



# Striving for an inclusive labour market in France

Positive actions and reasonable accommodation to facilitate hiring and employment of persons with disabilities involving employers and employer initiatives

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# **Striving for an inclusive labour market in France**

Positive actions and reasonable accommodation to facilitate hiring and employment of persons with disabilities involving employers and employer initiatives

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## 1 Executive summary

### 1.1 Support and incentives directed at employers to promote the employment of persons with disabilities, including guides on good practice, websites and advice services

Incentives directed at employers to promote the employment of persons with disabilities encompass an obligation on companies employing more than 20 persons to ensure that at least 6 % of their employees are legally recognised as persons with disabilities. Companies not complying with their employment duty have to pay a contribution to a fund, which depends on the number of missing eligible persons, on the size of the company and on the age of the eligible persons employed. Some sanctions may apply in cases of repeated non-compliance. Alternatively, companies can set up a branch, group or company agreement for the employment of workers with disabilities, as approved by the authorities, they can hire the services of persons with disabilities by means other than direct employment, or they can pay extra expenses in favour of an inclusive policy. Companies can even be partly exempted if jobs require particular conditions of aptitude in the company. Other incentives or alternatives to employment obligations exist, such as The employment support scheme for workers with disabilities (*Aide à l'emploi des travailleurs handicapés*, AETH), which is linked with an assessment of the seriousness of disability. However, financial allowances, the general support awarded to companies in the scope of partnerships between non-profit and private specialised operators and the promotion of the employment of persons with disabilities focus on the accommodation of the work environment and the overall implementation of a disability and human resources policy. This includes a wide range of measures such as job analysis, professional development, awareness-raising measures, job retention initiatives, support for entrepreneurship and transition from adapted companies to mainstream companies.

Many websites, guides and support services have been made available by public organisations and organisations representing persons with disabilities to provide legal, practical and methodological information for the employment of persons with disabilities in the open labour market. Agefiph, the Association for the Management of the Fund for the Professional Integration of Persons with Disabilities (*Association de gestion du fonds pour l'insertion professionnelle des personnes handicapées*), has a website ([www.agefiph.fr](http://www.agefiph.fr)), which provides complete information, both theoretical and methodological, as well as offering training opportunities for employers, managers, entrepreneurs and trainers. The website (<https://www.oeth.org>) of the NGO Objective: Employment of Persons with Disabilities (*Objectif emploi des travailleurs handicapés*, OETH) sets out an approach whereby disability policy within companies is a strategic process, and gives examples of related management practices, tools and projects. The Ministry of Labour published a *Practical guide: Approved agreements in favour of the employment of disabled persons* (*Guide pratique, Les accords en faveur de l'emploi des travailleurs handicapés*) to promote and guide companies on the drawing up of agreements in favour of the employment of workers with disabilities, subject to approval by the authorities.

## 1.2 Support and partnerships available to employers to assist them in making reasonable accommodations

Companies can access advice from the Cap emploi network, which includes 98 organisations which are specialised in providing support towards the adoption of reasonable accommodation within the hiring process, but also for the purpose of job retention – through the *Service d'Appui au Maintien dans l'Emploi des Travailleurs Handicapés* (SAMETH) (Support Service for Retaining Workers with Disabilities in Employment).

Partnerships exist between non-profit organisations providing disability risk management, social security services, civil society organisations promoting the improvement of working conditions, Agefiph, Cap emploi, SAMETH, trade unions (through approved agreements) and the private sector to assist employers to make reasonable accommodations with the support of a disability manager in their company.

Agefiph foresees a job retention rate of 94 %, with its support. A study carried out by a social security organisation draws attention to companies' demand for more support through specialised structures in order to be more competent in providing accommodations.

## 1.3 Illustrative examples of good employer practice for providing reasonable accommodations for persons with disabilities

Agefiph published a guide in 2012.<sup>1</sup> Although it is a bit outdated, it gives some useful clarifications, general advice and policy recommendations for the implementation of accommodation. The Defender of Rights published a guide in December 2017,<sup>2</sup> which is very useful to clarify the framework of the reasonable accommodation obligation with regard to the notion of 'disproportionate burden'.

Agefiph also produced a video by an association of persons with disabilities (APF France Handicap) in 2021, entitled 'How to talk about useful compensations or the need for workplace accommodation'.<sup>3</sup> The film concerns persons with disabilities, while also presenting the issues that companies may face in accommodating workplaces. The guide from the Defender of Rights (Ombudsman) contains examples of relevant court decisions as well as of reasonable accommodations.

No evidence was found of either strengths or weaknesses of the good practice guides.

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<sup>1</sup> AGEFIPH booklets, September 2012, 'Adapting the work situation of an employee with disability', (*les cahiers de l'AGEFIPH, 'Aménager la situation de travail d'un collaborateur handicapé'*), available at: [https://www.defi-metiers.fr/sites/default/files/users/379/agefiph\\_-\\_ameliorer\\_la\\_situation\\_de\\_travail\\_dun\\_travailleur\\_handicape.pdf](https://www.defi-metiers.fr/sites/default/files/users/379/agefiph_-_ameliorer_la_situation_de_travail_dun_travailleur_handicape.pdf).

<sup>2</sup> Defender of Rights of the French Republic (Ombudsman) (*Défenseur des droits*), 'Employment of persons with disabilities and reasonable accommodation: The obligation of reasonable accommodation as a guarantee of equal treatment in employment – We are all equal before the law', (*'Emploi des personnes en situation de handicap et aménagement raisonnable, L'obligation d'aménagement raisonnable comme garantie de l'égalité de traitement dans l'emploi, Face au droit, nous sommes tous égaux'*), [https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/guide\\_-\\_emploi\\_des\\_personnes\\_en\\_situation\\_de\\_handicap\\_et\\_aménagement\\_raisonnable.pdf](https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/guide_-_emploi_des_personnes_en_situation_de_handicap_et_aménagement_raisonnable.pdf).

<sup>3</sup> AGEFIPH, 'Comment parler des compensations utiles ou des aménagements de poste?' (How to talk about useful compensations or the need for workplace accommodation), <https://www.agefiph.fr/temoignages-entreprises/comment-parler-des-compensations-utiles-ou-des-besoins-damenagement-de>.

## **1.4 Recommendations**

### **Recruitment and Hiring**

Instead of focusing on persons' inabilities, recruitment strategies should focus on people's competences and motivation that are necessary for them to perform their jobs. Research and experience show that, in most cases, solutions can be found to accommodate employees in the work environment.

### **Initial employment**

Communicate with all stakeholders within the company (including employees and managers) and outside it (accommodation service providers, institutional partners, etc.). Create accessible working environments by combining a universal design approach and reasonable accommodation measures in line with person's plan and develop synergies among stakeholders.

### **Promotion and Career Development**

Reasonable accommodation should be based on people's skills and competences and assessment strategies should focus on their ability to enable employees to perform the same tasks as a colleague in the same job role.

### **Retention**

Encourage employees to express any further needs and to request various accommodations in the workplace.



## 2 Support and incentives directed at employers to promote the employment of persons with disabilities, including guides on good practice, websites and advice services

### 2.1 Employment quotas

According to the Labour Code, French companies that have employed more than 20 persons for at least three years have a duty to ensure that at least 6 % of their employees are persons who are legally recognised as persons with disabilities; this rate is revised every five years, and the next revision will be in 2024.<sup>4</sup> The number of eligible persons who are employed by a company has to be declared annually on a website.<sup>5</sup> This website centralises declarations that are transmitted to the social security organisations, which deal with the data provided, whatever the total number of persons employed.<sup>6</sup>

Persons who are eligible for employment under the quota (known as beneficiaries of the employment obligation for workers with disabilities (*bénéficiaires de l'obligation d'emploi des travailleurs handicapés*, BOETH) include:

- workers recognised as 'disabled' by the Commission for the Rights and Autonomy of Persons with Disabilities (*Commission des droits et de l'autonomie des personnes handicapées*, CDAPH)<sup>7</sup> referred to in Article L. 146-9 of the Social Action and Family Code;<sup>8</sup>
- victims of accidents at work or occupational diseases that have resulted in a permanent disability of at least 10 % and who are entitled to a pension under the general social security scheme or any other compulsory social protection scheme;<sup>9</sup>
- holders of a disability pension policy (*pension d'invalidité*, PI)<sup>10</sup> granted under the general social security scheme, any other compulsory social protection scheme or under the provisions governing public employees, provided that the disability of the beneficiaries reduces their capacity to work or earn a living by at least two-thirds;
- the beneficiaries of military disability pensions and victims of war (*pension militaire d'invalidité*, PMI);<sup>11</sup>
- holders of a disability allowance or pension granted to volunteer firefighters in the event of an accident or illness contracted in the course of their duties;
- holders of a mobility and inclusion card specifying 'disability', as defined in Article L. 241-3 of the Social Action and Family Code;<sup>12</sup>

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<sup>4</sup> Labour Code (*Code du Travail*), Articles R5212-1 to R5212-17, [https://www.legifrance.gouv.fr/codes/section\\_lc/LEGITEXT000006072050/LEGISCTA000006178139/#LEGISCTA000006178139](https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006072050/LEGISCTA000006178139/#LEGISCTA000006178139).

<sup>5</sup> See: <https://www.net-entreprises.fr/>.

<sup>6</sup> See: <https://entreprendre.service-public.fr/vosdroits/F22523>.

<sup>7</sup> See: [http://www.mdpsh.fr/index.php?option=com\\_content&view=article&id=110](http://www.mdpsh.fr/index.php?option=com_content&view=article&id=110).

<sup>8</sup> See: [https://www.legifrance.gouv.fr/codes/article\\_lc/LEGIARTI000041721255/](https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000041721255/).

<sup>9</sup> See: <https://www.service-public.fr/particuliers/vosdroits/F14840>.

<sup>10</sup> See: <https://www.service-public.fr/particuliers/vosdroits/F672>.

<sup>11</sup> See: <https://www.defense.gouv.fr/sga/le-sga-a-votre-service/invalidite-accidents-du-travail-et-maladies-professionnelles/pension-militaire-d-invalidite>.

<sup>12</sup> See: [https://www.legifrance.gouv.fr/codes/article\\_lc/LEGIARTI000033975697/](https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000033975697/).

- holders of the allowance for adults with disabilities (*allocation aux adultes handicapés*, AAH).<sup>13</sup>

The number of employed people that makes the employment of persons legally recognised as persons with disabilities compulsory, the number of persons with disabilities that have to be employed and the number of persons with disabilities that are employed are calculated by the Social Security Contribution Collection Office (*Union de Recouvrement des Cotisations de Sécurité Sociale et d'Allocations Familiales*, URSSAF).<sup>14</sup> The total number of employed people is calculated in accordance with Article L. 130-1 of the Social Security Code.<sup>15</sup> Article L111-2 of the Labour Code<sup>16</sup> clarifies how fixed-term contracts and temporary employment are taken into account to determine the threshold for the duty to employ persons with disabilities. The calculation of the number of eligible employed persons is made in proportion to the time the worker with disability has been with the company during the past year as an annual average. It includes all types of contracts (permanent and fixed-term contracts, subsidised contracts, work-study contracts, temporary workers, internships, work experience periods, etc.).

Newly created companies have to comply with legislation within five years.<sup>17</sup>

Companies not fulfilling the quota duty must pay a tax which is collected by Agefiph, the Association for the Management of the Fund for the Professional Integration of Persons with Disabilities (*Association de gestion du fonds pour l'insertion des personnes handicapées*), an organisation founded in 1987 under the Law setting the employment quota for persons with disabilities in the private sector. Agefiph has overseen the administration of the contributions paid by companies that do not fulfil the quota, which was converted into a fund for the professional inclusion of persons with disabilities. In 2011 and 2013, its competences were extended by the Government to include the funding and provision of professional training for unemployed persons with disabilities. It is managed by representatives of employers, employees and persons with disabilities.<sup>18</sup>

The tax is calculated according to two criteria: the number of missing eligible persons for fulfilling the quota and the total number of employed people. The number of missing persons is multiplied by a multiplier and by the minimum hourly wage. The multiplier is set at a maximum of 600, which limits the contribution to 600 times the minimum hourly wage per missing eligible person.<sup>19,20</sup>

However, there are some alternatives to the direct employment of persons with disabilities, and some expenses can reduce the tax due in cases where companies do not comply with the quota.<sup>21</sup>

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<sup>13</sup> See: <https://www.service-public.fr/particuliers/vosdroits/F12242>.

<sup>14</sup> See: <https://www.urssaf.fr/portail/files/live/sites/urssaf/files/documents/OETH-Guide.pdf>.

<sup>15</sup> See: [https://www.legifrance.gouv.fr/codes/article\\_lc/LEGIARTI000038610270/](https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000038610270/).

<sup>16</sup> See: [https://www.legifrance.gouv.fr/codes/article\\_lc/LEGIARTI000019353569/](https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000019353569/).

<sup>17</sup> See: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000038496102>.

<sup>18</sup> See: <https://www.agefiph.fr>.

<sup>19</sup> See: <https://www.agefiph.fr/sites/default/files/medias/fichiers/2020-11/FICHE%20%20-%20CONTRIBUTION.pdf>.

<sup>20</sup> Labour Code, Article L5212-10.

<sup>21</sup> Labour Code, Article L5212-10-1.

These include, *inter alia*:

- retention measures in cases of severe difficulty with retaining a job;
- setting up an approved branch, group or company agreement providing for the implementation of a programme in favour of workers with disabilities;
- providing internship opportunities, especially for persons with disabilities under 16 years of age, with the aim of exploring pathways supporting their transition to the open labour market;
- contracting with adapted companies,<sup>22</sup> sheltered workshops,<sup>23</sup> self-employed workers or workers with disabilities employed by companies employing freelancers and signing service contracts with the freelancers and clients (to a limited extent);
- expenses incurred directly by the company to promote the recruitment, integration or retention in employment of persons with disabilities which are not the responsibility of the company, pursuant to a legislative or regulatory provision (diagnostics, workplace adaptations, implementation of human, technical or organisational means to maintain employment or retrain beneficiaries, support services, support, awareness-raising and employee training activities carried out by other organisations on behalf of the company in order to encourage the taking up of positions and the retention in employment of beneficiaries of the employment obligation).

Since January 2021, within this framework, and until 31 December 2024, it has been possible to deduct three new categories of expenses from the Agefiph contribution:<sup>24</sup>

- participation in events promoting the enrolment, direct hiring and retention of workers with disabilities in the company;
- partnerships with associations or organisations working on the training and social and professional integration of persons with disabilities who the employer takes on or hires. These partnerships can take the form of an agreement or membership of the employer; this excludes participation in sponsorship operations;
- the amount of the deduction linked with expenses other than those that are mandatory is equal to the eligible expenses incurred (excluding tax), up to a maximum of 10 % of the annual contribution due by the employer.

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<sup>22</sup> Adapted companies (*entreprises adaptées*, EAs) are intended for persons who are unable to work in companies in the mainstream labour market without substantial accommodation. They are bound to the ordinary Labour Market Law, but at least 55 % of their employees are persons with disabilities. It is possible to work for EAs from home.

<sup>23</sup> Sheltered workshops (*établissements et services d'aide par le travail*, ESAT) are intended for persons whose working capacity, as observed by the Commission for the Rights and Autonomy of Persons with Disabilities (*Commission des droits et de l'autonomie des personnes handicapées*, CDAPH), prevents them, whether temporarily or in the long term, from working, part-time or full-time, in a mainstream company, in an adapted company or in a self-employed capacity.

<sup>24</sup> Decree No. 2020-1350 of 5 November 2020, Article 3.

Some deductions are linked with existing jobs that require particular conditions of aptitude in the company,<sup>25</sup> a list of which was implemented by decree<sup>26</sup> and is subject of revision through negotiations at branch level.<sup>27</sup>

Reductions are also made in the case of employment of workers with disabilities by way of specific consideration in the calculation of the number of employed eligible persons. For example, the number of eligible employees aged 50 and over is multiplied by 1.5.

The taxes paid by public employers not complying with their quotas are collected by the Fund for the Integration of Persons with Disabilities in Public Services (*Fonds pour l'insertion des personnes handicapées dans la fonction publique*, FIPHFP), which was created in 2006 by decree.<sup>28</sup>

Organisations that have not complied with their OETH (employment obligation) for a period of more than three years are subject to an increased contribution of EUR 15 225, regardless of the size of the company.<sup>29</sup>

Agefiph's annual budget for 2022 amounts to EUR 570 million.<sup>30</sup> EUR 507.6 million was allocated to expenses arising from all types of support to persons with disabilities, companies, training organisations, specialised actors such as Cap emploi<sup>31</sup> and measures such as supported employment and adapted companies. For example, EUR 30 million was allocated to supporting transitions from adapted companies towards mainstream companies, and EUR 8 million to the reinforcement of the supported employment scheme.<sup>32</sup> This scheme consists of a service provided under the Ministry of Health and Welfare to support the inclusion of people with disabilities in mainstream employment. EUR 100 million was allocated to promote the access of persons with disabilities to vocational training and apprenticeship, including through upstream support to qualifying processes. EUR 66.5 million was allocated to support the work of Cap emploi on professional integration, and EUR 43.6 million to support its initiatives on retention. EUR 62.0 million was allocated to operational requirements. EUR 553.3 million of resources are planned to be collected from companies as taxes due for 2021 (+18.8 % in one year).

In 2020, 1 800 companies received support from an Agefiph advisor. They received information about their obligations, advice on the actions to be implemented to develop

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<sup>25</sup> See: <https://www.urssaf.fr/portail/home/espaces-dedies/obligation-demploi-des-travail/le-calcul-de-la-contribution-ann/deductions-et-dependes-deductibl.html>.

<sup>26</sup> Decree of 22 January 1988, <https://www.legifrance.gouv.fr/loda/id/LEGIARTI000006664155/1988-01-23/>.

<sup>27</sup> Law No. 2018-771 of 5 September 2018 on the Freedom to Choose One's Professional Future, Article 67.

<sup>28</sup> See: <http://www.fiphfp.fr/>.

<sup>29</sup> See: <https://www.economie.gouv.fr/entreprises/obligation-emploi-travailleurs-handicapes>.

<sup>30</sup> See: <https://www.agefiph.fr/espace-presse/tous-les-documents-presse/lagefiph-vote-son-budget-2022-pour-un-montant-de-570-meu>.

<sup>31</sup> A network of specialised placement organisations carrying out a public service mission is in charge of the preparation, accompaniment, sustainable follow-up and retention in employment of persons with disabilities. See further Section 2.4.

<sup>32</sup> See: <https://travail-emploi.gouv.fr/emploi-et-insertion/emploi-et-handicap/emploi-accompagne>.

the employment of people with disabilities, and assistance in developing awareness-raising activities and action plans in conjunction with partners.<sup>33</sup>

As for money collected by FIPHP, data for 2016 showed a decrease in the collection of tax due to an increase in the employment of persons with disabilities by public organisations. This decrease reduced the Fund's budget to EUR 120 million per year for the years 2018 to 2020.<sup>34</sup> Retention was said to represent 40 % to 50 % of its outgoings.

There are no official data available about the percentage of employers complying with the employment quota. A website dedicated to management issues claimed that 51 % of the companies respected it in 2016.<sup>35</sup> Agefiph's data, which was scrutinised by the Directorate for Research, Studies and Statistics of the Ministry of Labour, Employment and Integration (*Direction de l'animation de la recherche, des études et des statistiques*, Dares) revealed that, in 2019, workers with disabilities who were directly employed by organisations under the quota obligation represented 3.5 % of their total number of employees (full-time equivalent). The highest percentage (4.9 %) was registered in the public administration, teaching, health and social services; the lowest (2.3 %) in information and communications. 80.5 % of organisations were employing at least one person with disabilities, 11.3 % of which had a branch agreement, and 19.5 % employed nobody with disabilities, 1.2 % of which had a branch agreement. In organisations with a branch agreement, 4.3 % of employees were persons with disabilities. In beneficiary units, the proportion of workers with disabilities who were directly employed by organisations under the employment obligation was 3.9 %, and the rate of indirect employment was 0.4 %.<sup>36</sup>

As far as indirect employment is concerned (i.e. employment through subcontracting), a survey carried out in 2016 by Malakoff Humanis, a private social security organisation, revealed that half of companies resorted to the sheltered sector to subcontract or purchase services. 20 % of companies declared that they used to regularly make purchases from the sheltered sector, mainly for general supplies, and 20 % also declared that they used to resort to self-employed workers with disabilities for the provision of services.<sup>37</sup>

955 000 eligible persons were employed in 2020 in all sizes of organisations (whether under the employment obligation or not), across sectors and in all types of working environment (mainstream, adapted companies or sheltered environment), which represented 3.6 % of the total employed population.<sup>38</sup> According to Dares, 505 300

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<sup>33</sup> See: <https://www.agefiph.fr/articles/propos-de-lagefiph/lagefiph-notre-action-aujourd'hui-et-demain>.

<sup>34</sup> See: <https://informations.handicap.fr/a-fiphp-budget-baisse-10193.php>.

<sup>35</sup> See: <https://www.helloworkplace.fr/10-chiffres-sur-le-handicap-au-travail-en-france/>.

<sup>36</sup> See: <https://dares.travail-emploi.gouv.fr/donnees/obligation-demploi-des-travailleurs-handicapes-oeth>; <https://dares.travail-emploi.gouv.fr/publication/obligation-demploi-des-travailleurs-handicapes-en-2019>; [https://dares.travail-emploi.gouv.fr/sites/default/files/093e0b222a69ccc5473bd2258f29029c/Dares-R%C3%A9sultats\\_Obligation%20demploi%20des%20travailleurs%20handicap%C3%A9s%20en%202019.pdf](https://dares.travail-emploi.gouv.fr/sites/default/files/093e0b222a69ccc5473bd2258f29029c/Dares-R%C3%A9sultats_Obligation%20demploi%20des%20travailleurs%20handicap%C3%A9s%20en%202019.pdf).

<sup>37</sup> Fondation Malakoff Humanis (2021), *Disabilities in Companies (Le handicap en entreprise: Enseignements issus de l'étude OpinionWay)*, [https://fondationhandicap.malakoffhumanis.com/wp-content/uploads/2021/05/Emploi\\_et\\_handicap\\_en\\_2021\\_par\\_Fondation\\_Malakoff\\_Humanis\\_Handicap.pdf](https://fondationhandicap.malakoffhumanis.com/wp-content/uploads/2021/05/Emploi_et_handicap_en_2021_par_Fondation_Malakoff_Humanis_Handicap.pdf). Note that the number of companies surveyed was 201.

<sup>38</sup> See: [https://www.agefiph.fr/sites/default/files/medias/fichiers/2021-10/Agfiph-TB-1sem21\\_BD.pdf](https://www.agefiph.fr/sites/default/files/medias/fichiers/2021-10/Agfiph-TB-1sem21_BD.pdf).



persons with disabilities (369 800 in full-time equivalent) were directly employed in 102 500 organisations under the employment obligation in 2019 (including 12 800 organisations with a branch agreement), representing 3.9 % (3.5 % full-time equivalent) of the number of employees.

According to the survey carried out by Malakoff Humanis, although three quarters of the companies surveyed have a positive opinion of the employment obligation, only one third of them took steps, on one or more occasions, to employ people with disabilities. Employees with physical disabilities were the most employed in companies, far ahead of those with other forms of disability, although recruitment in 2017 related to persons with more varied disabilities.<sup>39</sup>

## **2.2 Tax relief / reduced social security contributions / wage subsidies for employers employing persons with disabilities**

There is no tax relief awarded to employers employing persons with disabilities except as concerns individual employers for teleworking,<sup>40</sup> organisations employing people living in priority neighbourhoods,<sup>41</sup> with or without disabilities, and apart from the reductions provided in the scope of the regulation on quotas described in Section 2.1.

In order to help companies to apply legal provisions and stipulations of the collective labour agreement to the wages of workers with disabilities, Article L5213-10 of the Labour Code provides that they can get financial support from Agefiph. The employment assistance scheme for workers with disabilities (*Aide à l'emploi des travailleurs handicapés*, AETH) is linked with the assessment of the seriousness of disability. It aims to compensate for the consequences of the disability on the person's professional activity, which are evaluated on the basis of the permanent costs borne by the company as a result of the disability (expenses linked to particular work arrangements, social or professional support, tutoring, loss of earnings due to the lower productivity of the beneficiary of the employment obligation, etc). The financial allowance can be received only after the optimal design of the workstation is implemented. The assessment of the seriousness of disabilities can give rise to the right to receive employment assistance for workers with disabilities (AETH) for a period of three years, at the normal or increased rate, depending on the severity of the disability. The contribution can be reduced if the company is subject to the employment quota.

Assistance is granted if the additional cost of employing a person with disability to the employer or self-employed person is equal to or greater than the cost:

- calculated as follows for an employee: [(minimum hourly wage x (number of hours of the collective working time applicable in the establishment) x 20/100];
- calculated as follows for a self-employed worker: [(minimum hourly wage x number of hours of legal working time, i.e. 35 hours) x 20/100].

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<sup>39</sup> Note that the bases per type of disability varied from 38 to 118.

<sup>40</sup> See: <https://informations.handicap.fr/a-credit-impots-emploi-domicile-570.php>.

<sup>41</sup> See: <https://travail-emploi.gouv.fr/emploi-et-insertion/emplois-francs/article/emboucher-une-personne-en-emploi-franc>.

The annual amount of benefit is indexed to the minimum hourly wage (450 times for the normal rate, 900 times for the increased rate), to which a flat rate of 21.5 % is applied for employer's tax and social security contributions.

The amount of the AETH, per full-time position, is therefore:

- EUR 5 967.50 (EUR 10.85 x 550) for the standard rate;
- EUR 11 880.75 (EUR 10.85 x 1095) for the increased rate.<sup>42</sup>

Subsidised contracts exist in the scope of a general scheme called skills-employment pathways (*Parcours emploi compétences*, PEC), which targets the most disadvantaged people with regard to the labour market, such as long-term jobseekers or young people in great difficulty, for whom hiring and support is supervised and financially supported by the state. These contracts are intended to benefit employers directly and financially, mainly in the non-commercial sector. They provide training and competences to most disadvantaged people at moderate prices, on permanent or fixed-term contracts,<sup>43</sup> and employers can indirectly benefit from the professional behaviours and technical skills acquired in the course of these contracts.

The jobs done in the scope of the subsidised contracts are mainly in the third sector for activities with a proven social utility (the green and digital sectors, social and medico-social sectors, personal assistance services, socio-cultural activities, tourism, etc.).<sup>44</sup> The state's support for these contracts is renewable up to a maximum of 24 months, unless otherwise provided for in the Labour Code in particular situations.<sup>45 46</sup>

The company shall provide training, based on its capacity, perhaps thus retaining the job post inside the organisation. The post must allow for the development of professional competences and technical skills that meet the needs of the professional area concerned or that are transferable to other recruiting professional sectors. The employer must demonstrate their ability to assist the person on a daily basis and must allow access to training and skills acquisition: refresher courses, pre-qualification, a professionalisation period, validation of previously acquired experience and the acquisition of new skills. The scheme combines financial support, access to training and human support for integration by the employer as well as by public services. Employers can receive monthly financial support from the state, amounting to between 30 % and 60 % of the gross hourly SMIC (minimum wage). The rate of the financial support is set by order of the regional prefect. It can be increased by up to 65 % for young people under 26 and workers with disabilities under 31.

To support the transition from employment assistance to mainstream employment, a reform of adapted companies was adopted in 2018. This reform is based on the

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<sup>42</sup> See: <https://entreprendre.service-public.fr/vosdroits/F15204>; <https://www.agefiph.fr/aides-handicap/aide-liee-la-reconnaissance-de-la-lourdeur-du-handicap-rlh>; <https://www.monparcourshandicap.gouv.fr/glossaire/aeth>.

<sup>43</sup> However, in order to encourage the development of professional experience and sustainable integration into employment, a minimum duration of nine months is encouraged.

<sup>44</sup> See: <https://www.gouvernement.fr/action/les-emplois-d-avenir>.

<sup>45</sup> See: <https://travail-emploi.gouv.fr/emploi-et-insertion/parcours-emploi-competences/pec>; Law 2018-771, [https://www.legifrance.gouv.fr/jorf/article\\_jo/JORFARTI000037367799?r=JdfcigieR4](https://www.legifrance.gouv.fr/jorf/article_jo/JORFARTI000037367799?r=JdfcigieR4).

<sup>46</sup> See: <https://www.handicap-info.fr/droit-du-travail/contrats-aides/>.

combination of hiring, training and monitoring, and came into force in 2019.<sup>47</sup> It aims to ease access to mainstream work environment thanks to subsidised fixed-term contracts called ‘stepping-stone short-term contracts’ (*Contrats à durée déterminée tremplins, CDD tremplins*). In its 2021 press kit, the Interministerial Disability Committee (*Comité interministeriel du handicap, CIH*) specified that transfers would be supported by short-term contracts until the end of December 2023.<sup>48</sup>

As for what can be related to subsidised wages, there is also financial support for vocational training and apprenticeships. Employers wishing to recruit a person with disabilities on an apprenticeship or professionalisation contract (a work-study contract in the scope of vocational training) may receive assistance if the contract is for at least six months and for a minimum of 24 hours per week. An exception can be made for contracts with a minimum duration of 16 hours per week. The maximum amount allocated is EUR 4 000 for an apprenticeship contract and EUR 5 000 for a professionalisation contract. This is proportional to the duration of the work contract.<sup>49</sup>

A temporary allowance to help employers to employ persons with disabilities (*Aide à la mobilisation des employeurs pour l'embauche des travailleurs handicapés, AMEETH*) was utilised during the COVID-19 crisis. This took the form of a financial allowance to private companies employing a person with disability. It amounted to a maximum of EUR 4 000 per contract signed with a person with disabilities between 1 September 2020 and 30 December 2021<sup>50</sup> for a period of at least three months. This subsidised contract could be combined with the services and financial help provided by Agefiph. The financial support for vocational training had also been extended.

Finally, Agefiph supports entrepreneurship, with a contribution to financing the start-up of the activity after an in-depth study of the plans of persons with disabilities, with the support of a professional specialised in business creation or takeover. The fixed allowance of EUR 6 000 is linked with an effective personal contribution (own funds, loan, etc.) of a minimum of EUR 1 500.<sup>51</sup>

The job subsidy for ‘stepping-stone short-term contracts’ is set at EUR 10 987 per full-time position (pro rata for part-time). Adapted temporary work companies receive a subsidy of EUR 4 671 per year and per full-time eligible worker with disability.<sup>52</sup>

The 2017 Country Report reported on the increased active labour market policy measures targeting low-skilled young people, which have succeeded in reducing unemployment among less well-qualified young people. Authors have evaluated the impact of subsidised contracts, which are considered as positive in the short term but which ‘fail to foster sustainable inclusion in the labour market’. However, as described in the European Semester 2017/2018 country fiche on disability, people with disabilities have suffered from the reduction in the number of subsidised contracts as a consequence of the reduction of public expenditure.

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<sup>47</sup> Law 2018-771.

<sup>48</sup> See: <https://handicap.gouv.fr/presse-actualites/nos-publications/dossiers-de-presse/article/dossier-de-presse-comite-interministeriel-du-handicap>.

<sup>49</sup> See: <https://www.agefiph.fr/aides-handicap/aide-lembauche-en-contrat-dapprentissage>.

<sup>50</sup> The end date of the measure has been extended; see: <https://travail-emploi.gouv.fr/emploi-et-insertion/emploi-et-handicap/ameeth>.

<sup>51</sup> See: <https://www.agefiph.fr/aides-handicap/aide-la-creation-dentreprise>.

<sup>52</sup> See: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000044792170>.



In the scope of Eurofound's assessment of the provision of incentives to employers, the employment assistance for workers with disabilities initiative that 'provides employers with financial compensation for the potentially lower productivity of people with disabilities ... has been identified as creating an administrative burden' (p. 21).<sup>53</sup>

The integration of a subsidised contract into a 'skills-employment pathway', the reform of adapted companies and the reinforcement of the support to vocational training tend to stress the empowerment purpose of financial support and the benefit that companies can make of enhanced competences, rather than the financial 'compensation' for potential loss of earnings due to the lower productivity of the beneficiary of the employment obligation, which is otherwise described as 'consequences of a person's disability on the holding of his or her post after the implementation of the optimal adaptation of the work situation' on Agefiph's website, without any mention of performance. As for the creation or buying of companies, according to Agefiph, 3 099 companies were created with the support of Cap emploi in 2020.<sup>54</sup>

### 2.3 Reasonable accommodation

Article L5213-6 of the Labour Code stipulates that:

'in order to guarantee compliance with the principle of equal treatment of workers with disabilities, the employer shall take appropriate measures, depending on the needs of a specific situation, to enable the workers mentioned in 1° to 4° and 9° to 11° of Article L. 5212-13<sup>55</sup> to access a job or to keep a job corresponding to their qualifications, to exercise it or to progress in it, or to provide them with training adapted to their needs.

The employer shall ensure that the software installed on the workplace of persons with disabilities and necessary for their professional practice is accessible. The employer also ensures that the workstation of persons with disabilities is accessible for teleworking.'

By contrast with the employment obligation under the quotas, there is no link between these measures and the size of the company:

'These measures are taken provided that the expenses resulting from their implementation are not disproportionate, taking into account the support provided for in Article L. 5213-10,<sup>56</sup> which may compensate in whole or in part for the expenses incurred by the employer in this respect.'

Refusal to take measures within the meaning of the first paragraph may constitute discrimination.

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<sup>53</sup> See:

[https://www.eurofound.europa.eu/sites/default/files/ef\\_publication/field\\_ef\\_document/ef20013en.pdf](https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef20013en.pdf).

<sup>54</sup> Agefiph (April 2021), 'Employment and unemployment of people with disabilities' (*'Emploi et chômage des personnes handicapées'*).

<sup>55</sup> Workers eligible for employment under quota. See Section 2.1.

<sup>56</sup> Financial support allocated by Agefiph to facilitate the placement or return to work of persons with disabilities in a mainstream production environment.

## 2.4 Other relevant actions targeted at employers

Other relevant actions focus on the hiring process and on promoting training, human support and consulting services linked with recruitment, retention in employment, transitions and implementation of inclusive employment and management policies as a whole.

Article L5213-6-1 of the Labour Code<sup>57</sup> stipulates that every company employing more than 250 people must appoint a disability manager<sup>58</sup> who is responsible for guiding, informing and accompanying people with disabilities. The purpose of this law is to encourage employers to include disability in their human resources management policy.

Cap emploi,<sup>59</sup> a network of specialised placement organisations carrying out a public service mission, deals with the preparation, accompaniment, sustainable follow-up and retention in employment of persons with disabilities. The services provided target persons with disabilities as well as employers. Among other services, its specialised placement advisors offer:

- information on the obligation to employ people with disabilities and on the financial assistance and consulting services available;
- consulting and support to companies in job retention and in the inclusion of persons with disabilities;
- information, advice and support for an (internal or external) professional transition project, especially ‘specific professional orientation services’ (*prestations spécifiques d’orientation professionnelles*, PSOP);
- identification of accessible posts in employing organisations and setting out a suitable recruitment process;
- presentation of targeted applications and support during the pre-selection of candidates;
- the setting up of reception arrangements adapted to the new employee;
- specific support services (*prestations d’appuis spécifiques*, PAS) which concern five families of disability (visual, hearing, motor, cognitive and mental and psychological disabilities);
- studies prior to the adaptation of work situations (*études préalables à l’aménagement des situations de travail*, EPAAST);
- consulting and support services for the creation/takeover of a business.

Cap emploi’s activities are complementary to those carried out by the unemployment agency, Pôle emploi,<sup>60</sup> which oversees public employment services (PES), occupational health services and social security organisations,<sup>61</sup> as well as Agefiph – which supports the implementation of a disability employment policy to employers.

<sup>57</sup> See: [https://www.legifrance.gouv.fr/codes/article\\_lc/LEGIARTI000038610081/](https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000038610081/).

<sup>58</sup> See: [https://www.agefiph.fr/sites/default/files/medias/fichiers/2019-10/AGEFIPH\\_FICHE\\_RRH-Referent-handicap-en-entreprise\\_0.pdf](https://www.agefiph.fr/sites/default/files/medias/fichiers/2019-10/AGEFIPH_FICHE_RRH-Referent-handicap-en-entreprise_0.pdf).

<sup>59</sup> See: <https://travail-emploi.gouv.fr/ministere/service-public-de-l-emploi/article/cap-emploi>.

<sup>60</sup> See: <https://www.pole-emploi.fr/accueil/#>.

<sup>61</sup> See: <https://www.agefiph.fr/actualites-handicap/focus-sur-la-prestation-epaast>; <https://travail-emploi.gouv.fr/ministere/service-public-de-l-emploi/article/cap-emploi>; <https://www.capemploi.info/>; <https://www.agefiph.fr/aides-handicap/appui-et-accompagnement-cap-emploi-aux-entreprises>; <https://travail-emploi.gouv.fr/droit-du-travail/handicap-et-travail/article/les-aides-de-l-agefiph>.

Agefiph leads the network of disability managers who have to be appointed in companies employing more than 250 workers (see Section 2.4). It promotes exchanges between employers regarding experience and sources of inspiration for measures promoting the employment of people with disabilities.<sup>62</sup>

Agefiph also provides consulting and support services to companies, especially to SMEs and very small businesses. These include:

- digital diagnosis;<sup>63</sup> and
- support for the integration of disability into the human resource management policy of companies.<sup>64</sup>

Agefiph also organises events and webinars to promote inclusive recruitment policies according to an operational plan.<sup>65</sup> Some of these also address issues underpinning retention in employment for companies.<sup>66</sup> Such events allow employers to exchange experience on inclusive recruitment policy.<sup>67</sup>

The supported employment scheme was launched in 2018 and was embedded in France's recovery and resilience plan (RRP). It consists of a medico-social service for occupational integration, supporting employers in accommodating work conditions. According to Malakoff Humanis, 19 % of workers employed by the surveyed companies had used this scheme, but the data do not reveal at which stage, that is to say whether the support was targeted at employees or employers.

In addition to the allowance, adapted companies can receive financial assistance for supplying individualised professional support for persons with disabilities. This can be provided by the adapted company for the benefit of employees made available to another employer.<sup>68</sup> In 2022, the annual amount for a full-time employee (pro rata for a part-time employee) is EUR 4 282.

Financial benefits that can be allocated by Agefiph, apart from the ones described above (2.2) and below (3.1), are:<sup>69</sup>

- An allowance to support the enrolment, inclusion and professional development of workers with disabilities.<sup>70</sup> This aims to facilitate:

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<sup>62</sup> See: <https://www.agefiph.fr/aides-handicap/reseau-des-referents-handicap-rrh>.

<sup>63</sup> See: <https://www.agefiph.fr/aides-handicap/diagnostic-numerique-handicap>.

<sup>64</sup> See: <https://www.agefiph.fr/aides-handicap/conseil-et-accompagnement-emploi-handicap-des-entreprises>.

<sup>65</sup> See: <https://www.agefiph.fr/evenements-handicap/linclusion-une-opportunit-e-pour-recruter-dans-votre-entreprise>.

<sup>66</sup> See: <https://www.agefiph.fr/actualites-handicap/matinale-regionale-sante-au-travail-et-maintien-dans-lemploi-0>.

<sup>67</sup> See: <https://www.agefiph.fr/evenements-handicap/seeph-table-ronde-information-conseil-autour-de-lamenagement-de-poste>; <https://www.agefiph.fr/evenements-handicap/matinale-employeurs>.

<sup>68</sup> Labour Code, Article D5213-81, [https://www.legifrance.gouv.fr/codes/section\\_lc/LEGITEXT000006072050/LEGISCTA000018495474/2020-10-05](https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006072050/LEGISCTA000018495474/2020-10-05).

<sup>69</sup> See: <https://www.economie.gouv.fr/entreprises/aides-emploi-travailleurs-handicapes#adaptationpostetravail>; <https://travail-emploi.gouv.fr/droit-du-travail/handicap-et-travail/article/les-aides-de-l-agefiph>; <https://entreprendre.service-public.fr/vosdroits/F15204>.

<sup>70</sup> See: <https://www.agefiph.fr/aides-handicap/aide-laccueil-lintegration-et-levolution-professionnelle-des-personnes-handicapees>.

- The enrolment and integration of the newly recruited person with disability;
- Supporting an employee in accessing a new post following professional development and/or mobility. This includes changes to an employee's workplace or in the conditions under which the employee with disability carries out his/her activity. The support is granted based on an action plan specifying the measures that the employer puts in place to secure the employee's inclusion or professional development. The following costs may be covered:
  - support for the manager in taking the disability into account;
  - individualised support for the person or management (tutoring, coaching or dedicated management time);
  - a programme to raise awareness and/or provide training on disability to the work group.

Any employer of a person with disabilities with a permanent or fixed-term contract of at least six months can benefit from the allowance, whose amount, depending on need, extends to a maximum of EUR 3 000.

- An allowance to seek solutions for retention in employment. This compensates for the extra time spent by employers determining how they can keep persons with disabilities in employment when their impairment is worsening or when the professional context has evolved. Examples include meetings and consultation time. This allowance amounts to EUR 2 000.<sup>71</sup>
- An allowance for training, aiming at retention in employment.<sup>72</sup> This can be allocated in situations where the work environment is changing or where the impairment is worsening.
- An allowance for the training of employees with disabilities to maintain their employability.<sup>73</sup> This is a contribution to maintaining the employability of an employee with disability through training. The support is granted for the financing of the pedagogical cost of training.

Support given for training, whether directly or indirectly through subsidised contracts, is intended to help employers develop the right competences among persons with disabilities. The financial support allocated to apprenticeship centres (*Centres de formation des apprentis*, CFAs) is to be reinforced. Investment plans in skills (*Plans d'investissement dans les compétences*, PIC) have also been announced by the Interministerial Disability Committee. The aim is to train a million underqualified unemployed people, including people with disabilities and people living in disadvantaged areas.<sup>74</sup> According to the CIH, 85 000 persons with disabilities benefited from the measure in 2020, compared with 71 000 in 2018.<sup>75</sup>

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<sup>71</sup> See: <https://www.agefiph.fr/aides-handicap/aide-la-recherche-de-solutions-pour-le-maintien-dans-emploi-des-salaries-handicapes>.

<sup>72</sup> See: <https://www.agefiph.fr/aides-handicap/aide-la-formation-dans-le-cadre-du-maintien-dans-emploi>.

<sup>73</sup> See: <https://www.agefiph.fr/aides-handicap/aide-la-formation-des-salaries-handicapes-dans-le-cadre-dun-maintien-de>.

<sup>74</sup> See: <https://travail-emploi.gouv.fr/le-ministere-en-action/pic/>.

<sup>75</sup> Information from the Interministerial Disability Committee (*Comité interministeriel du handicap*, CIH), 2021.

## 2.5 Examples of good practice

Measures that can be considered as good practice in supporting the employment of persons with disabilities are as follows:

### **Training and monitoring people throughout their contract**

The allocation of financial resources aiming at financially incentivising the enrolment of disadvantaged persons is considered as having a short-term impact on the employability of people with disabilities. Recent measures in favour of training and monitoring people throughout their contract seem to have a better impact on long-term employability and on the inclination of employers to employ persons with disabilities. A survey carried out by the Observatory of employment and disability (*Observatoire de l'emploi et du handicap*) in 2020 revealed that 67 % of employers were more likely to hire a person with a disability and that this percentage rose to 80 % when companies had used the services of Agefiph.<sup>76</sup>

However, there is no detailed data on the nature of the services provided. The supported employment<sup>77</sup> scheme concerns almost 4 000 persons with disabilities<sup>78</sup> under France's recovery and resilience plan (RRP) (p. 561). This scheme has had good results both in professional inclusion and in retention in employment: 59 % of the unemployed people who made use of the measure found a job – within six months in half of those cases. Most of them were young and underqualified. More than 60 % were still employed two years later. The intensity of the support depends on the context throughout the process.

### **A mainstream approach of supporting integration into the labour market with focus on specific needs**

Eurofound (2021) stressed the need to encourage a mainstreaming approach of support to foster the integration of persons with disabilities into the open labour market. This requires the right services to be in place to meet the higher support needs of jobseekers with disabilities to be considered and to ensure the effective targeting of beneficiaries. In its press kit for 2021, the Interministerial Committee on Disability (*Comité interministériel du handicap*, CIH) specified that Pôle emploi and specialised agencies (brought together by Cap emploi) were getting closer to being able to offer synergies in their know-how, which was to be achieved by 1 May 2022. In 2020, according to Agefiph, Cap emploi enabled 60 023 recruitments and 17 595 retentions in employment in the private sector.<sup>79</sup>

### **Awareness campaigns**

Awareness-raising targets both employers and employees. Employees are addressed indirectly thanks to some financial support for awareness campaigns within companies. Campaigns, led by Agefiph<sup>80</sup> and various associations,<sup>81</sup> mainly consist of

<sup>76</sup> *Observatoire de l'emploi et du handicap* (Observatory of Employment and Disability) (2020), 'L'emploi des personnes en situation du handicap' (The Employment of Persons with Disabilities), Agefiph, <https://www.agefiph.fr/sites/default/files/medias/fichiers/2021-01/Publication%20Barom%C3%A8tre%20Agefiph-lfop%202020.pdf>.

<sup>77</sup> See: <http://travail-emploi.gouv.fr/emploi/insertion-dans-l-emploi/recrutement-et-handicap/article/le-dispositif-de-l-emploi-accompagne>.

<sup>78</sup> Information from CIH, 2021.

<sup>79</sup> Agefiph (April 2021), 'Employment and unemployment of people with disabilities'.

<sup>80</sup> See: <https://www.agefiph.fr/employeur>.

<sup>81</sup> See: <https://www.ladapt.net/securisation-des-parcours>.



communicating on services supporting inclusion that are aimed at reassuring employers, rather than focusing on opportunities in terms of the competences that are likely to meet their needs, even if the slogan that has been adopted suggests as much.<sup>82</sup> Campaigns often turn out to target employees as well as employers, encouraging them, in particular, to have their disability recognised.<sup>83</sup>

A national awareness-raising campaign addressing the general public was launched in 2021 in order to fight against stereotypes (using the slogan ‘Let’s see the people before the disability’, *‘Voyons les personnes avant le handicap’*). The aim of this campaign was to highlight the competences of persons with disabilities. The slogan ‘Before seeing the disability, let’s look at what we’ve got in common’ (*‘Avant de voir le handicap, regardons nos points communs’*) was considered by the National Advisory Council of Disabled Persons (*Conseil National Consultatif des Personnes Handicapées*, CNCPH),<sup>84</sup> the advisory body that represents persons with disabilities concerning all measures taken by the public authorities in the scope of the country’s disability policy) as highlighting disability rather than sameness, and was said to not to have taken into account the points of view of persons with disabilities and their families – and nor was it specific.<sup>85</sup>

## 2.6 Good practice guides, websites and advice services directed at employers

Many guides, websites and advice documents have been published by public bodies<sup>86</sup> and civil society organisations<sup>87</sup> representing persons with disabilities. They describe strategies supporting the employment of persons with disabilities through practical advice and information. This is useful with regard to the concluding observations of the Committee on the Rights of Persons with Disabilities on the report of France.<sup>88</sup> The information provided mainly deals with the obligations which organisations are subject to, and includes guidance on how to comply with such obligations. It includes details about the training that can be provided by Agefiph to all the internal actors of employing organisations and to training and employment services about disability-related notional, legal and practical provisions, such as Modul’pro.

<sup>82</sup> Agefiph, ‘The inclusion of people with disabilities, a human resource opportunity to be seized!’ (*‘L’inclusion de personnes handicapées, une opportunité RH à saisir!’*), available at: <https://www.agefiph.fr/employeur>.

<sup>83</sup> See: <https://www.agefiph.fr/actualites-handicap/retour-sur-la-conference-maintien-au-salon-preventica>.

<sup>84</sup> See: <https://www.gouvernement.fr/conseil-national-consultatif-des-personnes-handicapees-cncph>; <https://cncph.fr/>.

<sup>85</sup> See: <https://informations.handicap.fr/a-campagne-nationale-handicap-lancee-impact-31651.php>.

<sup>86</sup> These public bodies are: the Ministry of Transformation and Public Service (*Ministère de la transformation et de la fonction publique*), the National Solidarity Fund for Autonomy (*Caisse nationale de solidarité pour l’autonomie*, CNSA), the Ministry of Labour (*Ministère du travail*), the Defender of Rights, the Ministry of Health and Solidarity (*Ministère de la santé et des solidarités*), and the Ministry of Social Security, the Elderly, Persons with Disabilities and the Family (*Ministère délégué à la Sécurité sociale, aux Personnes âgées, aux Personnes handicapées et à la Famille*).

<sup>87</sup> These organisations include the National Coordination Committee for Disability (*Comité national coordination action handicap*, CCAH), groups of company branches, employers’ unions, and the Social Security Contribution Collection Offices (*Unions de recouvrement des cotisations de sécurité sociale et d’allocations familiales*, URSSAF).

<sup>88</sup> See: <https://www.ohchr.org/en/documents/concluding-observations/crpd/fraco1-concluding-observations-initial-report-france>.

Modul'pro has the advantage that, aside from setting out some practical aspects of how to comply with the employment obligation, along with information about the concept of disability, especially in a professional context, and about the different types of disabilities, it also emphasises the concept of compensation and its added value for both companies and employees, as well as how to identify which requirements can be financially, technically and methodologically compensated. It also stresses the role and missions of disability managers, including the provisions and levers they can use, and describes the network of disability referrers. Modul'pro provides training targeting the implementation of an inclusive employment and management policy: how to include the disability issue in the recruitment process (how to write an adapted job description, properly assess the person's skills with regard to the position offered and integrate disability into the forward planning of jobs).

Modul'pro seeks to improve employers' risk analysis and diagnosis skills. This is linked to recruitment and employment retention as well identifying the needs of the person with a disability. Modul'pro's services cover an inventory of possible difficulties, emphasising the need to prepare the workstation well, to raise awareness and to involve employees. They include the organisation of follow-up after the job is taken, including in internal communication (on disability, on information to share, on breaking down preconceived ideas, on how and when to involve managers, and on content). Training sessions are provided about project analysis for people setting up their own business, about the benefits of vocational training (in itself) and even about support for inclusion, aimed at those involved in inclusion and of training.<sup>89</sup>

There is a link to a video from Agefiph on the methodology of implementing a disability policy, from hiring to follow-up, within the scope of HR policy and regarding the support that can be provided. This includes information about legal obligations as well as partners, tools, resources (e.g. the network of a disability manager and examples of good practices) and services offered by Agefiph. The video also provides information about the project management methodology applied by Agefiph in the scope of its own support service.<sup>90</sup> There is another video giving advice on how to hire a person with disabilities. The process, from job analysis to the job interview, is presented as an adjustment of mainstream practices focused on the search for specific competences that companies can make the best of with some accommodations of the working environment.

The video provides information about:

- how to analyse the contents of a job;
- the role of specific partners, such as:
  - an occupational physician in the identification of job constraints, in suitability analysis and in the search for solutions to overcome barriers;
  - specialised recruitment agencies.<sup>91</sup>

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<sup>89</sup> See: <https://www.agefiph.fr/sites/default/files/medias/fichiers/2022-03/PANORAMA%20NATIONAL%20MARS%202022.pdf>.

<sup>90</sup> See: <https://www.youtube.com/watch?v=IBinTjPOo0U>.

<sup>91</sup> See: <https://www.youtube.com/watch?v=KqSrbzfAPXI>.

Agefiph's website also provides information about the role and missions of disability managers.<sup>92</sup>

There is also a website from an association called OETH, which is the same acronym as the employment obligation. Its full name is *Objectif: emploi des travailleurs handicapés* (Objective: Employment of Persons with Disabilities). OETH deals with agreements on disability in the private non-commercial health, social and medico-social sectors.

The OETH website provides much practical information on legal and operational aspects (including tools and sources of support). It also makes the link between disability policy inside companies and a strategic process and related management practices and tools, from diagnosis to monitoring. It details the phases of the employment process and advises employers on processes relating to prevention (risk management: risk analysis, prevention and protection), job retention (depending on different contexts), hiring (job analysis, editing the job offer, where to advertise, how to run a recruitment interview), inclusion (including accommodation of the workstation and information for employees), awareness-raising and team involvement. It also provides information about the different types of disabilities and about the missions of disability managers. Finally, it gives financial support to projects linked with the inclusion of persons with disabilities in companies, retention in employment and disability policy implementation, and provides some examples of funded projects:

#### **Integration of a young man with Down's syndrome in the animation team of a long-term care unit**

This project aimed to promote the inclusion of an employee with Down Syndrome, through the creation of a steering committee with Cap emploi and an association representing and supporting persons with Down Syndrome. It also aimed to enable him to have a real career, by giving him training.

#### **Inclusion through communication**

The organisation had committed itself to an inclusive approach favouring the learning of sign language by all the professionals in the organisation following the observation that communication with employees with a hearing disability requires a mastery of sign language, necessitating the intervention of a sign language interpreter (financed in part by OETH) for a limited period each week. By setting up sign language training courses in the workplace, this project aimed to enable all professionals in the department to communicate with each other.

As the organisation was located in a rural area, the project was also designed to compensate for the time when it was not possible to use sign language interpreters from other departments.

The National Association for the Permanent Training of Hospital Staff (*Association nationale pour la formation permanente du personnel hospitalier*, ANFH), which operates in the public sector, offers advice on the implementation of disability inclusion policy. This advice tends, however, to be more operational than that provided by OETH

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<sup>92</sup> See: <https://fiches-pratiques.chefdentreprise.com/Thematique/gestion-personnel-1099/FichePratique/Referent-handicap-qu-est-ce-que-c-est--365578.htm>.



as regards the steps to be followed in implementing a disability employment policy, good practices and tools that can be mobilised.<sup>93</sup>

The Ministry of Labour produced a guide jointly published by Handipole,<sup>94</sup> an information site on employment, training, integration and disability, and the National Union of Adapted Companies (*Union nationale des entreprises adaptées*, UNEA).<sup>95</sup> It aims to assist companies in signing such agreements. It describes the advantages of such agreements for companies that are required to apply them, such as:

- the contribution to the implementation of an overall disability policy at a company level in the case of a branch or of a group agreement;
- the ability of a company to manage its disability budget;
- the positive effects on the internal social climate and on the external image of the company;<sup>96</sup>
- the ability of companies to plan measures at a branch / group / company level in coherence with their internal situation, their economic strategy, their own competences and their culture;
- the structuring of actions taken;
- the motivation of employees;
- the possibility of collaborating with trade unions.

The guide gives methodological advice on how to design an agreement that is subject to approval by the authorities,<sup>97</sup> covering situation analysis, content of the agreement (recruitment plan, retention plan, inclusion plan, training plan, relationship with adapted companies, leadership, car use policy, role of the disability manager, institutional partnership, budget), and explanations of the approval process and how the agreement will be monitored and renewed.

The guide provides details on budgeting planned actions related to hiring, inclusion, training, retention, accommodation, support and monitoring and on how these will be taken into account in complying with the employment obligation.

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<sup>93</sup> See: <https://www.anfh.fr/thematiques/handicap>.

<sup>94</sup> See: <http://www.handipole.org/IMG/pdf/-284.pdf>.

<sup>95</sup> See: <https://www.unea.fr/la-dgefp-publie-un-guide-sur-les-accords-agrees-en-faveur-de-lemploi-des-travailleurs-handicapes>.

<sup>96</sup> In this regard, Agefiph published a guide on companies' communication on disability in 2014: [https://www.defi-metiers.fr/sites/default/files/users/379/agefiph\\_-\\_communiquer\\_sur\\_handicap-guide\\_et\\_util.pdf](https://www.defi-metiers.fr/sites/default/files/users/379/agefiph_-_communiquer_sur_handicap-guide_et_util.pdf).

<sup>97</sup> Ministry of Employment.

### **3 Support and partnerships available to employers to assist them in making reasonable accommodations**

#### **3.1 Support available to employers for making reasonable accommodation**

It is the responsibility of any employer to provide the necessary support to its employees to enable them to perform their duties and to respect the provisions of the Labour Code regarding health and safety. In the context of job retention, if the cost of a workplace adjustment is too high, the company may refuse to pay for it. However, if it wishes to keep its employee in employment, it can assess the financial feasibility of the reasonable accommodation with the various partners. It will participate in co-financing with Agefiph, if it has not signed a company agreement in favour of the employment of people with disabilities and if the employee is a beneficiary of the employment obligation targeting people with disabilities.

If the employer has signed a company agreement, they will pay for all the workstation adjustments.<sup>98</sup> Companies can access advice from Cap emploi about accommodation for the hiring process, and from the support service, SAMETH (*Service d'Appui au Maintien dans l'Emploi des Travailleurs Handicapés*), in finding solutions to maintain people with disabilities in employment.<sup>99</sup> Agefiph also provides services and financial support.

#### **Preliminary study for the design of work accommodation (*Etude préalable à l'aménagement des situations de travail*, EPAAST)<sup>100</sup>**

This study aims to analyse the work situation and to find solutions to adapt the workplace to the employee's needs.

An expert is in charge of:

- highlighting the elements in the performance of a task that are particularly restrictive and/or unsuitable for the person performing it;
- analysing the characteristics of the employer (economic and production conditions, improvement of working conditions, prevention of professional risks, etc.) as well as the functional, cognitive and psychological capacities of the person concerned;
- clarifying the exact nature of the difficulties and defining which organisational and/or technical adaptations are recommended or possible to allow a better fit between the person with disability and his working environment;
- establishing a provisional amount of support.

Any employer of a person with disability can benefit from this support. The service is used for complex situations regarding the matching of the requirements and constraints of the job with the person's capacities, on the recommendation of a Cap emploi employment advisor or an employment agency that has signed an agreement with the FIPHFP. This can also be carried out by a regional delegation of Agefiph, at the request of a private employer or a public employer who has signed an agreement

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<sup>98</sup> See: <https://informations.handicap.fr/a--4155.php>.

<sup>99</sup> See: <https://www.emploiennous.fr/les-aides/travailleur-handicape/sameth/>.

<sup>100</sup> See: <https://www.agefiph.fr/aides-handicap/etude-prealable-lamenagement-des-situations-de-travail>.

with the FIPHFP. It is also possible to apply for support for an ergonomic study through FIPHFP and social security bodies.<sup>101</sup>

### **Allowance for the adaptation of a workplace<sup>102</sup>**

This support is granted to finance the technical, human or organisational means to adapt a post to a person with disabilities. It involves workplace adaptation, specific software, tutoring, interpreting or transcription into Braille, etc. Any employer of a person with disabilities can benefit from the support as long as the occupational physician certifies the worsening of the disability and indicates that it is impacting adversely on the ability of the employee with disability to hold his/her job.

The employer must send their request for support to adopt reasonable accommodations to Agefiph. The application file must contain a medical opinion recognising the aggravation of the disability. The employer must complete and sign a form and send it to Agefiph.

The assistance is given once in relation to the adaptation of the workplace to the needs of the person with disabilities. In order to benefit from sustainable support, the company must apply for recognition of the seriousness of the disability.

The benefit can be renewed in the following cases:

- worsening of the disability;
- changes in the work situation;
- obsolescence due to technological evolution;
- wear and tear of equipment, resulting in additional costs for the employer.

It can be combined with other assistance.

In April 2020, Agefiph proposed additional support to respond to the health crisis, and it is still maintaining its exceptional aid today. As an example, the following are now covered within Agefiph's ordinary and permanent offer:

- the additional cost of personal protective equipment (e.g. masks);
- travel assistance for people exposed to a health risk by using public transport;
- specific provisions concerning support for job retention (in particular the possibility of renewing it when additional time is needed to identify the solution and/or implement it).

As stated in Article L5213-6 of the Labour Code, the availability of support is taken into account in determining whether making a reasonable accommodation would amount to a disproportionate burden.<sup>103</sup>

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<sup>101</sup> See: <https://travail-emploi.gouv.fr/emploi-et-insertion/prevention-maintien-emploi/salarie-travailleur-independant-ou-agent-public/adapter-son-poste-de-travail/article/amenagement-du-poste-de-travail-par-l-etude-ergonomique>.

<sup>102</sup> See: <https://www.agefiph.fr/aides-handicap/aide-ladaptation-des-situations-de-travail>.

<sup>103</sup> See: [https://www.legifrance.gouv.fr/codes/article\\_lc/LEGIARTI000033024104/](https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000033024104/).

Agefiph also offers opportunities to employers to share their experience, either directly<sup>104</sup> or through their website.<sup>105</sup>

Without any proven link with the take-up of support, the survey carried out by Malakoff Humanis in 2021 shows that 56 % of interviewed employers had accommodated workplaces, worktime and transportation; 32 % had made workplace adaptations. While fewer companies had implemented specific support than in 2017, it was more strongly focused on the human and technical aspects.

Besides the adaptation of job requirements and competences, the price of workstation and workplace adaptation was said to be the main barrier to employment (for 35 % of the interviewed companies). As for the solutions to these barriers, 21 % of the interviewed employers claimed more support from specialised structures to help them to learn more about disability and about how to adapt workstations (in particular, about financial support, training and assistance with design and induction).

### **3.2 Partnerships to assist employers to make reasonable accommodations**

The role of the occupational physician is central, not only in implementing prevention measures at work, but also in the process of accommodation. In cases where a need for accommodation is expressed, Article L4624-1 of the Labour Code stipulates that 'any employee may, when he anticipates a risk of unfitness, request a medical examination with the aim of initiating a process of accommodation in employment'.<sup>106</sup> The occupational physician can make diagnoses and prescribe complementary examinations to determine the compatibility between a workstation and a state of health. He gives advice to improve working conditions in general and can recommend the adaptation of a workstation, and he can call on external resources such as consultants, ergonomists or the institutional services of the social security system or civil society organisations. These services, which help improve working conditions, include the National Institute for Research and Safety (*Institut national de recherche et de sécurité*, INRS), which is specifically tasked with the prevention of occupational accidents and diseases), the national retirement and health at work insurance fund (*Caisse d'Assurance Retraite et de Santé Au Travail*, CARSAT) and the regional associations for the improvement of working conditions (*associations régionales pour l'amélioration des conditions de travail*, ARACT).<sup>107</sup> Advisors from Agefiph, Cap emploi and SAMETH are more specific service providers for situations concerning persons with disabilities.<sup>108</sup> In more complex situations, they can call upon the services of an expert from the private sector.

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<sup>104</sup> See: <https://www.agefiph.fr/evenements-handicap/seeeph-table-ronde-information-conseil-autour-de-lamenagement-de-poste>.

<sup>105</sup> See: <https://www.agefiph.fr/centre-de-ressources/accueil>.

<sup>106</sup> See: [https://www.legifrance.gouv.fr/codes/article\\_lc/LEGIARTI000033024922/](https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000033024922/).

<sup>107</sup> See: <https://travail-emploi.gouv.fr/archives/archives-courantes/ressources-pour-les-chsct/article/le-medecin-du-travail>.

<sup>108</sup> See: <https://www.agefiph.fr/articles/propos-de-lagefiph/lagefiph-travaille-avec-les-acteurs-de-lemploi-et-de-la-formation>.

More information under the footnotes:<sup>109 110 111</sup>

Partnerships with trade unions are arranged through branch, group or company agreements in which accommodations are planned in accordance with identified needs.<sup>112</sup>

The disability manager of a company can take part in exchanges aimed at proposing individual measures to adapt or transform the post or measures to adapt working hours, at the request of the employee.<sup>113</sup>

To assess the effectiveness of these partnerships, we need only refer to the number of employment retentions that were achieved through Cap emploi, which came to almost 11 000 for the first half of 2021.<sup>114</sup> The job retention rate, calculated as a percentage of successful job retention for all the cases closed during the reference period, excluding exogenous causes (relocation, death, etc.) was 94 % for the year. In spite of these supports and partnerships, according to Malakoff Humanis, during the 12 months before the survey, unfitness to work had been the primary reason for dismissal in the interviewed companies that had dismissed employees.

According to Malakoff Humanis, 56 % of the employers interviewed had already implemented workstation, worktime or transport adaptations for persons with disabilities in 2021. 96 % of companies employing at least one person with disabilities declared that their integration had been positive or very positive. However, unfitness to work had been the primary reason for dismissal in interviewed companies that employ or have employed employees with disabilities (20 % of cases), and 7 % had dismissed an employee with disability. Apart from the adaptation of job requirements and competences, the price of workstation and workplace adaptation was said to be the main barrier to employment (for 35 % of the interviewed companies). As for the solutions to these barriers, 21 % of the interviewed employers claimed more support from specialised structures to help them to learn more about disability and about how to adapt workstations (in particular, about financial support, training and assistance with design and induction).

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<sup>109</sup> See: <https://www.agefiph.fr/aides-handicap/etude-prealable-lamenagement-des-situations-de-travail>.

<sup>110</sup> See: <https://travail-emploi.gouv.fr/emploi-et-insertion/prevention-maintien-emploi/salarie-travailleur-independent-ou-agent-public/adapter-son-poste-de-travail/article/amenagement-du-poste-de-travail-par-l-etude-ergonomique>.

<sup>111</sup> See: <https://prith-hauts-de-france.org/guide/etude-ergonomique-amenagement-du-poste-de-travail/>.

<sup>112</sup> Ministry of Labour, *Practical guide: Approved agreements for the employment of workers with disabilities (Guide pratique, Les accord agréés en faveur de l'emploi des travailleurs handicapés)*, p. 39, <http://www.handipole.org/IMG/pdf/-284.pdf>.

<sup>113</sup> See: <https://www.agefiph.fr/actualites-handicap/les-missions-du-referent-handicap-renforcees>.

<sup>114</sup> See: [https://www.agefiph.fr/sites/default/files/medias/fichiers/2021-10/Agefiph-TB-1sem21\\_BD.pdf](https://www.agefiph.fr/sites/default/files/medias/fichiers/2021-10/Agefiph-TB-1sem21_BD.pdf).

## 4 Illustrative examples of good employer practice for providing reasonable accommodations for persons with disabilities

### 4.1 Good practice guides for employers regarding reasonable accommodation

Guides were identified on INRS's website that address designers and users rather than employers.<sup>115</sup>

Agefiph published a guide in 2012.<sup>116</sup> Although it is a bit outdated, it gives some useful clarifications, general advice and policy recommendations for the implementation of accommodation. For example, it makes a typology of accommodations, gives some methodological guidance and offers some advice about how to manage an accommodation plan so that every stakeholder (employers, persons with disabilities and other employees) is involved, and highlights the potential need for monitoring and training. The guide also explains the roles of the different partners discussed earlier in Section 3.2 and gives some information about the support that can be allocated to companies. It additionally shows examples of accommodation processes and of financial support that has been allocated.<sup>117</sup> Finally it gives a description of the whole process of making a reasonable accommodation.

The Defender of Rights published a guide in December 2017,<sup>118</sup> which is very useful to clarify the framework of the reasonable accommodation obligation with regard to the notion of disproportionate cost, even though it is stipulated in the Labour Code that it takes into account the financial support that can be granted to the company, to the accessibility framework and to the equality of treatment in employment:

'The purpose of this guide is to explain the content of the duty of reasonable accommodation that companies are obliged to fulfil, its constraints and limits, its interrelationship with existing employment legislation and the consequences that may result from its non-implementation.

Illustrated with numerous examples from case law and situations dealt with by the Human Rights Defender, it is also intended to be a practical tool for all actors involved in the employment of persons with disabilities'.<sup>119</sup>

The guide clarifies the notion of disproportionate cost, referring to Council Directive 2000/78/EC of 27 November 2000 and the fact that this notion takes into account the resources of the company as well as the financial support it can benefit from. It also clarifies the link between the competences of the person and the job they should

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<sup>115</sup> See: <https://www.inrs.fr/header/recherche.html?queryStr=am%C3%A9nagement&rechercher=OK;>  
<http://www.handipole.org/IMG/pdf/-270.pdf>.

<sup>116</sup> AGEFIPH booklets, September 2012, 'Adapting the work situation of an employee with disability',  
[https://www.defi-metiers.fr/sites/default/files/users/379/agefiph\\_-\\_ameliorer\\_la\\_situation\\_de\\_travail\\_dun\\_travailleur\\_handicape.pdf](https://www.defi-metiers.fr/sites/default/files/users/379/agefiph_-_ameliorer_la_situation_de_travail_dun_travailleur_handicape.pdf).

<sup>117</sup> See: <https://www.emploiennous.fr/les-aides/travailleur-handicape/sameth/>.

<sup>118</sup> Defender of Rights, 'Employment of persons with disabilities and reasonable accommodation: The obligation of reasonable accommodation as a guarantee of equal treatment in employment – We are all equal before the law',  
[https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/guide\\_-\\_emploi\\_des\\_personnes\\_en\\_situation\\_de\\_handicap\\_et\\_aménagement\\_raisonnable.pdf](https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/guide_-_emploi_des_personnes_en_situation_de_handicap_et_aménagement_raisonnable.pdf).

<sup>119</sup> Defender of Rights, 'Employment of persons with disabilities and reasonable accommodation', extract from the preface, written by Jacques Toubon, former Defender of Rights.



correspond to, as well as with accommodations that are expected to allow the person to express their existing competences. However, there are no ratios nor any indicative assessment of what can be considered as 'disproportionate costs', even while recalling that the real cost of accommodation should be precisely evaluated and that equivalent alternatives should be assessed. The guide clarifies that the time for the implementation of accommodations and the period of use of layouts are criteria that should be taken into account in assessing whether a measure is disproportionate in character.

The guide explains the difference between affirmative action measures, which may drive employers to favour a person with disabilities with the right competences, and the obligation of reasonable accommodation, which guarantees an equality of treatment. It also clarifies the difference between accessibility and accommodation. For example, it clarifies that the measures that employers are expected to take are not standard measures targeted at persons with disabilities as a whole, but refer to specific situations, aiming to make it possible for every person to access and keep a job corresponding to his or her qualifications. It specifies that accommodations are not limited to ergonomic measures and encompass any measure leading to equality of treatment in all work and employment situations. It states that a technical impossibility to make a workplace accessible in the scope of general accessibility does not exempt a company from the obligation of reasonable accommodation. In this regard, if the accessibility of software should be considered as a matter of accessibility, the guide clarifies that, before the settlement period for such accessibility, the accommodation obligation applies. It clarifies the link between reasonable accommodation and general safety obligations. It sets out the characteristics of the beneficiaries of accommodation obligations, career stages as they relate to accommodation and how the obligation applies at every stage, as well as the process of setting up the accommodation, from the identification of needs to the feasibility assessment and sanctions incurred by the employer in the event of failure to comply with its reasonable accommodation obligation. The guide also provides concrete examples of accommodations and of court cases.

No evidence was found on the impact of these guides.

#### **4.2 Any other sources of information regarding good practice for employers regarding reasonable accommodation**

In 2021, Agefiph produced a video by an association of persons with disabilities (APF France Handicap),<sup>120</sup> entitled 'How to talk about useful compensations or the need for workplace accommodation'. The film concerns persons with disabilities, while also presenting the issues that companies may face in accommodating workplaces. These initiatives are presented with the aim to convince persons with disabilities to speak about their needs for accommodation, but they also show the possible advantages for employers.<sup>121</sup>

The guide from the Defender of Rights contains examples of court decisions as well as of reasonable accommodations. Using examples from court cases:

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<sup>120</sup> See: <https://www.apf-francehandicap.org/association-handicap-bref>.

<sup>121</sup> See: <https://www.agefiph.fr/temoignages-entreprises/comment-parler-des-compensations-utiles-ou-des-besoins-damenagement-de>.

- it clarifies that if an employer does not provide evidence that he/she has sought support from the appropriate organisations to find solutions for workstation accommodation, the employer can be considered in breach of the duty to provide reasonable accommodation. The simple fact of contacting SAMETH by telephone does not constitute proof of effective research of a reasonable accommodation validating the procedure of dismissal for unfitness.

Good practices are divided into technical and organisational measures. Examples of technical measures that illustrate good practice are:

- adaptation of the workstation itself: adapted equipment (video magnifier, ergonomic seat, etc.), software adapted to visual impairment;
- equipment for communication with people with sensory impairments;
- use of simple symbols for people with intellectual disabilities;
- integration of a contrasting colour in the environment to improve the mobility of visually impaired persons.

As for organisational measures:

- teleworking (made possible by technological progress in more and more work situations);
- human assistance: personal or professional assistant (sign language interpreter or completed spoken language coder), tutor, pair work, etc.;
- organisation of working hours, for example in the form of part-time work, out-of-sync working hours in relation to the rest of the team (individualised hours: exception to the application of a collective schedule);
- more frequent breaks during the working day (e.g. for workers with diabetes: extra breaks for eating or insulin injections);
- communication in simplified language for people with intellectual disabilities;
- sitting (for a workstation that is usually standing);
- translation of work instructions into sign language or language that is easy to read and understand;
- adaptation of the company's general rules on internal mobility;
- assignment to a post that is geographically close to the home or place of care of the worker with disability;
- adaptation of the vehicle of the person with disability to enable him or her to travel to and from work when public transport is not accessible;
- choice of locations for company meetings, taking into account the needs of all workers (accessibility of premises and communication devices);
- team restructuring;
- distribution of tasks within a team;
- measures to raise the awareness of work teams about disability.



### 4.3 Examples of individual reasonable accommodations which reveal good practice

Agefiph published some examples of reasonable accommodations, such as:

#### **Computer support technician**

Accommodation has been provided to enable a young man with hyperacusis (B) to maintain his computer support technician's job in a company providing computer support services. A manager explains they learned that B had a hearing disability early in the recruitment process, and he gave some information about the process:

- They initiated contact with the occupational physician before hiring B. The occupational physician informed them that there was a technical and ergonomic workplace adaptation that would allow B to integrate his role perfectly. It was a matter of eliminating extraneous noises, as little noises such as mouse clicks or typing on keyboards ended up tiring him out by the end of the day and disturbed him in his work. The ergonomist intervened directly with the service provider.
- They bought a binaural headset so that B would be isolated from these sounds and could concentrate on the calls from computer users, without being disturbed by ambient noise. There was a filter on the screen to cut out overly harsh light, and a chair that had been adapted to put him in a slightly more comfortable position. The keyboard and mouse were extended to the colleagues who worked around him.
- According to the manager, B's disability was very quickly eliminated. There was a spontaneous form of solidarity, colleagues listened to B and displayed benevolence towards him. B started 'slowly and surely', by making sure that the adaptation of his workstation allowed him to work calmly. He proved to be more productive, completely integrated, and a technician in his own right. B's point of view is that he is much fitter when he comes home; he is able to think about other things and to take part in sports, which he could not do before.

#### **Accountant**

Another example of reasonable accommodation concerns the adaptation of the workstation of an accountant suffering from left-sided hemiplegia (lateral paralysis), so that he could keep his job within a company.

- The ergonomist organised an initial meeting with the various stakeholders involved in this process in order to check and agree on the objectives of the study as well as on the means that would be implemented and the results obtained.
- Once this approach was validated by everyone, they carried out observations at the workstation in order to highlight all the difficulties encountered by the employee during his work. The interviews, observations and photographs enabled them to identify the difficulties imposed by the activity and the disability.
- The employee could not use his left arm and leg during his work. The general layout of the room in which he worked, as well as that of the workstation, did not allow him to move around the office or to work without postural constraints. The office was L-shaped, and the way it was set out allowed for paper-based, administrative work to be carried out only on the right-hand (long) side, while screen work could only be done on the left-hand (short) side.<sup>122</sup>

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<sup>122</sup> The process description was illustrated with photos and drawings.

- Paperwork was being performed simultaneously with computer tasks, and the available space imposed significant trunk torsions. In addition, the chair used by the employee did not allow the lumbar vertebrae to be supported during his activity. Moreover, using the telephone while working on the computer at the same time involved significant joint constraints. Finally, the general organisation of the room reinforced the person's mobility difficulties because of the lack of available space in the room and arrangement of the various pieces of furniture.
- Identifying the difficulties allowed the ergonomist to design a framework of constraints to be addressed, and to determine the organisational and material solutions to put in place.
- Swapping the desk for another one made it possible to accommodate space for a computer, as well as storage drawers, leaving enough space at the side of the computer screen for paperwork and space on the left side to store all the documents necessary for the person's work activity. The change of chair made it possible to maintain lumbar support during work activity, as well as making the person's movements around the office easier thanks to the casters. The telephone was equipped with a headset system that frees up the arm during all calls and allows work on the screen at the same time. The removal of a cupboard in favour of a circular piece of furniture on wheels allowed freed up more space in the room, as well as allowing for storage and access to all documents from a sitting position – facilitating, at the same time, access to various documents and movement around the room.
- Once these solutions were identified, the ergonomist looked for suppliers and asked for quotes so that the company and the employee could then have a choice of equipment.
- Once the quotes were received, the ergonomist completed a written activity report, which they then presented to all the people they had met initially, so that each of them could validate the proposed choices and so that everyone could check that the equipment was appropriate for the employee and could compensate for the disability, thus allowing the employee to remain in his post.
- Several solutions were proposed for the installation of a new desk, and the employee was then able to choose the desk that seemed the most appropriate as well as the layout of the room.<sup>123</sup>

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<sup>123</sup> See: <https://www.novergo.com/exemples/amenagement-situation-travail-travailleur-handicape-gestion-du-handicap-ergonomie-rhone-alpes-novergo/>.

## **5 Recommendations and guidance regarding good practice and reasonable accommodation**

### **5.1 Recommendations regarding good practice and reasonable accommodation in recruitment and hiring**

First of all, instead of focusing on inabilities, employers should focus on persons' skills, competences and motivation to complete tasks and solve problems in the scope of a job role.

They should be aware that, in most cases, solutions can be found to adapt the work environment.

It is necessary to analyse the job in detail: identify the different tasks and the conditions under which they are carried out, constraints related to the job in terms of time (duration, patterns), physical and environmental requirements (open office, use of telephone, etc.)

A specific job offer, taking into account these considerations, should be drawn up.

Applicants should be informed about the conditions of the recruitment interview.

Address the issue of job compatibility with the disability; necessary accommodations should be addressed during the interview without asking any questions about the person's state of health itself, focusing instead on the consequences of the interaction between the impairment and the current work environment.

Employers should keep in mind that most of applicants with disabilities are in a reconversion process; they should pay attention to their motivation and to competences acquired in other work positions that are transferable.

They can advertise through mainstream and specialised networks (such as Agefiph, LADAPT,<sup>124</sup> APF, the *Union nationale des associations de parents, de personnes handicapées mentales et de leurs amis* (UNAPEI) (National Union of Associations of Parents, Persons with Mental Disabilities and their Friends),<sup>125</sup> universities, temporary work agencies, training organisations, associations, professional rehabilitation centres, etc.

### **5.2 Recommendations regarding good practice and reasonable accommodation in initial employment**

It is necessary to communicate within the company in order to support the disability strategy:

- make sure employees understand the benefit of having their disability identified;
- fight against preconceived ideas on the part of other employees;
- employers should contact the occupational physician;
- they should develop synergies with the disability manager, if any;

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<sup>124</sup> See: <https://www.ladapt.net/>.

<sup>125</sup> See: <https://www.unapei.org/>.

- it is helpful to anticipate requirements for technical and organisational accommodations and their potential consequences on other employees, and to anticipate the needs for training and tutorials linked with the use of new equipment;
- take advice from a Cap emploi advisor;
- if required, apply for support for an ergonomic study;
- assess the cost of accommodations;
- assess the feasibility of the project with regard to the nature of the job, the lifespan of the equipment, the financial, organisational and human resources of the company, the available financial support, the impact on other employees, the work environment and the effects of the accommodation on it;
- make proposals to the newly recruited employee;
- apply for financial support for the investment as well as for related training or tutoring;
- validate the final choice with all partners and evaluate the enabling effect of the reasonable accommodation provided.

### **5.3 Recommendations regarding good practice and reasonable accommodation in promotion and career development**

Employers should assess the competences as ‘proven ability to use knowledge, skills and personal, social and/or methodological abilities, in work or study situations and in the professional ... development’<sup>126</sup> of the person regardless of their disability.

Anticipate requirements for accommodation and the training needs that might arise from new accommodations.

Raise awareness among all colleagues (and potential colleagues).

Train managers on transition management.

Promote immersion in other services.

### **5.4 Recommendations regarding good practice and reasonable accommodation in retention, i.e. enabling people to stay in work if they develop an impairment or their impairment changes**

Encourage employees to express any further needs and to request various accommodations at the workplace.

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<sup>126</sup> Source: European Qualifications Framework for lifelong education and training (EQF).

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