



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.

Stijn Demeestere, Advocaat-vennoot/Avocat associé, Tel: + 32 2 800 71 42, Email: sdemeestere@laga.be

Julien Hick, Advocaat-vennoot/Avocat associé, Tel: + 32 2 800 70 66, Email: juhick@laga.be

Astrid Herremans, Advocaat/Avocat, Tel: + 32 2 800 70 85, Email: aherremans@laga.be

Stijn Theunis, Advocaat/Avocat, Tel: + 32 2 2 800 71 33, Email: stheunis@laga.be



Laga
Gateway building
Luchthaven Brussel Nationaal 1J
1930 Zaventem
Belgium

A top legal practice in Belgium, Laga is a full service business law firm, highly recommended by the most authoritative legal guides. Laga comprises approximately 140 qualified lawyers, based in Brussels (Zaventem and Woluwé), Antwerp, Ghent and Kortrijk. Laga offers expert advice in the fields of banking & finance, commercial, corporate/M&A, employment, IT/IP, public/administrative, insolvency and reorganisations, real estate, tax law, tax and legal services for high-net-worth families and individuals (Greenille by Laga), and litigation. Where appropriate to ensure a seamless and comprehensive high-quality service, Laga lawyers work closely with financial, assurance and advisory, tax and consulting specialists, and with select EU and US law firms.

Laga provides thorough and practical solutions tailored to the needs of clients ranging from multinational companies, national large and medium-sized enterprises, financial institutions, and private clients to government bodies.

More information: www.laga.be

© 2018, Laga, Belgium - The content and layout of this communication are the copyright of the law firm Laga or its contributors, and are protected under copyright and other relevant and intellectual

property rights laws and regulations. No reproduction in any form or through any medium is allowed without the explicit consent of Laga or its contributors.

[Subscribe](#) | [Unsubscribe](#)