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RIGHT TO ANNUAL VACATION AND REGRESSION

All the information you need regarding the legal obligations
of employers and employees

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ANNUAL VACATION

The right to annual leave

Legislative framework of regulation [annual leave rights](#) presents [Labor Law](#), which determines the minimum requirements and rules that the employer must comply with when determining this right. Furthermore, the issue of annual vacations is regulated by collective agreements, labor regulations as well as labor contracts themselves.

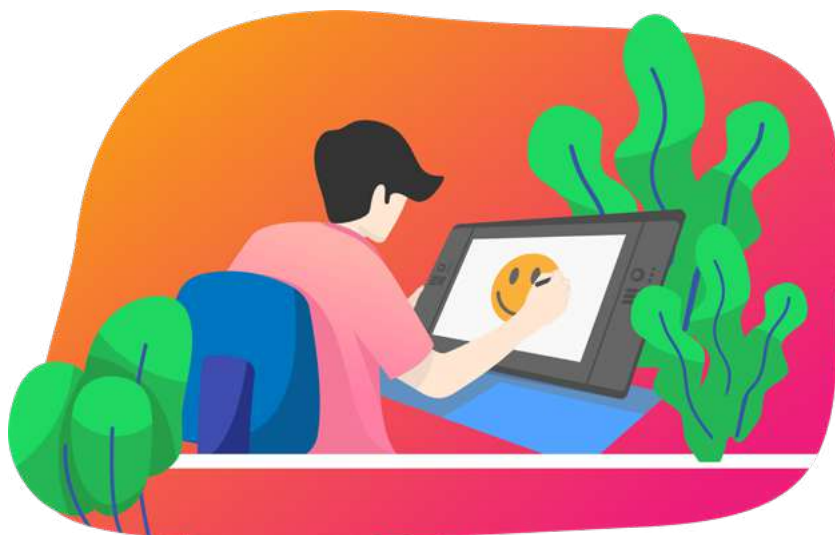
The importance of the right to annual leave is indicated by the fact that the issue of the right to use the annual leave of workers, in addition to legal and by-law regulations, is also regulated at the constitutional level. [Constitution of the Republic of Croatia](#) stipulates that every employee has the right to a weekly vacation and paid annual vacation and that these rights cannot be waived.

Duration of annual leave

The worker has the right to paid vacation for each calendar year and for a duration of at least (4) four weeks. A minor and a worker who works in jobs where, with the application of health and safety measures at work, it is not possible to protect the worker from harmful influences, he has the right to a paid annual leave for each calendar year, for a duration of at least five weeks. Furthermore, a special regulation stipulates that a person with a disability has the right to at least five weeks of paid annual leave for each calendar year.

At the same time, a collective agreement, an agreement concluded between the works council and the employer, a labor regulation, a labor contract or some other source of labor law may determine a longer duration of annual leave than the legally prescribed minimum. Namely, if a right from the employment relationship (in this case, annual leave) is regulated differently by those sources of law, then the most favorable right is applied for the worker.

Employers in their labor regulations or in the employment contract itself often have provisions where, in addition to the legally mandatory (shortest) number of annual vacations, the right to additional days of annual vacation is also exercised, taking into account: difficult working conditions, complexity of work, professional education, etc.



An employee's annual leave is determined by the number of working days. It depends on whether the worker works according to the weekly schedule of working hours 5 days a week (Mon-Fri) or 6 working days (Mon-Sat). An employee who according to the weekly schedule works 5 days is entitled to 20 days a year. If he works 6 days a week, then he is entitled to 24 days of annual leave according to the Labor Law. ZOR prescribes only the lower limit, i.e. the minimum number of days of annual leave to which the worker is entitled, and gives the employer the opportunity to establish the criteria for recognizing the right to annual leave for a duration longer than the shortest prescribed by means of a collective agreement, an agreement concluded between the works council and the employer, a labor regulation or a labor contract. Therefore, to determine the upper limit of the duration of annual leave, as well as the limitation of the maximum number of days of annual leave that can be used by workers employed by him, for example "no more than 30 working days in a calendar year." Regardless of whether the worker has a work contract for a fixed or indefinite

period of time, he always has the right to annual leave. The days of annual leave do not include the days that the worker would not have worked if he were not on annual leave and the period of temporary incapacity for work (sickness) determined by an authorized doctor. In addition, days of paid leave are not counted as vacation. If, according to the schedule of working hours, the worker should work on a holiday or a non-working day, but on that day he uses annual leave at his request, then according to the Labor Law, that day is included in the duration of annual leave. [Vacation](#) is determined for each calendar year. An employee who is employed for the first time or has a break between two employment relationships of more than eight days, acquires the right to a "full" vacation after six months of continuous employment with that employer. On the other hand, a worker who has not fulfilled the condition for exercising the right to a full annual vacation will exercise the right to [proportionate part of annual leave](#), which is determined for the duration of 1/12 of the total number of days of annual leave that would belong to him, for each month of employment.

Who is entitled to a proportionate part of annual leave?

The right to a proportionate part of annual leave for 2023 is exercised by workers:

- who are employed for the first time on and after July 1,
- who have a break between two employment relationships of more than eight days, and are employed by another employer on and after July 1
- with whom the employment relationship ends, regardless of when that employment relationship ends during the calendar year.

Regardless of whether the worker has a work contract for a fixed or indefinite period of time, he always has the right to annual leave.

How to determine the exact number of days of annual leave that belongs to the worker?

An employee's annual vacation is determined by the number of working days depending on the employee's weekly working time schedule. For example, if the schedule establishes a (5) five-day work week, for example from Monday to Friday, then the worker is entitled to a minimum of 20 days of annual leave in one calendar year (4 weeks x 5 days). On the other hand, if the working week extends to (6) six days per week, for example from Monday to Saturday, the worker is entitled to a minimum of 24 days of annual leave in one calendar year (4 weeks x 6 days).

Holidays and non-working days determined by law, the period of temporary incapacity for work determined by an authorized doctor, and the days of paid leave, are not included in the duration of annual leave. Exceptionally, if according to the schedule of working hours the worker should work on a holiday or a non-working day specified by law, and on that day he uses annual leave at his request, that day is also included in the duration of the annual leave. When calculating the duration of annual leave, at least half of the days of annual leave are rounded up to a whole day of annual leave, and at least half of the working month is rounded up to a whole month.

What happens when the employee's employment ends, and the employee is not able to use the rest of the annual leave?

The employer has the obligation to enable the employee whose employment relationship ends to use a proportionate part of the annual leave or to pay compensation for the unused part of the annual leave. At the same time, the employer is obliged to pay the employee

compensation for the unused part of the annual leave if, due to objective reasons, the employee is not allowed to use the annual leave until the moment of termination of the employment relationship. The compensation is determined in proportion to the number of unused vacation days.



Can annual leave be used in parts?

When an employee uses annual vacation in parts, he must use at least two weeks of continuous vacation during the calendar year for which he is entitled to annual vacation, unless the employee and employer agree otherwise. The

employer and the employee can agree that the employee will use less than two weeks of annual vacation in a continuous period during the calendar year. In this case, the unused part of the vacation will be carried over to the next calendar year.



Calendar (schedule) of vacations for 2023

The employer is obliged to adopt a schedule for the use of annual leave, in accordance with the collective agreement, the labor regulations, the employment contract and this Law, no later than June 30 of the current year. Therefore, by June 30, 2023, the employer must determine the schedule for the use of annual vacations for the current year 2023. All employers are obliged to

adopt a vacation schedule, regardless of the number of employees, and employers with a works council must consult the vacation schedule with the workers' council or with the trade union commissioner if there is no workers' council. The content and form of the annual leave schedule are not prescribed by ZOR or other regulations, but are left to the discretion of the employer.

Can the employer and employee agree that the employee does not use a single day of vacation for the current calendar year?

The employer and the employee cannot agree that the employee does not use a single annual day during the calendar year. That is, the entire vacation cannot be carried over to the next calendar year, as this would be contrary to the provisions of the Labor Law. In that case, it would be good for the worker to use one day of annual leave during the calendar year for which he is entitled to annual leave. The balance can then be carried over to the next calendar year.

Until when can the employee use the transferred part of annual leave in the following year?

An employee can transfer the unused part of annual leave from the previous calendar year to the next calendar year. However, he must use it no later than June 30 of the following year according to the Labor Law. The worker would have to start using the unused part of the annual leave from the previous year early enough to use it in full by June 30 of the following year.

Does the employer respect the employee's wishes when making the schedule for using vacations?

In short, not. Namely, ZOR stipulates that when planning annual vacations, it is necessary to take into account the needs of the work organization, the available opportunities for vacations, and the wishes of the workers. It follows from this that the employer does not have to accept the employee's proposal about the time of annual leave if he cannot harmonize it with the

needs of the work organization.

Therefore, the employer is allowed to make a schedule for the use of annual leave, taking into account primarily the efficient organization of work. However, there is no obstacle for the worker to express his desire to use annual leave at a certain time, but the employer will make the final decision on this.

However, in practice, the schedule of using annual leave is usually drawn up in agreement with the workers who are employed by the employer, so that the needs and wishes of each worker are taken into account, in terms of the timing of using annual leave. However, it is important to emphasize that the employer makes the final decision on when which of the workers will use their vacation.

In the same way, the once adopted schedule of using annual vacations can always be changed and supplemented, which will most often happen in practice, since during the year there may be a change in planning by the employer or employee. At the same time, employers must take care that changes in the schedule of using annual vacations are always announced so that all employees of the employer are aware of these changes.





Notice (decision) on the use of annual leave

ZOR provides the employer with the obligation to pass another act regarding the use of annual leave, namely the notification (decision) on the use of annual leave. In contrast to the preparation of the schedule of the use of annual leave, which applies to all workers at the employer, the notification, or decision on the use of annual leave, is an act of the employer that refers to an individual worker and contains information about the duration of the employee's upcoming annual leave and the period of its use.

This notice (decision) on the use of annual leave must be delivered to the worker to whom the notice (decision) refers, at least 15 days before the use of the first day of annual leave.

An employer who does not determine the schedule for the

use of annual leave or fails to notify the employee of the duration and period of use of annual leave at least 15 days in advance, in practice will not be immediately fined, but will be ordered by the inspector to fulfill these obligations during the inspection.

However, if the employer does not allow the employee to use annual leave in the manner and under the conditions prescribed by the ZOR (for example, he did not provide him with annual leave from the previous year until June 30 of the current calendar year), the employer thereby commits a serious offense in accordance with the ZOR, for which prescribed high fines.

One day of annual leave the worker has the right, with the obligation to inform the employer about it at least three days before its use, to use it

when he wants to, unless there are special justified reasons on the part of the employer that make it impossible. Compensation for unused vacation is paid only in case of termination of the employment contract. It cannot be paid in case of inability to use the annual during the calendar year or until June 30 of the following year if the employee's employment does not end.

According to the Labor Law, an agreement to pay compensation instead of taking annual leave would be void, as would an agreement to waive the right to annual leave. For this reason, the employer has the obligation to instruct the employee whose employment does not end to use annual leave. He is obliged to take care that the worker takes advantage of his right to annual leave.

REGRESS

What is a regress?

Recourse is a material right of an employee guaranteed on the basis of an act of the employer or an employment contract or on the basis of the will of the employer to pay that receipt. If the right to recourse is not defined by any source of labor law, the employer can draw up and pass a Decision on the payment of recourse immediately before the payment of recourse.

Non-taxable and taxable payment of recourse

The tax regulations determine whether and up to what amount the recourse can be paid without the obligation to calculate and pay taxes. According to the Income Tax Ordinance, the employer can pay the holiday allowance tax-free and taxable. The employer can pay his employee tax-free up to EUR 663,61 (HRK 3,000.00) in annual special rewards (retirement, Christmas, Easter, etc.) and up to EUR 995,42 (HRK 5,000.00) in annual rewards for work results and other forms of additional employee remuneration (additional salary, supplement to monthly salary, etc.)

Tax-free payment of recourse

According to the Income Tax Ordinance, the rebate can be paid tax-free if the following conditions are met:

- if the employer pays a holiday allowance to a natural person – an employee with whom he has an employment relationship based on an employment contract
- if the amount paid does not exceed the amount of 663.62 euros per year, provided that during the same tax period or year, the worker did not receive any other special reward (Christmas, Easter, etc.) that would exceed the amount of 663.62 euros per year

Employers should take care to recognize all non-taxable payments on the basis of authentic documents (solutions, invoices, calculations, decisions, etc.). Occasional awards of EUR 663.62 per year can be paid tax-free by employers in cash or in kind.

For a non-taxable payment, the employer is obliged to submit a Report on Income Tax and Surcharge Receipts and Contributions for Mandatory Insurance – JOPPD form, no later than the 15th of the month for payments made in the previous month.

Taxable payment of recourse

If during the tax period (year) the employer paid out some of the opportune rewards (Christmas, Easter, etc.), it is necessary to determine the amount, i.e. whether there is still room for paying the tax-free amount up to the sum of 663.62 euros. If the employer pays the employee a rebate in an amount above the prescribed non-taxable amount, the difference between the prescribed amount and the paid amount is considered income from independent work, i.e. salary.

In practice, the payment of the taxable amount of recourse can be made in several ways:

- the taxable amount of the holiday allowance in a given month is paid before the salary
- in a certain month, the salary and the taxable part of the holiday allowance are paid at the same time
- the salary was paid in the month before the taxable holiday

For taxable payments, employers must also submit a JOPPD form to the Tax Administration. The way in which the data will be presented on the JOPPD form also depends on the way in which the taxable income will be calculated. The monthly income tax calculation should be cumulative, which means that when calculating the income tax, employers should take into account the tax brackets and one personal deduction that can be used for one month.



Does an employee who has not been employed by the employer for the entire year exercise the right to a holiday?

Reimbursement can be granted tax-free to an employee, regardless of the part of the year in which the employment relationship with the employer began, and depending on whether he takes annual leave with the employer who pays him. In addition, employers should take care of the fact that they cannot pay an appropriate holiday bonus to workers on maternity, parental leave or sick leave because the workers use their rights from the mandatory health insurance and do not take annual leave during the specified payment period. However, there is no obstacle for the employer to pay workers on maternity, parental or sick leave an Easter or Christmas bonus.

Reimbursement payment in case the worker works for several employers at the same time

If the employer pays a rebate to an employee who simultaneously works for two or more employers in the tax period (year) in which the rebate is paid and/or during the year had an established

employment relationship with two or more employers, but not at the same time, the worker is obligated before the rebate is paid state in writing to the employer whether he has received payment of receipts for that tax period from another and/or former employer, in what amount and whether the income tax advance was calculated and paid on that basis. In addition to the employee's written statement, the employer can check the non-taxability of the payment through the ePorezna system.

In the event that the receipts have already been partially paid for the same period, then only the difference up to 663.62 euros per year can be paid tax-free.

What is the difference between salary compensation during annual leave and holiday pay?

The difference between salary compensation during annual leave and vacation leave is that the compensation is regulated by the Labor Law, while vacation leave is not regulated by law, but can be defined by one of the employer's autonomous acts (collective agreement, labor regulations or the employment contract itself) or by decision the employer.



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PickJobs d.o.o is a company founded at the end of 2020, which through an innovative employment platform connects employers and employees in the Republic of Croatia but also countries: Germany, Switzerland, Austria, Bosnia and Herzegovina, Serbia, Montenegro, Northern Macedonia, Ukraine, Albania and Kosovo.

We have been on the market since the end of 2020 with the aim of improving and enhancing the recruitment process. By working together and with unique key factors such as global connectivity and mobile application, we want to make a valuable contribution as an opportunity for the growth and development of the individual. We work every day to improve the platform and listening to the market we strive to maximize the platform with new features and useful content.

We accept differences and for this very reason we start to change the employment process with innovative, different services. Over time, the number of private and business users will grow more and more, and we will adjust the offer to our customers on a daily basis. It is no coincidence that "100% business" is the leitmotif of our platform and the business itself. "100% business" is a description that would best describe our vision, philosophy and ourselves. It describes what we are, what we strive for and what we offer.

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