

## Labor rights:

# Local staff can sue AFP in French courts



Two English-language AFP journalists, who were stationed in Sarajevo (ex-Yugoslavia) before being *fired in an immoral and illegal fashion*, have finally been vindicated. Their long legal battle is remarkable and very pertinent as AFP is under pressure to “contain” its staff costs by cutting HQ status jobs and transforming them into local as well as “expat” jobs under local contracts and conditions, all the while pretending to voluntarily assume the costs of long violated labor laws abroad.

## Sarajevo: unfair dismissal

**The case began in November 2009:** *“The two journalists who have long assured AFP’s presence in Sarajevo, one of them for eight and the other for 14 years, were abruptly told that their contracts were being terminated, and their bureau purely and simply shut down”,* warned a joint union statement at the time.<sup>1</sup>

**Ten years later,** the legal battle led by these tenacious colleagues has reached its culmination. In *two rulings handed down on January 30, 2019<sup>2</sup> that are now definitive, the Paris Court of Appeal has ordered AFP to pay each several thousand euros in severance pay, penalties for unfair dismissal, and cover their legal costs as well.*

## Lawsuits before French courts...

**The first legal success** of our two colleagues and their lawyers is *getting French courts to hear their cases when they worked in Bosnia-Herzegovina.*

AFP’s management sought to have the cases heard by a Bosnian court. The two journalists had to go all the way to the **Cour de Cassation** which in 2014 handed down two rulings<sup>3</sup> that said they could indeed seize French courts about the termination of their employment. These two rulings – whose importance we overlooked at the time – set a **precedent for all local status AFP staff.**

**The main argument of the Cour de Cassation:** European Council (CE) regulation n° 44/2001 of December 22, 2000, that stipulates...

- that a defendant domiciled in one EU member state may have legal cases brought against it in the courts of that member state.
- and, for the application of this provision, *legal entities are domiciled where their registered office or their administrative headquarters is located, or their main office, and it doesn’t matter if they have offices elsewhere.*

*Furthermore, it makes little difference if the plaintiff is domiciled in that member state, another member state, or elsewhere.*

**A secondary argument:** under article R. 1412-1, paragraph 3, of the French labor code which applies internationally, *an employee has the choice to sue his or her employer in the jurisdiction where the employer is based.*

**Good to know:** as AFP has its headquarters at Place de la Bourse, *every employee of the Agency, no matter his or her type of contract or place of residence, can seize the Paris Labor Court (Conseil de Prud’hommes de Paris) – and more generally French courts – to defend their rights.*

## ... under French labor law

**The second victory** of our two Bosnian colleagues is to have French law applied to their cases even though they work outside of France. During the final hearing before the Court of Appeal,

<sup>1</sup> Statement by the unions CGT, FO and SUD at AFP, <http://u.afp.com/JH76>

<sup>2</sup> Cour d’Appel de Paris, Arrêts N° RG 14/13506 et N° RG 14/13514, January 30, 2019

<sup>3</sup> Cour de Cassation, Arrêts N° 1764 FS-D et N° 1765 FS-D, October 8, 2014

AFP's management admitted that French labor applied to the journalists working in Sarajevo, a complete reversal of its position in the decade-long legal battle since their dismissal. The judges ruled unequivocally against AFP, which deliberately violated French dismissal rules.

**Unfair dismissal:** according to the Court of Appeal, the halting of AFP's activity in Sarajevo "does not in itself constitute a financial reason without any element that would demonstrate financial difficulties in the group's sector of activities", and that each journalist "appropriately pointed out that AFP did not demonstrate it carried out a serious and loyal effort to reclassify" them internally in another post.

**Severance pay:** the two journalists sought to benefit from a provision in French labor law under which journalists have better severance pay than those of other employees: one month for each year or fraction of year of service up until 15 years, according to *article 7112-3* of the labor code (beyond 15 years – which wasn't the case in this instance – it is the *arbitration* commission as foreseen in *article 7112-4* which determines the amount of the severance pay for beyond that level).

## Same boss, same rights!

**This important legal victory** comes as AFP is increasing the number of staff on local and regional contracts and cutting HQ-status posts. Already, international staff weighs in at 1,342 full-time equivalent posts out of a total of 2,462, or a majority of 54.5%.

**"Divide and conquer":** In most bureaus we have employees working side by side who don't have the same rights, the same work conditions or the same wage scales. Management plays upon these different statuses and their at times divergent interests: expats with HQ-status contracts, expats with low-cost local contracts as well those with "regional" status, local staff, and as stringers who often are in a very precarious position.

**AFP's entire staff** can express themselves only once every five years in the election of representatives to AFP's Board of Governors. That's not much, but to get even that a long legal battle had to be waged, which *SUD* won in 2011 before France's Constitutional Court.<sup>4</sup>

**Local staff** generally don't have elected representatives who enjoy legal protections against retribution by management. Notable exceptions (which date considerably): *AFP's German subsidiaries, Nicosia, and the United States.*

**Recent initiatives** have seen the formation of local staff committees in bureaus in the *Middle East, North Africa and Turkey.*

Elsewhere, local staff have openly joined *national unions*, called in labor inspectors or taken claims to courts.

→ *SUD* welcomes these initiatives and encourages local staff and their representatives to cooperate with the elected staff representatives to the *Comité social et économique (CSE)* in Paris, in particular with those from *SUD*, as well as our union delegates (*délégués syndicaux*).

→ We encourage *expats on local contracts* to work with local unions or staff committees, but to also *join a HQ union*. *SUD's* statutes allow for such double membership.

***SUD* supports all advances in collective rights - professional, social, democratic – of AFP staff, across the world and independent of what type of contract or status they have.**

## Together we are stronger!

Paris, November 15, 2019 (updated on November 21)

**SUD-AFP (Solidarity-Unity-Democracy)**



<sup>4</sup> Cf. <http://u.afp.com/JHwj> (in French) - *SUD* has however criticized the electoral rules: <http://u.afp.com/JH7F>