



## Laga Newsflash

When may (or should) employees transfer unused vacation days or compensatory rest to the following year?

At the end of the year, employers frequently come across employees who did not use their allocated vacation days and compensatory rest.

While some employers allow a (limited) transfer, others do not. What is legally possible?

**Obligation to take statutory vacation days and public holidays before 31 December**

**Statutory vacation days** must to be taken during the calendar year and are not transferable.

However, a white-collar employee who was unable to take his/her vacation days (e.g. because of sickness) may not transfer the untaken holidays, but is nevertheless entitled to vacation pay.

Moreover, the general prohibition of vacation day transfer is, in certain circumstances, questionable through the application of European case law, for example, in case of sickness during a vacation period.

**Public holidays** are in principle taken on the day itself, on the next working day if it falls on a Sunday, or at another moment determined at company level. In any case, they must be used during the calendar year.

## WTR-days and compensatory rest: mandatory use during reference period

**Working time reduction (or WTR) days** must be used as they accrue and during the reference period (for example a quarter or a year).

**Compensatory rest** can – subject to certain exceptions – be taken freely during the reference period in which the weekly working time must be complied with.

## Extra-legal vacation days

For **seniority leave** and other **extra-legal vacation days** granted at company level, it is possible – in the absence of statutory or industry-level provisions – to allow transfer to the following year or even years (e.g. as part of the career saving scheme).

## How can Laga help?

Laga's Employment, Pensions & Benefits team can help in establishing adequate leave policies in line with Belgian law.

The below contacts are readily available to assist with any questions and to provide additional information regarding this topic.

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