

## Forfait jours for journalists:

# A ruling favorable for employers



SUD-AFP will appeal the ruling handed down by the Paris Superior Court on 20 March 2018<sup>1</sup> which upheld two key points of the "Grand Accord" of 2017<sup>2</sup>: the forfait jours for AFP journalists and the notion of "being on call with editorial monitoring". The reason for the appeal is clear: **the court's ruling is unfavorable to employees and trade unions which defend them.** Moreover, the ruling could become a precedent used against journalists elsewhere.

We won't comment here about the legal aspects of a *ruling that appears to be more of a cut and paste of AFP's legal brief than a well-argued decision.* Nevertheless, here are several remarks from a trade union perspective.

## **Independence = autonomy in organizing your work?**

On the issue of the **forfait jours**, the signatories of the "Grand Accord" supplied the judge with an argument that doesn't correspond with reality: that of the "**journalist statute**". The essence of their argument is this: given that journalists benefit from their own statute, guaranteed by the National Journalists Convention, the Labor Code and – in our specific case – AFP's Statute, they benefit **automatically** from an autonomy in the organization of their work. This autonomy is a precondition for eligibility for the forfait jours, which according to the court is a "natural corollary" of the "*principle of editorial independence*" of journalists.

Once this principle is established, the court does not need to conduct a concrete examination of how the work of journalists is organized in reality. Whether they are subject to scheduled work hours, working hours dictated by the news flow, the constraints of working as part of a team, or long and intense work – it doesn't matter. **This fantasy about the independent journalist, who is thereby also autonomous, obscures the employee!**

## **Journalists = lock operators?**

On the notion of being **on call with editorial monitoring**, a bad joke: the court based its decision on a ruling by the Court of Cassation, which said in 2012 that the obligation of a *lock operator* to listen to a specific radio station outside his normal working hours "*doesn't make it impossible for him to occupy his personal affairs at home*". Journalists charged with supervising on their personal time Twitter, social networks, internet sites and traditional media no doubt appreciate this finding.

## **Forfait jours = whitewashing**

According to the court, journalists have overwhelmingly chosen the forfait jours because they "*don't consider themselves to be clearly forced to illicitly work unpaid overtime*". The judge, perhaps unwittingly, called attention to the real purpose of the forfait jours for employers – the whitewashing of an illegal situation. He ignored the real reason journalists have chosen the forfait jours, that the signatories of the "Grand Accord" gave them the following choice: "*If you want to avoid losing the majority of your RTTs, you have to choose the forfait jours.*"

**Forfait jours, on call with editorial monitoring** – SUD contests these two provisions because they permit an employer to underpay employees for working overtime. In this way AFP can avoid taking the step needed to ensure providing a complete and high-quality news service along with decent working conditions: **hiring more staff and limiting working hours.**

**We won't give up!**

<sup>1</sup> The text of the ruling (in French): <http://u.afp.com/oSmM>

<sup>2</sup> See <http://www.sud-afp.org/spip.php?article461>

