders, handicap in the access of information (visual or auditory disorders), and intellectual or mental disabilities in particular. Type B is implemented by more than 50% of companies. The difference (differential) in implementation ratio is significant between companies with disabled employees and without (the gap is no less than 15 points). Type B can be summarized as support to improve implementation at work based on the disability characteristics in understanding of job assignment, improvement of work performance, or attitude indicated in the responses: [1] support for adaptation to work place (Job Coach); [2] preparation of directions and manual that are easy to understand; [3] discussion of job assignment with persons concerned etc.

Table 1 Status of support concerning employment management by company size

Support concerning employment management			Company size				
			56 - 100 employees	101- 200 employees	201- 300 employees	301- 999 employees	1000 employees or more
Personal support	B	Support for adaptation to work place (Job Coach etc.)	—	—	—	—	○
	A	Support for job performance (assistant, coworkers or bosses to perform work)	—	—	○	○	○
	C	Support for smooth communication (assistant, document reading service, sign language interpreter etc)	—	—	—	—	—
	C	Support for transportation (assistant, coworkers or boss)	—	—	—	—	—
	A	Support for consultation ( Vocational life consultant etc.)	—	—	—	—	○
Support for work environment	A	Assignment to existing job based on the ability	—	○	○	○	○
	A	Redesign of job assignment	—	—	○	○	○
	B	Preparation of directions and manual that are easy to understand	—	—	—	—	○
	A	Consideration of opinions from disabled employees in operational plans and improvement	—	—	—	○	○
	B	Discussion of job assignment with persons concerned	—	—	—	—	○
Support for individual	A	Various work styles based on the situation of disabilities	—	—	—	○	○
	C	Various job experiences in consideration of career formation	—	—	—	—	—
	D	Training seminars concerning technological innovations and work tasks; seminars and workshops to supplement disabilities such as those related to	—	—	—	—	—
	D	Special holidays for rehabilitation training etc	—	—	—	—	—
	C	Seminars and workshops to understand disabilities and status of disabled persons	—	—	—	—	—
Support for welfare	A	Consultation on health with doctors, nurses, or health nurses	—	—	○	○	○
	A	Arrangement for hospital visit, treatment and medication	—	○	○	○	○
	D	Provision or securement of the house in consideration of disabilities	—	—	—	—	—

(Note) ○ means the support measure was implemented by not less than 50% of companies of various sizes; — means the support measure was implemented by less than 50% of companies. See the text for categorization of the support types A -D.

Table 2 Status of support for employment management by type of disabilities

support concerning employment management			Visual impairment		Auditory/speech disorders		Orthopedic impairment		Internal impediments		Intellectual disorders		Mental disorders	Employed
			cases also	to moderat	cases also	to moderat	cases also	to moderat	cases also	to moderat	cases also	to moderat		
p e r s o n a l i t	B	Support for adaptation to work place (Job Coach etc.)	⊙	○	⊙	—	○	—	—	—	⊙	⊙	⊙	
	A	Support for job performance (assistant, coworkers or bosses to perform work)	⊙	⊙	⊙	⊙	⊙	○	○	○	⊙	⊙	⊙	
	C	Support for smooth communication (assistant, document reading service, sign	△	—	⊙	—	—	—	—	—	△	△	—	
	C	Support for transportation (assistant, coworkers or boss)	⊙	—	△	—	△	—	—	—	△	—	—	
	A	Support for consultation (Vocational life consultant etc.)	⊙	○	⊙	○	⊙	—	○	—	⊙	⊙	⊙	
S p e c i f i c a b i l i t y	A	Assignment to existing job based on the ability	○	○	⊙	○	○	○	○	○	⊙	⊙	⊙	
	A	Redesign of job assignment	⊙	○	⊙	○	○	—	○	—	⊙	⊙	⊙	
	B	Preparation of directions and manual that are easy to understand	⊙	○	⊙	○	○	—	—	—	⊙	⊙	⊙	
	A	Consideration of opinions from disabled employees in operational plans and improvement	⊙	○	⊙	○	○	—	○	—	⊙	⊙	⊙	
	B	Discussion of job assignment with persons concerned	⊙	○	⊙	○	—	—	—	—	⊙	⊙	⊙	
S u p p o r t f o r e m p l o y m e n t	A	Various work styles based on the situation of disabilities	○	○	⊙	—	○	—	○	—	⊙	⊙	⊙	
	C	Various job experiences in consideration of career formation	⊙	—	⊙	—	—	—	—	—	—	—	—	
	D	Training seminars concerning technological innovations and work tasks; seminars and	—	—	—	—	—	—	—	—	—	—	—	
	D	Special holidays for rehabilitation training etc	—	—	—	—	—	—	—	—	—	—	—	
	C	Seminars and workshops to understand disabilities and status of disabled persons	—	—	△	—	—	—	—	—	△	—	△	
W e s t e r n c o u n t r i e s	A	Consultation on health with doctors, nurses, or health nurses	⊙	○	⊙	⊙	○	—	○	—	○	○	⊙	
	A	Arrangement for hospital visit, treatment and medication	○	○	⊙	○	○	○	⊙	○	○	○	⊙	
	D	Provision or securement of the house in consideration of disabilities	—	—	—	—	—	—	—	—	—	—	—	

(Note) ⊙ means the support was implemented by no less than 50% of companies with disabled employees and with difference in implementation ratio of no less than 15 points between companies with disabled employees and without; ○ means the support was implemented by no less than 50% of companies and with difference less than 15 points; △ means the support was implemented by less than 50% and with difference no less than 15 points; — means the support was implemented by less than 50% and with difference less than 15 points. See the text for categorization of the support types A-D.

It demonstrates that ability of understanding and judgment for intellectual disabilities as well as measures for communication for auditory disabilities are necessary. These types of support are implemented by as high as 50% of large companies with not less than 1,000 employees.

### (c) Type C

Type C support is implemented by more than 50% of companies that have employees with disabilities who require this type of support, but implemented by around 30% of companies that do not have employees with disabilities who require this type of support. This type of support is considered highly required when employing persons with disabilities, but not implemented by many companies. Type C includes: [1] support for smooth communication; [2] support for transportation (assistant, coworkers or boss); [3] seminars and workshops to understand disabilities and status of persons with disabilities.

### (d) Type D

Type D support is implemented by less than 50% companies that have employees with all types of disabilities, and with small difference (less than 15 points). Type D is not implemented in general. Type D includes: [1] training seminars concerning technological innovations and work tasks, seminars and workshops to supplement disabilities such as accessibility; [2] special holidays for rehabilitation training



etc [3] provision or securement of the house in consideration of disabilities. Type D support has not been recognized as necessary. The following reasons are guessed based on the interview survey with companies: [1]it is recognized as a task to be dealt with by individuals; [2] it is a relatively new system and is not known well, or regular holiday system suffices the necessity; [3] it is difficult to implement because of huge economical burden.

### c. Support concerning improvement in work environment

As for the implementation of support concerning improvement in work environment, Table 3 shows the progress of improvement in work environment by company size; Table 4 shows the progress of improvement in work environment by the type of disabilities.

Table 3 Progress of improvement in work environment by company size

Improvement in work environment		Company size				
		56 - 100 employees	101- 200 employees	201- 300 employees	301- 999 employees	Not less than 1000 employees
V i i m s p e u a n a i t l r m	Installation of Braille blocks, lines for guidance, and large visible displays	—	◇	—	◇	◇
	Installation of an elevator with an audio guidance	—	◇	—	◇	◇
	Introduction of personal computers with voice guidance (screen reader software etc.)	—	◇	—	◇	◇
	Introduction of equipment to utilize existing eyesight such as magnifiers	—	◇	—	◇	◇
	Arrangement of lighting at work	—	◇	—	◇	◇
	Securement of accessibility to computer network	—	◇	—	◇	◇
Auditory disorders	Magnetic induction loop (device to send voice directly to a hearing aide)	—	—	—	—	—
	Installation of emergency warning system (Patlite)	—	—	—	—	—
O r d i m p e h i a n t o c i t p r e m	Structural reform such as elimination of a gap on the floor (slope)	◇	◇	◇	◇	◇
	Installation of an elevator	◇	◇	◇	◇	◇
	Installation of rails along the stairway and a lift at the gap	◇	◇	◇	◇	◇
	Introduction of exclusive parking space	◇	◇	◇	◇	◇
	Installation of restrooms for the disabled	◇	◇	◇	◇	◇
	Modification of desks and chairs or installation of specially designed fixtures	◇	◇	◇	◇	◇
Internal impedim ents	Securement of the space for injection or peritoneal dialysis	—	—	—	—	—
	Installation of restrooms for Ostomates (persons with stoma, or urostomy)	—	—	—	—	—
I d e a i c l s t o u r	Installation of visible, understandable displays	—	◇	◇	◇	◇
	Installation of safety devices at work	—	◇	◇	◇	◇
	Provision of work environment to improve concentration (floor and wall color	—	◇	◇	◇	◇
	Provision of the space to secure privacy and rest	—	◇	◇	◇	◇
M d d e i e n s r t o s a r	Installation of visible, understandable displays	—	◇	◇	◇	◇
	Installation of safety devices at work	—	◇	◇	◇	◇
	Provision of work environment to improve concentration (floor and wall color	—	◇	◇	◇	◇
	Provision of the space to secure privacy and rest	—	◇	◇	◇	◇

(Note) ○ means the support was implemented by not less than 50% companies; — implemented by less than 50% companies; ◇ means the support was implemented by less than 50% of companies, but at least one different type of support for the disorder is implemented by not less than 50% of companies.

Table 4 Progress of support concerning improvement in work environment by the type of disabilities

	Improvement in work environment	Visual impairment		Auditory/speech		Orthopedic		Internal		Intellectual		Mental
		cases also	to moderate	cases also	to moderate	cases also	to moderate	cases also	to moderate	cases also	to moderate	
Visual impairment	Installation of Braille blocks, lines for guidance, and large visible displays	◇	—									
	Installation of an elevator with an audio guidance	◇	—									
	Introduction of personal computers with voice guidance	◇	—									
	Introduction of equipment to utilize existing eyesight such as magnifiers	◇	—									
	Arrangement of lighting at work	◇	—									
	Securement of accessibility to computer network	◇	—									
Auditory disorders	Magnetic induction loop (device to send voice directly to)			—	—							
	Installation of emergency warning system (Patlite)			—	—							
Orthopedic impairment	Structural reform such as elimination of a gap on the floor					○	◇					
	Installation of an elevator					○	◇					
	Installation of rails along the stairway and a lift at the gap					○	◇					
	Introduction of exclusive parking space					○	◇					
	Installation of restrooms for the disabled					○	◇					
Internal impediments	Modification of desks and chairs or installation of specially					◇	◇					
	Securement of the space for injection or peritoneal dialysis							—	—			
Circulatory disorders	Installation of restrooms for Ostomates (persons with stoma, or urostomy)							—	—			
	Installation of visible, understandable displays									◇	◇	
	Installation of safety devices at work									◇	◇	
	Provision of work environment to improve concentration (floor and wall color coordination in the work place)									◇	◇	
Mental disorders	Provision of the space to secure privacy and rest									◇	◇	
	Installation of visible, understandable displays											◇
	Installation of safety devices at work											◇
	Provision of work environment to improve concentration (floor and wall color coordination in the work place)											◇
Individual	Provision of the space to secure privacy and rest											◇

(Note) ○ means the support was implemented by not less than 50% companies that have employees with the kinds of disabilities that are subject to the support; — implemented by less than 50% companies; ◇ means the support was implemented by less than 50% of companies, but at least one different type of support for the disorder is implemented by not less than 50% of companies.

Less than 50% of companies implemented at least one measure of environmental improvement for auditory disorders and internal disabilities. The implementation ratio of these measures is not more than 50% regardless of the degree of disability or company size. With the findings mentioned above, accommodations needed to compensate auditory disorders and internal disabilities were similar to that of non-disabled employees.

On the other hand, not less than 50% of companies implemented at least one measure of environmental improvement for visual impairment, orthopedic impairment, intellectual disabilities and mental disabilities. Basically the ratio of improvement corresponds with the company size. The larger the company is, the higher the ratio of implementation of improvement in the work environment becomes.

Many of the improvements for orthopedic impairment are associated with improvement in facility and equipment. The implementation ratio is much higher than the ratio for other disorders. As for individual improvement, many of them are implemented by not less than 50% of companies (marked “○” in figures), and intensive efforts are observed. This seems influenced by promotion of legislative organizations (Heart Building Law) to facilitate environmental improvement such as barrier-free buildings.

The implementation ratio of environmental improvement for visual impairment is not particularly high in one specific measure, but at least one measure is implemented by more than a half of companies. This is because there is a huge difference in the state of impairment such as eyesight or vision and in the type of jobs (Massage, acupuncture, moxibustion, or clerical job etc.) and case-by-case arrangement is



required in environmental improvement.

Measures for environmental improvement required for intellectual or mental disabilities are similar. However, work method to secure understanding and judgment is required for intellectual disabilities, while disease control and consideration for fatigability are required for mental disabilities.

In any types of support, the implementation ratio is higher in larger companies. This is because: [1] capacity of cost defrayment is largely influenced by the company size; [2] large companies have accumulated know-how of employment of persons with disabilities for personal aides such as employees who exclusively support persons with disabilities; [3] large companies, susceptible to legal systems and social responsibility, have higher awareness for support and its implementation ratio is high.

## **(2) From the interview survey**

The interview survey covered a variety of cases and their specific situations such as the industry the company belongs to; type of disability of the employees; type of work/ operation they are engaged in etc.

As for arrangement at the stage of recruitment, several companies: secured the opportunity by arranging the test and interview based on the type of disabilities; implemented on the job training to confirm the aptitude for decision of employment.

While some companies carefully select employees, others do not consider disability a problem because the level of job performance of the disabled employee is quite high. It seems that not only disability characteristics but also vocational ability influences the scope of arrangement the company offers.

Support for work performance reflects differences by the industry, job and type of disabilities, in which various styles were confirmed.

For example, along with the support required to perform the work, more basic support such as facilitation of communication at work or life-related security were also observed. The latter may be involved in judgment of employment, and some arrangement may be taken upon employment. However, necessity of some measures may be found after employment, which may have an impact on continuation of the employment and settlement in work.

Companies responded that the limitation of their capacity over the arrangement may be influenced by economical, or personal burden. However, some companies pointed out that the most difficult problems are probably those which cannot be solved economically or by manpower.

The response revealed that introduction of a barrier free environment in the work place was restricted by the property right of the building or the difference in timing of reconstruction which may not be limited to cost issues.

Opportunities to listen to hopes and opinions of persons with disabilities were mostly offered through the system offered for non-disabled employees such as a regular interview with the personnel staff, or through individual arrangement. A systematic framework tailored for persons with disabilities was seen only in cases where many employees with disabilities work.

## **(3) Alteration of systems and judicial precedents in Germany and France**

Germany and France both have employment quota system while on the other hand they are member

states of the EU where the non-discrimination Directive of 2000 has been adopted. The two countries have also ratified the UN Convention on the Rights of Persons with Disabilities

However, Germany and France show different characteristics in their preparation for domestic legislation.. Germany has a parallel frame work that consists of both the Social Code Title IX that aims at participation of persons with severe disabilities and the General Equal Treatment Act aiming at elimination of detrimental treatment due to various reasons not limited to disabilities. France enacted the law for “equality of rights and opportunities, participation and citizenship of persons with disabilities” in 2005 not limited to employment

In the process of preparation of domestic legislation of equal treatment, both countries there were moves which suggests that legitimacy of the employment quota system had been questioned. In Germany, a business establishment took a judicial action saying that 6% is an unfair rate, which ended up in a constitutional judgment in 2004. In France, HALDE, the Equal Opportunities and Anti-Discrimination Commission, was asked to show their view on whether the employment quota system and the non-discrimination measures are consistent. ,In Germany, the quota rate was proved to be legitimate. In France, HALDE explained the consistency between the two approaches. Having experienced such incidences, both contries maintain the employment quota system as one of the major pillars in the policy for promoting employment of persons with disabilities.

In France, support systems are found to be the framework that links the two approaches and the funds of AGEFIPH (equivalent of Japan’s Japan Organization for Employment of the Elderly and Persons with Disabilities) are utilized for subsidizing various official supports. Examples of how its supports are utilized are shown at the AGEFIPH’s internet site and their experiences will prove to be beneficial to the Japanese counterparts..