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NEWS REPORT

Country:	Belgium
Title:	The First Instance Court of Antwerp Fosters Inclusive Education
Date:	20 November 2018
Expert:	Bribosia, Emmanuelle
<u>Context</u>	
Issue at stake:	Denial of reasonable accommodation in nursery school for a pupil with Down's Syndrome
Ground of discrimination:	Disability
Source:	Equality body website
Field:	Education
Applicable law:	Flemish Decree of 10 June 2008 on equal opportunities and equal treatment

Content

Case development: A pupil with Down's syndrome who had completed his first year in a nursery school was prevented from re-enrolling in the same school for his second year. The school officials carried out a kind of enquiry among the teachers to find out who was ready to welcome him into their classroom and to provide suitable support. Apart from the pedagogical assistants, no teacher responded positively. As a result, the school asked the parents to look for another school. Given the conspicuous discriminatory treatment, the equality body UNIA decided to go to court.

The Court of First Instance of Antwerp, in its judgment of 7 November 2018, ordered the school to pay 650 euros in damages for moral prejudice. The judge found that refusing to enrol the child in these circumstances was a denial of reasonable accommodation which is discriminatory within the meaning of the Flemish Decree of 10 June 2008 on equal opportunities and equal treatment.

Key points of analysis: According to the Court, the school did not demonstrate how the accommodations requested were unreasonable. Nor did it look for any accommodations that could have been put in place. The judge confirmed that specialised education for disabled students must remain the exception. It therefore considered that all the necessary adjustments are in principle reasonable until their disproportionate nature is established.

According to the judge, the school chiefly focused on what the pupil was unable to do and, on the problems faced by the teachers. And it is precisely this kind of prejudice that the public authorities wanted to avoid by adopting the Decree that implements various measures for the inclusion of children with disabilities in mainstream education in the Flemish Community.

Internet link source:

<https://www.unia.be/fr/jurisprudence-alternatives/jurisprudence/tribunal-premiere-instance-anvers-7-novembre-2018>.