

Abstracts

Employment Management during the Progress Phase of Employing People with Disabilities: The Relevance to Reasonable Accommodation through the Act on Employment Promotion etc. of Persons with Disabilities in Japan

Satoko Shimbo (Hosei University)

In recent years, with the rapidly increasing employment of people with disabilities in Japan, companies have been required to continually respond to the changes. In this paper, we discuss the kinds of people with disabilities who have been hired and the type of employment management that has been established to ensure stability in response to the legislative changes made regarding this issue in the 2000s. In this paper, the examination will be conducted on the basis of the examples of companies that allowed us to publish data not usually made public, such as employment rate trends, turnover rates, and retention rates. The main reasons why Japanese companies hire people with disabilities are to ensure compliance with laws and regulations (i.e., achieving legal employment rates regarding people with disabilities) and fulfill corporate social responsibilities (CSR). Special subsidiary companies with the aim of achieving certain employment rates for the group as a whole in order to comply with legislative changes have begun accepting new work orders so that they can hire multiple people. These companies then provide skills development through on-the-job training for competency. In addition, they implement close individual personnel management to increase retention. This type of management is the key to exploring and understanding the reasonable accommodation of people with disabilities. Issues for future consideration are, first, the diffusion of methods for the individual management of employees with disabilities and, second, the establishment of a counseling system with measures required for employment management. Lastly, related to these two points, a scheme for resolving disputes is referred to in the revised legislation. However, what is important is to establish a system that pre-empts disputes with employees with disabilities, as such a system will then help create a work environment in which employees with disabilities find it easier to work.

Legal Analysis of Guidelines regarding Prohibition on Discrimination against Persons with Disabilities and Reasonable Accommodation

Yukiko Ishizaki (Yokohama National University)

Under the quota system, persons with disabilities were treated as “objects of protection.” The 2013 Amendment of the Act on Employment Promotion etc. of Persons with Disabilities also gave them the position of “subjects of rights” by introducing new regulations: the principle of prohibition on discrimination against persons with disabilities and the duty of reasonable accommodation. In order to clarify the contents of these new concepts and to make employers take appropriate measures, two guidelines regarding discrimination against persons with disabilities and reasonable accommodation were made and notified before the enforcement of this Amendment on April 1, 2016. Especially the guideline regarding reasonable accommodation is expected to play an important role in creating a friendly working environment for employees with disabilities by promoting communication among employers, employees with disabilities and other employees. However some legal problems still remain unsolved, therefore this paper will explore these problems: (1) What cases constitute illegal discrimination among persons with different abilities to perform jobs? (2) What shall be covered for “reasonable accommodation” or how shall “undue hardship” be interpreted? (3) Can employers escape the duty of reasonable accommodation in cases when persons with disabilities want to keep their disabilities a secret? Through these analyses I will point out perspectives required for employment policies in the future.

Studies on the Employment Quota System by Means of the Comparative Law Method: Using German Law as Reference

Hirofumi Konishi (Meiji University)

In Japan, an employment quota system to encourage employment of persons with disabilities has been consistently maintained and expanded together with the prohibition of discrimination and the obligation to take measures for reasonable accommodation toward such persons. In this regard, the U.K. abolished an employment quota system and then established the Discrimination Prohibition Act for persons with disabilities (e.g. DDA) . In France, on the other hand, an employment quota system is associated with the prohibition of discrimination and the obligation to take measures for reasonable accommodation. Should the relationship between them be regarded as exclusive or complementary? Each country does not seem to have come to a conclusion on this point. This study introduces an employment quota system in Germany and discusses the significance of employment quota systems.

The Economic Analysis of Legislation for the Employment of Individuals with Disabilities Based on Cooperative Decision Making and Social Surplus

Ryoko Morozumi (University of Toyama)

This study analyzed the effects of the legal obligation of reasonable accommodation, the prohibition of employment discrimination, and the Levy and Grant System for Employing Persons with Disabilities on labor markets using static and dynamic models. The models investigated the change in wage rates, employment volume, and economic surplus before and after the introduction of policy interventions. The fixed cost and cost per individual with disability (quasi-fixed cost) for reasonable accommodation are introduced in the models. The models also included the impact of these policy interventions on the employment of individuals with disabilities and those without. The three findings are that first, the redistribution by the levy and grant system decreases the wage rates and employment volume of individuals without disabilities in the static model. If the redistribution, and the prohibited costs previously associated with employers' discriminatory practices are relatively higher than the quasi-fixed cost for reasonable accommodation, the wage rate and employment volume of individuals with disabilities increase in the static model. Second, in the dynamic model where the costs for reasonable accommodation occur only in the initial period, the effect of policy interventions for individuals without disabilities in all periods and individuals with disabilities in the initial period is similar to that in the static model. The wage rates and employment volume of latter in other periods are increased by the redistribution. Third, the policy interventions decrease social surplus in both the static and dynamic models.

Difficulty in the Employment of People with Developmental Disorders and Specific Measures: With a Focus on ASD

Yuji Umenaga (Waseda University)

This study describes employment problems and concrete strategies for people with developmental disorders such as Asperger's Syndrome. There are people with learning disabilities such as dyslexia, dysgraphia and dyscalculia, people with attention deficit hyperactivity disorder (ADHD), and people with autism spectrum disorder (ASD) who have poor communication skills, difficulty with social interaction and limited interests. Most general people are not too familiar with these yet compared to other people with disabilities such as physical, intellectual and mental disorders. Although many people with ASD are high functioning and have high academic careers, most of them have problems getting jobs. The reason is due to their soft skills. While not related to work themselves, soft skills are related to vocational life, such as human relations, communication with coworkers and supervisors. Therefore, people with such conditions need adaptive support not only for getting jobs but also maintaining them. The support is vocational counselling using a checklist, sharing the contents of the jobs they are going to try for, on-the-job training and assessment, adaptive job matching after training, reasonable accommodation in the workplace, and a follow-up to make sure the job suits them.