



## Public holidays and part-time employees: How to proceed?

It is important to note that the provisions of the Labour Code relating to public holidays concern only full-time employees (40h/week) who are entitled to 11 public holidays a year, i.e. 88 hours.

Wednesday, 1 January 2020	New Year
Monday, 13 Avril 2020	Easter Monday
Friday, 1 May 2020	Labour Day
Saturday, 9 May 2020	Europe day
Thursday, 21 May2020	Ascension
Monday, 1 June 2020	Whit Monday
Tuesday, 23 June 2020	National holiday
Saturday, 15 August 2020	Assumption
Sunday, 1 November 2020	All Saints' Day
Friday, 25 December 2020	Christmas
Saturday, 26 December 2020	St Stephens' Day (Boxing Day)

### I. What about public holidays for part-time employees?

For part-time employees, the proportionality principle should be applied according to the following formula:

Calculation:  $88/40 \times Y = Z$

Y = Number of hours worked per week for an employer

Z = Number of hours of public holidays to which the employee is entitled at that employer

An employee who works 32 hours a week is entitled to be paid 70,4 hours of public holidays per year.



Furthermore, it is imperative to comply with another principle, namely that part-time employees are entitled to payment of their monthly salary as provided in their contract of employment, and may thus not be subjected to any salary cuts because of the occurrence of a public holiday.

In practice it is thus recommended to the employer to “count the public holidays” at the start of each year. The first step is to determine the number of hours of public holidays to which part-time employees are entitled for the year 2020 and then list the public holidays which fall on a day during which the employees would have to work, and those which fall on a day during which the employee would not have had to work in any event.

For each public holiday which falls on a day during which employees would have to work, they would be entitled to the salary that corresponds to the number of hours they would have normally worked on that day.

For public holidays which fall on a day that employees would not have worked, their right to compensation will have to be determined using what is known as the “smoothing” method, i.e. determining the average number of hours worked per day for part-time employees by dividing their weekly hours worked by the 5 days worked for the week (for example, 4 hours by day for employees working halftime). Such employees will thus be entitled to compensatory leave equal to their daily average time worked. This leave will have to be granted under the same conditions as for full-time employees (within 3 months), until the rights are exhausted.

## II. Practical case

**An employee who works 30 hours per week -> 8 hours on Monday, 8 hours on Tuesday, 6 hours on Thursday, and 8 hours on Friday.**

- Number of hours of public holidays the part-time employee can claim = 66 hours of public holidays (=88/40\*30)
- Public holidays which fall on a day on which the employee would have worked

Monday, 13 Avril 2020 - Easter Monday	8 hours
Friday, 1 May 2020 - Labour Day	8 hours
Thursday, 21 May 2020 - Ascension	6 hours
Monday, 1 June 2020 - Whit Monday	8 hours
Tuesday, 23 June 2020 – National Holiday	8 hours
Friday, 25 December 2020 - Christmas	8 hours
<b>TOTAL</b>	<b>46 hours</b>



For each of these days, the employee is entitled to a salary corresponding to the number of hours that would normally have been worked on that day.

- Public holidays that fall on a day on which the employee would not have worked

Wednesday, 1 January 2020 - New Year	6 hours
Saturday, 9 May 2020 - Europe day	6 hours
Saturday, 15 August 2020 – Assumption	6 hours
Sunday, 1 November 2020 - All Saints' Day	2 hours
Saturday, 26 December 2020 - Boxing Day	-
<b>TOTAL</b>	<b>20 hours</b>

The “smoothing” method should be applied for these days: the employee would be entitled to 6 hours compensatory rest (= 30 hours per week / 5 days worked), until his or her rights are exhausted. On the basis of 46 paid hours of public holidays, s/he has 20 hours compensatory rest left. In the case at hand, s/he would be entitled to no compensatory rest for the public holiday which falls on 26 December 2020.

This is the legal calculation method applied by the ITM. If this method seems too complex, an alternative would be to automatically grant a number of hours corresponding to the average daily working time for each public holiday falling on a day not worked by the employee. In the above example, the employee would then receive 6 hours of compensation for each public holiday not worked, (including Sunday, November 1st and Saturday, December 26<sup>th</sup> 2020) which would be more favorable and therefore legal.

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