

Recognition of the right of an employee on leave to “disconnect”

Between the growing digitization of our society and the pervasive pressure that is at times exerted in companies, employees are more and more connected to their professional telephone or computer outside their working hours. Placed at the disposal of employees, these tools are supposed to facilitate communication. However, this increased strain on employees is curtailing the boundaries between professional and personal life. A recent court judgement is perhaps a first step towards enshrining the **right of employees to disconnect when on leave.**

In Luxembourg, the Labour Code does not provide for a right to disconnect expressly. Only some disparate provisions make a futile reference to it. Article L 312-1 of the Labour Code for instance stipulates that the employer has a general obligation to ensure the health and safety of his employees. As they become more and more dependent on all these new professional digital tools, employees seem nonetheless to be in real need of indispensable protection. It is against this background that in a **judgement handed down on 2 May 2019**, the Court of Appeal recognized for the first time the right of employees to disconnect when they are on paid leave.

In that court case, an employee who had been hired as a “restaurant manager” was dismissed effective immediately in particular because of his aggressive and inappropriate attitude to his superior. What had actually happened is that the employee, on holiday with his family, had asked his superior to leave him alone and to stop bothering him during this period.

The Court of Appeal rules that the employee, who was on recreational leave, was obviously unable to intervene physically to solve a problem raised by his employer, before recognizing that, independently of his position as manager of the restaurant, the employee **“had a right to disconnect while on holiday.”**

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