



Wide angle

Employment Policies for Persons with Disabilities

Factsheet 1/13: France

Social & Inclusion Division
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This document is part of a set of thirteen country factsheets, meant for companies wishing to inform their practices in disability inclusive employment. If you would like to obtain the factsheet for one the other twelve countries (Algeria, Argentina, Brazil, Colombia, South Korea, Spain, India, Morocco, Portugal, Romania, Slovenia and Turkey), feel free to email us at ita@hi.org.

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I. Perception of disability and workers with disability in France

1. General perception

In the collective book devoted to Charles Gardou's initiative on representations of disability, Patrick Pelège notes that in France, they have constantly oscillated from hospitality to the exclusion of people with disabilities. Social Christianity, the heir to a charitable tradition, has shaped the way they are viewed, cared for, educated and taught. In a logic of protection, insurance and assistance, the field of disability has been built up in a constant tension between a desire to welcome and practices of relegation, sometimes hostility, as well as in a confusion between the figures of otherness and those of alteration. There is still a tendency to use closed structures that distance themselves from common life, and the mechanisms remain imbued with the logic of assistance: they are intended to be inclusive, while at the same time practicing separation.

It should also be recalled that in France the field of disability as it is today was constituted in 1975, the Orientation Law in favour of people with disabilities by the convergence of two previously separate fields: that of the physically, motor and visual invalids or invalids, resulting from functional and vocational rehabilitation initially developed for the war wounded, and followed by constraints imposed on employers (reserved jobs and quotas), then on injured workers invited to benefit from the same measures; on the other hand, there are people with

intellectual, mental or hearing disabilities who, unlike the disability acquired by the previous group, have had their disability since childhood or adolescence. Contrasting representations are thus mixed.

Among the specificities in the attitudes of people with disabilities in France and their families, it is worth noting a certain difficulty in thinking in terms of "rights" or "discrimination". Culturally, the French do not tend to ask the courts (considered slow and unreliable) to settle their disputes. As "administered", they rely more on the State and public authorities to protect them and assert their rights. Hence a strong dependence on the principle of mandatory employment.

2. Objective perception

According to Eurobarometer, France is the only country among the Fifteen to consistently offer results above the European average in terms of attitudes towards people with disabilities and their access to transport, public and private services. "Indeed, for the four categories of disabilities and for each of the seven questions asked per category, it offers 28 answers above the European average, thus underlining a very critical general attitude".



II. Official definition of disability in France

1. Ratification of the CRPD and Relations with the Committee on the Rights of Persons with Disabilities

France ratified the CRPD on 18 February 2010. The government submitted its report to the Rights Panel on May 8, 2016. It was in fact only four years after the date on which it should have been submitted that France submitted its report on the implementation of the Convention. The CFHE and the Comité d'entente considered in 2018 that this delay reflects a low interest in the situation of people with disabilities and a tendency to be satisfied with the now outdated progress of the 2005 law. The adoption of a new law in September 2018 sets the record straight

2. Definitions and methods of recognizing disability

The Worker with disability

In France there are **several ways of defining** and recognising disability, but in terms of employment, the reference is "**Worker with disability**" (TH). More recently, the term "Worker with a Disability" (WSW) has been used.

The term "worker with disability" dates back to **1957**, the [Law 57-1223 of 23 November 1957 on the reclassification of workers with disability](#), when devices such as functional (medical) and vocational rehabilitation, **reserved jobs**, employment **quotas**, previously developed for

war wounded (1924) and **work-related injuries (1930)** were applied to "**civilian**" **people with disability.**) The law only provided for a **procedural obligation** (to announce the vacancy of a position that could be held by a worker with disability; whereas in the absence of an application, this position could be held by a valid worker). In fact, once war invalids were transferred to the pension system, it was mainly **workmen** who benefited from the system. The "**civilian**" "**handicapped**" who are recognized as handicapped workers by the *Departmental Commission for the Orientation of the people with disability (CDOI)*, have joined war invalids and industrial accident victims to benefit from employment subsidies.

In **1975**, as mentioned above, the **field of disability was established**. The CDOI is replaced by the **COTOREP** (*Technical Commission for Vocational Guidance and Re-classification*) which includes **2 sections**: the first section responsible for **professional integration** and the second section responsible for the allocation of a disability rate ordering many **benefits**, such as the disability card (with 80% disability) or the non-contributory disability allowance named AAH (*Allocation aux Adultes Handicapés*), among others... but does **not concern professional integration until 2005**.

The **first section** then has the task of recognizing the "**Quality of worker with disability**" (**RQTH**). This implies that the person is considered by the Commission as "disabled" (enough to deserve help) and as "worker" (productive enough to be considered as providing real work). Unlike in the second section, **decisions are not taken on the basis of a scale** or other "objective" modality; it is an **estimate of the** justification for the assistance provided. The latter classified the applicants into **three categories**, A (mild H), B (moderate H) and C (severe H), which disappeared on ¹ January 2006.

The same section took a **policy decision** that gave entitlement to specific aid: to **training** (required at vocational training or re-education centres (CRP)); to **sheltered work** establishments, *Centres d'aide par le travail (CAT)* or *sheltered workshops (AP)* depending on capacity; to the **ordinary workplace, with or without support** (*Specialized Placement Organizations (SPOs)* and *Preparation and Aftercare Teams (PRSTs)*, replaced in 2005 by *Cap Emploi*) and/or compensated salary reduction (Today, the evaluation of the RQTH request and career guidance is carried out by the **multidisciplinary team of the MDPH**. See below).

During the **1980s**, the objective of **integration into mainstream society became a reality**, especially since there was an **inflationary** trend towards the **protected sector** and a scarcity of solutions in open environments. In fact, workers with disability recognized as such by COTOREP **did not seem to benefit effectively from their legal right to** benefit from the employment obligation. In 1987, the legislator replaced the procedural obligation with an obligation of result (see below) in [Law 87-517 of 10 July 1987 on the employment of workers with disability](#). It will reorganize the list of beneficiaries of the employment obligation, in particular by **first citing the workers with disability recognized by COTOREP**. At the same time, **work-related accidents** will only be covered by the 1987 law if they have at least **10% PPI** (permanent partial disability), whereas they were all counted from 1957 to 1986. New entrants are integrated: social security **disability pensioners** whose earning capacity has been reduced by at least two-thirds and victims of attacks. **There remain the war invalids** and

widows and orphans linked to acts of war who had been the first beneficiaries of the employment obligations.

Each of the other populations benefiting from the *Obligation to employ workers with disability (OETH)* **has its own recognition methods:**

- For industrial accidents, the medical officer of the social security fund compared the victim's functional sequelae with the official guide to industrial accidents and occupational diseases from that of war invalids.
- For the award of the social security invalidity pension, the medical officers do not have any scale.
- The war wounded have a scale giving a value to each physical or functional loss.

This creates a **very heterogeneous population**, especially because of the effect of socio-economic differences on benefit allocations. However, since 1987, these groups have most often been **grouped under the simple label of "workers with disability"** as it appears in the Act.

It should also be added that the OETH, which applies to **public employers, adds other categories of beneficiaries:** holders of arranged employment, staff receiving a temporary invalidity allowance and reclassified staff are counted as staff with disability. According to the Court of Auditors, **these three categories** combined, which do not have administrative recognition as workers with disability, **represent more than half of the beneficiaries of the obligation to employ workers with disability** identified in the public sector. Moreover, officials suffering from long-term illness are counted in significant cases as workers with disability by the occupational physician, whereas these officers are not even aware of it and public service doctors are not empowered to decide on the status of worker with disability. And to this **list of "false" people with disability**, it is necessary to add military personnel and former military personnel who are not in receipt of a disability pension solely because of their status, in accordance with legal rules unrelated to the definition of disability.

In 2005 ([Law 2005-102 of 11 February 2005 on equal opportunities, participation and citizenship of people with disabilities](#)), the employment obligation was reviewed, strengthened and opened up to other beneficiaries. Thus, **disability card holders or AHA recipients**, whether or not they have applied for recognition of the RQTH, potentially become workers with disability. An RQTH procedure is initiated when examining any application for the grant or renewal of the AAH. This is a **long way from taking into account immediate employability**.

Today, the granting of rights to the Disability Compensation Benefit (PCH), the Third Party Compensation Allowance (ACTP) or the Child with disability Education Allowance (AEEH) to **young people over 16 who have an internship agreement** is equivalent to Recognition of the status of worker with disability (RQTH). This recognition is only valid for the duration of the internship ([Decree No. 2018-850 on simplifying the procedure for recognising the status of](#)

[worker with disability and improving the information](#) provided [to beneficiaries of the employment obligation](#)).

It should be noted that, in addition to access to the obligation to work, workers with disability now recognized by the **CRPD** (Commission on the Rights of Persons with Disabilities), which was set up within the **MDPH** (Maison départementale des personnes handicapées) single window since the adoption of the 2005 law, are entitled to a guarantee of resources, financial assistance such as a compensatory allowance for professional expenses, a subsidy for self-employment, a reclassification bonus and tax benefits (if the holder of the disability card). The **status also allows you to obtain rehabilitation, re-education or vocational training courses**. For those who are in employment but have difficulty maintaining their employment, recognition of the status allows them to benefit from special support for **maintaining employment** via SAMETH (Services to help workers with disability maintain employment). The RQTH also gives **priority access to** various employment and training support measures, as well as to adjustments to existing schemes (apprenticeship contracts, single integration contract, etc.).

It should be noted, however, that, according to the definition in the Labour Code, **disability is an intrinsic medical problem of the person, and it is** only because of alterations in his or her functions that his or her work possibilities are reduced. Therefore, **this definition obscures the environmental factors of** disability in a given work situation, i.e. the social, economic and physical dimensions of the environment that determine the context and organization of work. However, the combined analysis of articles 1 and 27 of the Convention shows that "in their interaction with various barriers", the disabilities of persons with disabilities may hinder their effective participation in the field of employment. Thus, the environment is well considered as a potential creator of obstacles to the exercise of the right to work. As currently drafted, the definition of the French Labour Code is therefore not in **line with Articles 1 and 27 of the Convention**.

2018: Stabilization of the recognition of disability

Under the Law of 5 October 2018, the RQTH is **granted for life to** persons whose disability is considered irreversible. In addition, it is now clearly stated that the inclusion mobility card (CMI) bearing the mention "disability" and the adult with disability allowance (AAH) give the right to the status of worker with disability, without any additional steps.

3. National statistical data

Persons with disabilities in the Employment Survey

The most recent data on people with disability of working age in France are those from the **Employment Survey conducted by INSEE in 2017**.

The population with disability is presented in two ways. The first concerns persons who declare that they have an **administrative recognition of** a disability or loss of autonomy (PRH). This corresponds roughly to those benefiting from the OETH as described above, but they are only declarations that cannot be verified.

The second, which concerns so-called "persons **with disabilities**", includes persons "who declare that they have an administrative **recognition of** a disability or loss of autonomy or who declare both a chronic or long-term **illness or health problem** and have been restricted, for at least six months, because of a health problem, in the **activities that people usually do**".

According to the first definition, the number of people with a **recognised disability** (PRH) was **2,775,000 in 2017 (6.8%** of the 40 million people in employment), 1,368,000 women and 1,407,000 men.

The much larger number of people with **disabilities (5,962,000)** represent 14.6% of the approximately 40 million French people of working age. There are more women (3,176,000) than men (2,786,000).

Employment of persons benefiting from the OETH

In government texts, the term "beneficiaries of the employment obligation" (**BOE**) is used to refer to all persons who may enter the legal system.

938,000 people with administrative recognition of disability **were employed in the** labour market in 2015 (Employment Survey).

43% of people with a recognised disability were active (35% in employment and 8% unemployed). 70% worked in the private sector, 22% in the public sector and 8% were self-employed.

4. Comparative data on disability

According to the European comparative survey EU-SILC UDB 2016 (version March 2018), the people who, in France, report activity limitations are **25.7%**, close to what is observed for all EU Member States (24.1%). The distribution into very high (8.9%) and moderate (16.8%) limitations is the same.



III. Legal obligations regarding the employment of people with disabilities, their principles, implementation modalities and/or constraints

1. Situation of workers with disability

The 2017 Employment Survey

In **2017**, according to the Employment Survey, people with an administrative recognition of their disability are less present on the labour market than others: among them, between 15 and 64 years of age, only **43% are considered active within** the meaning of the ILO (employed or unemployed) compared to 72% for the entire population in this age group. **Their employment rate is 35% compared to 65%** for the whole population. Among the working people whose disabilities are recognized administratively, **19% are unemployed, compared to 9%** for the entire working population.

In France, **19%** of people with disabilities are unemployed, compared to **9%** for the entire working population.

Among the 26.7 million people aged 15 to 64 in employment, **3.7%** (or 981,000 people) have an **administrative recognition** of their disability. Most of them benefit from the law on the obligation to employ workers with disability. They are more frequently men (53%) than

women (47%), as is the case for the employed population (52% versus 48%).

People with a long-term health problem, accompanied by difficulties for at least six months in the daily activities known as "**in a situation of disability**", obviously more numerous (nearly 6 M. compared to 2.8 M. approximately) since they include the previous ones, represent **10.1% of the employed population, or 2,687,000 people**. There, women are much more frequent (52%) than men (48%). The **employment rate** of this extended group (people with disabilities) is **45%** and the **participation** rate is **53%**. The population with an employment disability is significantly older than the average.

Individuals in employment with disabilities are more likely to be **labourers** (30% of them, compared to 21% for the whole population).

This is due both to a **lower** than average level of **qualification** of these people with disability, and to the fact that some are recognized with a disability a result of an accident at work or an occupational disease, risks to which workers are more exposed. People with disabilities work more frequently on a **part-time basis**, particularly in cases of administrative recognition (34% compared to 18% in the general population and 29% for HSPs).

Access to employment according to SILC

The EU-SILC 2016 Comparative Survey (March 2018 version) estimates **the employment rate of** people aged 20 to 64 with **activity limitations at 56.3%**. At the same time, the rate observed for all European Union countries is 48.1% and that of other non-disabling French people is 74.2%, so slightly different from that of the Union (73.9%). This **positive result** is amplified for access to employment for **the most severely disabled: 43.4% compared to 28.6%** for the Union.

The employment rates of women with disabilities are also interesting here: 54.2% against 45.9% for the Union (58.8% and 50.6% respectively).

The unemployment rate for 20-64 year olds is 17.1%, slightly lower than the unemployment rate at that time (2016) for the Union as a whole (19.6%). But it is common knowledge that people with disabilities are reluctant to register as job seekers, and even to consider themselves as such.

The activity rate is therefore more meaningful. It is **67.9%** in France, significantly higher than the European average (59.7%). According to SILC data (with the proviso that the household samples interviewed were not always identical), the **activity rate of** people with limited activities increased in France **from 59.7% in 2009 to 67.9% in 2016**.

2. Employment obligation laws and decrees / Quotas

History of the employment obligation in France

France, together with Germany, is one of the countries that **very early** adopted the principle of an obligation on employers to hire a certain percentage of people with disability (a **quota**) or to **reserve for** them certain positions considered undemanding in physical terms and more generally within the scope of their residual capacities (jobs reserved by the [Law of 17 April 1916](#)). The aim was to reclassify the **war wounded** who had benefited from the development of **functional and vocational rehabilitation**. In the case of France, after a few tests, the first complete legal system was established by the [Law of 26 April 1924 ensuring the compulsory employment of war- people with disability](#), which required **private companies with more than 10 employees to recruit 10% of retired war- people with disability**. At the end of the First World War, such a percentage is not **excessive**.

Employers will be able to obtain **salary deductions in the event of** a decrease in performance. They also had the option of meeting their obligation **by paying a fee per unhired pensioner**. Once the principle has been established, **it will gradually adapt to** social realities and the evolution of the needs to be covered. The public sector, which is in demand, will instead offer reserved jobs.

Adjustments to the employment obligation in French legislation

The first extension of this system is made by the [Law of 14 May 1930 Free vocational rehabilitation of the people with disability at work to whom their injuries or disabilities give rise to the right to a pension](#). **Workers injured at work join the war wounded**.

[Act No. 57-1223 of 23 November 1957 on the reclassification of workers with disability](#) opens the system to a new category, that of workers with disability (see definitions above), who will first be admitted into the employment obligation **only for 3% included in the 10%** (by the back door, therefore). The text also provided for a quota to be reached by **public employers** instead of reserved jobs. The implementing decrees **were not issued** until **1968**, and for only **3%**, reflecting less involvement of the State and the public sector!

[Act No. 87-517 of 10 July 1987 on the employment of workers with disability](#) establishes the entry into the system of a new population, that of people with early disabilities, which is primarily concerned by the Act of 30 June 1975 and which has so far benefited little from the 1957 legal framework. The employment obligation had deviated from its primary objective, which was to ensure access to employment for persons with impaired functional abilities. In practice, there were few hirings; the victims of **minor accidents at work were the** main ones, a real godsend for industries and companies producing accidents, which thus avoided the fee.

At that date, **the 10% target no longer has any justification**. We had to find a more reasonable quota. **The 6% rate was imposed** both because it was the rate that our **German** friends/competitors had adopted in 1974, and because it was the level of **beneficiaries**

registered under the 1957 law still in force in 1986 (doing less would have been wrong). On the other hand, there was a prevailing opinion that the **public sector** should make at least the **same efforts as** the private sector. **6%** should be relatively easy to achieve. The reserved jobs are gradually being phased out.

The specificity of the **1987** law is to impose an **obligation of result** (an effective presence of workers with disability) instead of the procedure that awaited possible candidates. The obligation is imposed on any **private establishment with at least 20 employees**. In return for this stiffening, several alternatives to direct employment are available:

- The establishment can fulfil **half** (50%) of its obligation by signing **subcontracting or supply** contracts with protected work establishments (CAT or protected workshops).
- It can accommodate people with disability on **internships**, up to **2%** of its staff. In addition to this, [Law n°2015-990 of 6 August 2015, known as the Macron I Law for growth, activity and equal economic opportunities](#), has been adopted since then, allowing **people** with disabilities to be **accommodated for** periods of training in the workplace. For both: at least 35 hours.
- The social partners in the company or industry can negotiate and **sign an agreement** providing for the **hiring of** workers with disability (now mandatory), **training for** workers with disability, **information on** disability and the **retention of people who** have become disabled. Approved by the decentralized services of the State, **this multi-year agreement replaces the employment obligation**.

In addition, the **severity of the disability, as** expressed by the categories of RQTH (A, B or C) or the rates of incapacity for work accidents or disability, is taken into account by counting the person for 2 or 3 units. **Weighting** also involves elements of the worker with disability's curriculum (up to 5.5).

But the major innovation of the 1987 law, again inspired by the German example of 1974, is the **creation of a Fund dedicated to promoting the employment of people with disabilities** from what was originally a **kind of fine** paid by employers who did not reach their quota and which, by replenishing the state budget, was lost for people with disabilities. A private body with a public service mission, the Association for the Management of the Fund for the Integration of people with disability (**AGEFIPH**) will collect what are now called "**voluntary contributions**" and will finance with the money collected numerous actions aimed at improving the employment of people with disability.

The years **following 1987** will be dominated by the **development and refinement of AGEFIPH's intervention**. This corresponds to a previously unprecedented influx of resources.

With unprecedented resources at its disposal to date, AGEFIPH is setting up a **network of specialized placement assistance agencies, called CAP EMPLOI, which** initially includes IOPs (Integration and Placement Agencies), such as Ohé Prométhée and EPSRs (Preparation and Subsequent Rehabilitation Teams), which will become an essential tool for action.

For questions related to the management of public money, it was not **conceivable at that time to impose on the State that it penalize itself**. This way of **discarding** has been the subject of fierce criticism from associations of people with disabilities, especially since the ordinary beneficiaries (in the private sector) were added to the obligation to employ categories of people whose disabilities did not seem obvious (see definitions).

The employment obligation before reform

The text of the law that regulates the application of employment quotas in France at the time of writing is [Law 2005-102 of 11 February 2005 on equal opportunities, participation and citizenship for people with disabilities](#). This law was adopted as part of the **revision of all legal provisions** concerning people with disability, [Law of 30 June 1975](#), [Law of 10 July 1987](#), as well as in order to adapt French legislation to the **new framework** imposed on any member country of the European Union by **Directive 2000/78/EC**. It introduces the obligation for all countries to adopt laws prohibiting any **discrimination on the grounds of disability** at least in the field of employment. For a time it was **thought that the principle of non-discrimination would replace the** positive discrimination mechanism of the employment obligation, but the Directive recognized the value of the conjunction of the two approaches. As a result, the **2005 law reinforces the employment obligation on** several points.

First of all, while Germany has reduced its quota from 6% for employers with 16 or more employees to 5% for 20 or more employees, **France is maintaining its 6%**. Beneficiaries have been **extended to disability card holders and AHA holders. Voluntary contributions" are strengthened**: The methods of calculating the contribution, which may not exceed the limit of 600 times the minimum hourly growth wage per beneficiary not employed, are set by decree: 400 gross minimum wage for companies with 20 to 199 employees; ^[L]_[SEP]500 gross minimum wage for companies with 200 to 749 employees; ^[L]_[SEP]600 gross minimum wage for companies with more than 750 employees ([Decree No. 2006-136 of 9 February 2006 on the methods of calculating the annual contribution to the development fund for the professional integration of the disabled](#)). Certain expenses ([decree of 9/02/2006](#)) are deductible from the amount of the contribution up to a maximum of 10% of the contribution. Companies that do not fulfil their employment obligation (including voluntary contribution) are not **eligible to compete for public contracts**.

For companies that have not employed **any beneficiaries of the employment obligation**, have not concluded **any contracts** with Adapted Enterprises (EA) or Establishments and Services for Work Assistance Services (ESAT) or do not apply **any company agreements for** a period exceeding three years, the limit of the contribution is raised under conditions defined by decree to **1 500 times the minimum hourly growth wage** per missing beneficiary unit (new measure in 2000).

The **three public services** (national, territorial and hospital) are subject to more or less the **same employment obligations as the private sector** as of 1 January 2006 and a voluntary contribution similar to the contribution paid to the AGEFIPH by the private sector, with the creation of a **specific fund for the** integration of people with disability into the public service,

the Fund for the Professional Integration of into the Public Service (FIPHFP).

The **weighting in** beneficiary units according to the severity of the disability and/or previous course of study, considered **stigmatizing**, is **deleted** (However, each worker with disability aged 50 years or over will have a valuation coefficient of 1.5 applied in the calculation of the BOETH workforce), replaced by the **Recognition of the Heaviness of the Handicap (RLH)**. It aims to **compensate financially for the** consequences of disability on professional activity: **costs linked to the worker's lower productivity**, a particular work **organization**, social or professional **support**, assistance or support provided by a third party or a tutor, etc. The costs thus assessed are those **inherent in the disability of the person** concerned on his or her workstation, which continues **after optimal adaptation of the** workstation and which is borne in a permanent manner by the employer.

The Minister for Employment and the Minister for Persons with disability shall fix by order **the amount of employment assistance, as well as an increased amount**, applicable when the amount of the charges incurred is greater than or equal to 50% of the product of the hourly minimum wage by the number of hours corresponding to the collective working time applicable in the establishment or, for beneficiaries, by the legal working time. Considered complicated in its original version, **the RLH was simplified** by [Decree No. 2016-100 of 2 February 2016 on the recognition of the heaviness of disability](#).

At the same time, the Joint Order of the Ministers of Employment and Persons with disability of 2 February 2016 sets the allocation of employment assistance at between 450 and 900 times the hourly minimum depending on the weight rate allocated, for a full-time equivalent (FTE) until 30 June 2016. From 1 July 2016, it will be included **between 550 SMIC per hour (standard rate decision) and 1,095 SMIC per hour (increased rate decision)** for one FTE, in accordance with the decree of 9 February 2006 fixing the annual amount of employment aid.

Since **1987**, certain trades, considered inaccessible to workers with disability, have been eligible for a **reduction in the contribution**. In view of technological developments, the list of these Jobs **requiring special aptitude conditions (ECAP)** should be updated.

Finally, the social partners of the companies are asked to **meet every three years to negotiate** measures to integrate workers with disability into the labour market and keep them in employment.

2018: Reform of the employment obligation

[Act No. 2018-771 of 5 September 2018 "for the freedom to choose one's professional future"](#) **reformed the obligation to employ** workers with disability (OETH). It will enter into force on ¹ January 2020. The employment rate for people with disabilities **remains at 6% of the** company's workforce (it **may be revised every 5 years to take into account the** share of workers with disability in the labour market), but the calculation methods change as from ¹ January 2020.



Today, the Mandatory Declaration of Employment of Workers with disability (DOETH) includes **five** different **forms**, all of which must be calculated "manually" by the company. The objective of the reform is to simplify the process.

This reform should open up nearly 100,000 additional jobs for workers with disabilities. Companies will have until 2024 to upgrade on all the details of this reform.

First, the obligation will be settled at **company level and no longer at establishment level**. This amendment aims to **make organizations more accountable** and concerns companies with less than 20 employees.

In addition, all companies, including those with less than 20 employees, will declare their efforts to promote the employment of people with disabilities, which will make it **easier to assess the employment situation**.

Company agreements are already limited to 3 years, renewable once, in order to constitute a real tool for initiating a policy favorable to the employment of people with disability.

All types of employment will be taken into account: trainees, simulation periods, etc. The procedures will be based on those of the social security contributions declarations since

everything will be done via the **Nominative Social Declaration** (DSN), with a simplified and automated calculation method using a **simulator**.

Subcontracts will be taken into account in the form of a **deduction from the contribution due, but employment contracts can no longer be included in the 6%**. The calculation procedures will be **simplified** by applying a **single rate**, regardless of the type of purchase (30% of the labour cost). The more workers with disability the company employs, the higher the ceiling on deductible subcontracting expenses, in order to promote complementarity between these forms of employment of workers with disability. The use of subcontracting will remain an incentive for client companies with a **new method of valuation**, still based on labour costs.

Companies with 250 employees or more will have to designate a disability focal point.

Evolution of the system

Voluntary contributions to compensate for the lack of beneficiary units **have been reviewed** to bring their **thresholds into** line with those adopted for corporate **social responsibility**: 400 gross minimum wage for companies with 20 to less than 250 employees; ^[SEP]500 gross minimum wage for companies with 250 to less than 750 employees; ^[SEP]600 gross minimum wage for companies with 750 or more employees ([Decree No. 2019-523 of 27 May 2019 establishing the methods for calculating the contribution due under the employment obligation for workers with disability](#)).

In addition, **Cap emploi** has been transformed **into a one-stop shop for the** professional integration and retention of workers with disability, as well as **strengthened coordination by 2020 with Pôle emploi**, whose service offer is currently being renovated.

But more radical, from 2021 onwards, **the URSSAF or the Mutualité sociale agricole funds will become the sole interlocutors** for the declaration, collection and calculation of the contribution due.

For many companies, the image of Agefiph is associated and often reduced to the payment of the contribution. **As the collection is transferred to social security organisations, it is for Agefiph the opportunity to be perceived for what it really is: an expert in the field of employment and disability, a local actor, very present in the territories, and a real partner for companies.** They will be supported in the transition, in close collaboration with the social security bodies that will take over in **2021**.

In addition, a "**Public Service**" **consultation was** launched on 9 March **2018**. This resulted in numerous Senate proposals in August **2019**.

However, the CNCPH Standing Committee regrets the lack of impact studies on this reform project.

Achievements of the employment obligation (pre-reform statistics)

The direct employment rate of THs is **5.49% in the public sector**.

The direct employment rate in the private sector is only **3.5%** and is increasing by only 0.1% per year.

Out of **102,100 companies subject to the** employment obligation:

- **34%** use only direct employment of workers with disability;
- **17%** meet the employment obligation through direct employment and subcontracting to the protected and adapted sector;
- **80%** employ at least one person with a disability;
- **12%** have signed an approved agreement.

The State civil service is the one that lags the furthest behind in the integration of workers with disability: each year, the **State** contributes nearly 38 million euros to the FIPHFP, for an **employment rate of 4.65%**. Thus, out of a total of **1,608,696 employees**, those with administrative recognition (BOE) are **71,978**, or a **direct employment rate of 4.47%**, which, combined with the **2,139 BOE equivalent** obtained from **subcontracting**, gives a **legal employment rate of 4.65%**.

With more than one million employees, national education is the State's main source of employment. In 2017, the Ministry **should have contributed €142 million to the FIPHFP**, with its employment rate for people with disabilities well below 6%. However, he was exempted from paying this sum, as the law authorizes him to deduct from his contribution the expenses devoted to School Life Auxiliaries (SLAs), i.e. nearly one billion euros, according to the drafters of a report to the Senate (2019). Paradoxically, the Ministry receives support from the FIPHFP (about €4 million per year) without contributing to its financing.

The legal employment rate for people with disabilities in the civil service continues to grow at a **record rate of 5.61%**. This represents a total of **250,760 agents with disability**.

The legal employment rate is **4.65% in the State civil service**; **5.67% in the hospital civil service**; **6.76% in the territorial civil service**.

In 2016, the public sector had 240,691 workers with disability, a figure that increased in one year by +4.52% for the territorial civil service (43% of jobs); +5.55% for the State (35%); +6.62% in the hospital civil service (22%).

In the private sector, there were 7.4% more workers with disability between 2014 and 2015. 79% of companies with more than 20 employees employ at least one person with a disability, but **only 30% fulfil their obligations under the law.**

In 2018, 1762 companies benefited from AGEFIPH's consulting and support services. 83% of the companies advised by Agefiph have less than 250 employees.

AGEFIPH's **Network of Disability Referents (RRH)** has brought together **2,230 companies** since its creation. In **2018, 650 companies joined the HRO.** 28% were VSE/SMEs.

A person with disability person is **now three times less likely than the average to be in employment** and is twice as likely to be unemployed (19% compared to 8.8%), with, in addition, longer periods of inactivity (832 days instead of 630 days).

50% of job seekers are 50 years old and over (compared to 26%) (March 2019). 24% have a baccalaureate and more, against 49% for the general public.

Nevertheless, 938,000 people with disabilities are employed, and 80% of them work in ordinary employment.

Non-discrimination / Reasonable accommodation

Non-discrimination in 1990

It is common practice to associate non-discrimination in employment on the grounds of disability with the American Americans with Disabilities Act of **1990**, well before the European Union adopted [Directive 2000/78/EC](#). This is to forget that France had also, in the same year, adopted [Law No. 90-602 of 12 July 1990 on the protection of individuals against discrimination on the grounds of their state of health or disability](#).

In fact, this law was originally drafted **to protect the access or retention of people with AIDS or HIV. Disability has been added** at the request of the **Social Affairs Department**.

However, this law will almost never be used in favour of people with disability people, firstly because French **associations of people are reluctant to use the courts**, which are considered slow and difficult to understand in their decisions, secondly because this system **works in criminal law**, implying that the **administration of proof of discrimination is at the initiative of the complainant**, and finally, in the **absence of an obligation on the employer to make the necessary adjustments** (within reasonable limits), the refusal of employment could be legitimate because the working environment does not match the candidate's abilities.

The European Directive 2000/78/EC

Following the pressure exerted on the European Commission by the **Disability Forum** to introduce the **notion of non-discrimination** into national policies aimed at **promoting the inclusion of** people with disabilities, and in particular in the crucial area of access to employment, the Council of the European Union adopted a text that will impact the legal systems of all Member States, [Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation](#). Under the **influence of the Anglo-Saxon countries**, there was a time when it seemed that the **principle of non-discrimination** would **contradict** measures that often amounted to **positive discrimination**, such as employment quotas.

Finally, perhaps in view of the **cultural difficulty of some large countries**, such as France and Germany, **in trusting the courts** to ensure effective equality of access to rights, **the new directive maintains the legitimacy of positive actions** and specific measures.

Essentially, this directive lays down the principle of the obligation for the employer to take my **appropriate measures** to enable a person with disability person to have access to employment: **reasonable accommodation**.

2005: Equal opportunities, participation and citizenship

The need to carry out an aggiornamento of the legal framework for assistance to people with disabilities, and in particular a **regrouping and harmonization of** the issues addressed by several successive laws, was, with the adoption of [Law 2005-102 of 11 February 2005 on equal opportunities, participation and citizenship of people with disabilities](#), an opportunity to introduce a **more modern version of non-discrimination**. In the meantime, it is true that French associations had evolved on this concept, ready now to explore the perspectives it opens up.

Thus, [Law No. 2004-1486 of 30 December 2004](#), supplemented by [Decree No. 2005-215 of 4 March 2005](#), created the High Authority to Combat Discrimination and Promote Equality (**HALDE**). It will be dissolved and its tasks were transferred to the Human **Rights Defender on**¹ May 2011. Thus, in 2018, 5,631 complaints (or 22.8% of the complaints filed) were filed with the Human Rights Defender, the main cause of litigation, far ahead of their origin (14.9%). Employment is involved in these cases for 3.9% in the public sector and 4.3% in private companies.

2008: further details

[Act No. 2008-496 of 27 May 2008 on various provisions for adapting to Community law in the field of the fight against discrimination](#) provides details on the **interpretations** specific to the concepts involved in understanding situations.

Accessibility and Universal Design

The 2005 law had made a significant contribution to widespread accessibility and **universal design**. Unfortunately, these provisions, which were once properly applied, have been completely **challenged**. The 2015 deadline could not be met and since then, **accessibility has been postponed in whole sections**. How can employers be asked to make reasonable accommodation?

Protected work / Supported employment

The Law of 5 September 2018 **does not intend to remove the incentive to use subcontracting**. It only changes the **way** these purchases are valued. Subcontracts will always be taken into account as a **deduction from the companies' contribution**. **These new valuation methods will not be detrimental to the adapted and protected sector, to self-employed workers with disability or to client companies.**

Adapted Employment is evolving

The signing, on 12 July 2018, of the national commitment "**Cap vers l'entreprise inclusive 2018-2022**" between the State and representatives of this sector marks the common will to promote a change of scale in support for the approximately 780 Adapted Companies that employ **34,200** workers with disability in order to strengthen their intervention in an ever more inclusive perspective: **40,000 additional jobs** for workers by situation of disability **by 2022**; modernization of the Adapted Business model: increase in economic performance and reduced dependence on State aid; experiments to facilitate bridges between Adapted Businesses and other employers, public and private: "**CDD Tremplin**" of a maximum of **twenty-four months** allowing the acquisition of professional experience in the logic of the triptych employment-training and coaching; emergence of a specialist in temporary work focused on workers with disability (EA Temporary Work); new model of "pro-inclusion" promoting the diversity of the public, with a share of workers with disability of 50% in the total workforce (against 80%); **500 million euros of aid per year by 2022**.

Prospects for Supported Employment

In addition, on 27 February 2019, the government announced a new offer of **support services**, **the** content of which is the subject of consultations with all the social partners and representatives of associations, which should make it possible to develop the learning of people with disability, with the support of general disability focal points in apprenticeship training centres, and to **increase from 1000 people in supported employment to 50 000** with the mobilization of the public employment service, by **2021**.



ESATs are still essential

As of December 31, 2014, there were 122,600 people in the **1,400 ESATs**.

Other measures and/or specific actors for people with disabilities

The assistance provided by AGEFIPH and FIPHFP

Les aides apportées aux personnes handicapées et aux entreprises pouvant les embaucher se sont beaucoup diversifiées. On en compterait plus de soixante-cinq.

Support for people with disabilities and for companies that can employ them has become much more diversified. There are more than 65 of them. The most significant are:

- Assistance in the reception and integration and/or professional development of people with disability (< 3000 €)
- Assistance for professional integration (AIP) (2000 €)
- Assistance in hiring under a professionalization or apprenticeship contract (<4000 €)
- Help to keep people with disability people in employment at the end of their careers (4000 € to 6700 € per year; 3 years)
- Assistance in the management of work situations and compensation for disability (€9,150)
- Aid for future jobs (€10,300)

The **2018 Review** of AGEFIPH's activities indicates:

- Nearly 116,800 services and financial assistance to companies (+2%);
- Nearly 218,650 services and financial assistance to people (+1%);
- **91,793 people found or kept a job with the support of Agefiph.** (+1%) compared to 2017);
- **64,898 job placements supported** (excluding work-study placements) by Agefiph (+2%);
- Cap emploi contributed to more than 84,000 hires of workers with disability. The number of hires increases for private employers (+2%)
- 3,600 sustained new activities (+14%);
- 4,963 work-study contracts signed (+1%);
- **18,332 successful completions in 2018** (-7.6% vs 2017), including 17,615 through the Cap emploi network;
- Agefiph's total resources in 2018 amounted to €449.9 million, up +3% compared to 2017 (mainly due to a significant increase in inflows: +€11.7 million (or +2.76%).

For its part, the FIPHFP received a total of €112.95 million in public sector contributions during 2018. At the same time, it financed **124.78 million euros in interventions.**

30,542 people with disabilities found employment in the three public services with the help of the FIPHFP, 4,525 in the State civil service, 19,209 in the territorial civil service and 6,808 in the hospital civil service.

Similarly, **16,407 people with disabilities were retained** in 2018 thanks to the FIPHFP: 3,167 in the State civil service, 7,700 in the territorial civil service and 5,540 in the hospital civil service.

The FIPHFP has an accessibility policy, totaling €7.92 million: €1.69 million for the civil service, €5.54 million for the territorial civil service and €0.69 million for the hospital civil service.

The Fund finances training for €6.67 million.

Apprenticeship

The Freedom to Choose Your Professional Future Act aims to unlock access to training for the most vulnerable groups. This is particularly the case for learning. It should be remembered that **70% of apprentices find employment within seven months of the end of their contract.** The Skills Investment Plan will support, over five years, one million training courses for unskilled or low-skilled job seekers.

Access to learning should be simplified for all: entry into learning throughout the **year, up to the age of 30**, duration of the adaptable learning contract. Increased support for apprentices with disabilities: disability focal points in generalized apprenticeship training centres from 1

January 2019, and possible modulation of the assumption of responsibility for their apprenticeship contract by COmpetency Operators (OPCOs).

With 21% of professionalization contracts and 26% of **additional** apprenticeship contracts **since 2012, work-study programmes** offer real professional opportunities, especially since after these contracts, **53% of people with disabilities have found a job** (although 8% on permanent contracts), and **60% of those on apprenticeship** contracts also have a job, including **30% on permanent contracts**.

The results of vocational training

According to DARES, between 2014 and 2016, there was a **sharp increase (50%) in training for job seekers (114,600, or 11% of entrants) and apprenticeships for people with disabilities**. The **"500,000" plan** has had a significant impact on the vocational training of people with disabilities in job search. In addition, there has been a **doubling of the number of people with disability on apprenticeship contracts since 2012 (3,400 compared to 1,700)**.

It is also decided to **increase access to vocational training for workers with disabilities**:

- **increase the Personal Training Account (CPF)** from 2019 for employees with a level of qualification less than and equal to level V (CAP) and for people with disability in Institutions and Services d'Aide par le Travail (ESAT) up to €800 per year up to a maximum of €8000 (compared to €500 capped at €5000 for all employees). An increase in the supply of rights for all beneficiaries of the obligation to employ workers with disability to come by decree to acquire more quickly a financial amount to facilitate professionalization;
- **removal of the two-year seniority criterion in the company** on 1 January 2019 for the eligibility of employees with disability for the CPF for professional transition in order to facilitate their retraining;
- **skills investment plan** to train and support, over five years, **1 million** unskilled or low-skilled **job seekers** and 1 million unskilled or low-skilled young people: workers with disability identified as priority groups in the "regional pacts" currently being negotiated and priority given to workers with disability in the context of the "100% inclusion" call for projects, launched in June 2018, to identify and support innovative experimental rehabilitation paths to sustainable employment. They will be among the target audiences for the next call for projects (end 2018) aimed at identifying so-called "invisible" audiences.

It is also planned to deploy the employment component of the national autism strategy within neurodevelopmental disorders (NDD).

Organizations playing a key role in the development and implementation of employment policy for people with disabilities

Even if, in the past, the Public Employment Service (Pôle emploi) has not always assumed its role of placing people with disabilities in the labour market, we are **now moving towards a renewed Public Employment Service** offering a **single specialized point of contact in the field of disability** for beneficiaries and employers, alongside Pôle emploi and local missions, which has been responsible for the professional integration of workers with disability and job retention since 1 January 2018.

To this end, the following are proposed:

- increased experimental support for job seekers with disability at **13 pilot sites of the Pôle emploi, which serve as a test of new methods of support** for people, with dedicated advisers, enhanced support for companies and new methods of collaboration with the Cap Emploi
- an operational **supported employment** system, bringing together employment and medico-social actors at the service of the employer and the person with disability, now operational in all regions: **52 operators have been selected for** a budget of €7.5 million.

In addition, it should be noted that **Cap Emploi and the Sameth have been grouped together** (from 2 January 2018) in each department under the name of OPS (Organismes de placement spécialisé).

In 2017, there was a 3.5% increase compared to the previous year for hires supported by **Cap emploi, for a total of 84,155 people**, mainly in the private sector (79%) and the tertiary sector (87%).

Thanks to **Sameth, 22,168** people kept their jobs, or 5.3% more in one year.

Given the importance of training in the objective of promoting the employment of people with disabilities, it is to be expected that the **Regional Plan for the Professional Integration of Workers with disability (PRITH)** will play a decisive role.

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Employment Policies for Persons with Disabilities

Factsheet 1/13: France

This document is part of a set of thirteen country factsheets, meant for companies wishing to inform their practices in disability inclusive employment. It contains an overview of the employment of people with disabilities in France, as well as detailed information on legal obligations for companies regarding disability inclusive employment.

You wish to obtain the factsheet for one the other twelve countries (Algeria, Argentina, Brazil, Colombia, South Korea, Spain, India, Morocco, Portugal, Romania, Slovenia and Turkey)? Feel free to email us at ita@hi.org.

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