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FLASH REPORT

Country:	France
Title:	Versailles Court of Appeal, 30 January 2020, n°18/01698
Date:	10 April 2020
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<u>Context</u>	
Issue at stake:	Limits to the obligation to implement reasonable accommodations in employment
Grounds of discrimination:	Disability
Field of application:	Employment
Source:	National court decision
Applicable law:	L1133-3 Labour Code

Content

Case: Plaintiff is technician in a construction firm. He is declared by the health and safety medicine unfit to pursue his current employment, reasonable accommodations being required for a sedentary administrative employment close to his domicile.

In the absence of a position corresponding to these requirements, Plaintiff is dismissed for being unfit to pursue employment with the employer.

Plaintiff contests the unavailability of employment alleging that his employer could have created a function for him as a site coordinator, considering that there was sufficient work for an additional supervisor since the persons occupying these functions were overworked.

Decision of the court: The Versailles Court of Appeal decides that an employer cannot be bound to create a post in order to implement reasonable accommodations requirements to reclassify an unfit employee. Dismissing an employee because of the unavailability of work in vacant positions corresponding to accommodation requirements prescribed by the Health and safety medicine is not a discrimination as defined by Article L1133-3 of the Labour Code.

Key points of analysis: There are very few cases discussing limits to the obligation of reasonable accommodation. In this case the Court clearly states that the employer's obligation to reclassify is limited to the obligation to seek available posts in the existing organisation and does not extend to finding an occupation beyond vacant positions for the unfit employee.

Internet link source:

www.lexis360.fr/Document/cour_dappel_versailles_11e_chambre_30_janvier_2020_n_1801698/18LegyGIXiicTj5qYu_5Tsl3WZYwNaQSuW1w0J_RvQ01?data=c0luZGV4PTEmckNvdW50PTI0NzAm&rndNum=619534519&tsid=search24.