



Executive and senior executive: the targets written in English are non-invocable to employees

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According to Article L.1321-6 of French Labour Code, every document with obligations for the employee, whose knowledge is necessary to perform its work, must be written in French. In an IBM decision dated on 2nd April 2014 (n°12-30191), the Court of Cassation reminded that "the documents setting out the targets, necessary to determine the contractual variable salary, were written in English, so that the employee could claim to it for their non-invocability." This is a confirmation of jurisprudence (Cass. soc. 29 juin 2011 n° 09-67.792).

Mr. X signed with IBM, his employer, an amendment to his contract, setting for year 2008, a theoretical reference annual salary and a variable salary, according to objectives contractually signed.

On 23rd December 2008, the employee notified its termination (prise d'acte) of his employment contract, because the variable part of his salary was deleted, after refusing to sign a letter for the second half of 2008.

He complained to the Labour Court, asking the requalification of the notification of termination in abusive dismissal.

The Versailles Court of Appeal dismissed the employee.

To decide that the notification of termination (prise d'acte) is a resignation, The Versailles Court of Appeal decided the arguments, alleging that the letter would be non-invocable because of targets written in English cannot be accepted, Mr. X has agreed the previous targets letter written in the same language and documents on file, demonstrating that the employee worked in both languages.

The employee challenged the decision of the Court of Appeal before the Court of Cassation. In the decision on the 2 April 2014, the Court of Cassation quashed the Court of Appeal judgment.

<http://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000028830124>

The Supreme Court noted that "the documents setting out the targets necessary for determining the contractual variable salary, were written in English, so that the employee could claim to it for their un-invocability," the Court of Appeal violated the text referred to above. The case is reminded to the Versailles Court of Appeal to decide again if the notification of termination (prise d'acte) has to be re-qualified in abusive dismissal or resignation.

In this case, the decision of the Court of Cassation is strict as the employee was working in French

and English, which is also very common today, in two languages ??(French and English).

This case law has a significant impact since it obliges employers to write all terms of targets or any document relating to the obligations for the employee, in French.

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