

## Annual Leave

### I. How are the dates of leave fixed?

Article 233-10 of the Labour Code stipulates that “leave shall in principle be fixed according to the employee’s wishes”.

What can stand in the way?

- The needs of the department
- The justified wishes of the other employees

In the event of collective closing days at the company, the dates shall be fixed by mutual agreement by and between the employer and the employees (employee representatives) and shall be notified to the employees in the first quarter of the year concerned.

The employer’s silence to an employee’s request for leave shall be tantamount to acceptance.

### II. What is the period of leave?

A person who works full time the entire year is entitled to **26 days** or **208 hours** of leave per year.

In case of part time, the leave must be prorated (a calculation in hours is preferable):

$$20 \text{ hours/week} = 20 \times 208/40 = 104 \text{ hours}$$

$$32 \text{ hours/week} = 32 \times 208/40 = 166,4 \text{ hours}$$

- **The first year of work:** 1/12 months, per month worked in its entirety.  
*Examples:* Joined on 1 July:  $26 \times 6/12 = 13$  days or 104 hours
- **When an employee joins the company before the 15<sup>th</sup> of the month:** the entire month is counted.  
*Examples:*
  - Joined: 20 May
    - $208 \times 7/12$  months = 121,33 hours
  - Joined: 10 October
    - $208 \times 3/12$  months = 52 hours



- If the fraction of leave exceeds the half point = 1 whole day

*Examples:*

- $26 \times 8/12$  months = 17,33 days → 17 days
- $26 \times 5/12$  = 10,83 days → 11 days

It is not possible to take leave during the first 3 months of work, except for people under a fixed-term contract for less than 3 months or a temporary contract.

According to Article 233-17 of the Labour Code, the employer must keep a record of statutory leave. The ITM (Inspectorate of Labour and Mines) may claim it. The employee need not countersign it. It is up to the employer to provide proof that he has granted the leave to which the employees are entitled.

### III. How are days of leave remunerated?

The principle is that the employee must be able to rest during his statutory leave “without any impairment in the living standards,” and must receive **remuneration** during his leave that guarantees full compensation of his salary.

The holiday pay corresponds to the **average salary, including overtime and incidental bonuses:**

- of 3 months prior to the leave;
- or the last 12 months for employees whose pay is subject to wide variations.

To calculate the holiday pay, non-periodic benefits such as gratuities, 13<sup>th</sup> month or outcome bonuses are not taken into consideration.

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