



The day of solidarity, long weekends and public

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Preamble

As the various public holidays approach, the "bridge days" are a source of questions within companies. In practice, this consists of not working on a day between a public holiday and certain usual days of rest in the company. However, as this organization is not regulated by the Labor Code, it remains left to the freedom of the employer.

In addition, there are many questions about working on public holidays. Is it possible to work on a public holiday? And if so, under what conditions?

Finally, the day of solidarity and its legal obligation are the subject of regular questioning: certain rules and subtleties must be respected.

1. The day of solidarity

1.1. Definition

The solidarity day is a **7-hour working day, unpaid**, for full-time employees. It consists of an extra day of work (which can possibly be broken down into hours). For the employer, it is an employer's **contribution based on salaries** (the "autonomy solidarity contribution"), paid to a national solidarity fund for autonomy.

This day follows the consequences of the 2003 heatwave, which led to the creation of a day to finance actions in favour of the autonomy of the elderly or disabled.

1.2. Choice of the day of solidarity



Since 2008, the day of solidarity is no longer systematically set on Whit Monday. It is therefore up to the employer to **determine its date**.

The date must be chosen as **a priority by collective agreement** (company, branch). Failing this, the employer is free to determine the date after consulting the CSE if it exists.

1.3. Modalities for the execution of the day of solidarity

The day of solidarity can consist of:

- **Work on a public holiday** that is usually a non-working day (other than May 1).
- **Abolition of a day of RTT** or a day of **conventional leave** (or any day of rest granted under a collective agreement).
- Or **7 hours of split overtime in the year**. Specific terms and conditions must be provided for employees on an annual fixed rate in days, an annual fixed rate in hours or part-time.

NB: The employer can also offer the day of solidarity to the company's employees. For example: offering an extra day off.

We advise you to mention the date of the day of solidarity on the payslips for the month in which the day of solidarity is carried out.

1.4. Implications of the day of solidarity

The work done during the day of solidarity is not **paid**.

Hours worked as part of the solidarity day are not deducted from the annual quota of overtime up to a maximum of 7 hours. This does not give rise to a mandatory compensation in rest.

REMINDER: the work of the solidarity day cannot have the effect of exceeding the maximum weekly working time equal to 48 hours.



ATTENTION

- The completion of the solidarity day **cannot lead to the cancellation of a day of legal paid leave** and the employer **cannot require the employee to take a day of paid leave**.
- If the solidarity day is set on a public holiday, it **cannot concern those under 18 years of age**, unless there is an exception to the ban on working on a public holiday.
- The day of solidarity **cannot be held on a Sunday**.

WHAT about part-time employees?

For part-time employees, the duration of the solidarity day **is reduced in proportion to the contractual duration**.

WHAT about changes of employer?

An employee who changes employer may have already completed a solidarity day for the current year.

As such, the new employer may not ask him to work a new day:

- The hours worked must be paid as overtime.
- They are deducted from the annual quota or the number of additional hours and give rise to mandatory compensation in terms of rest if applicable.

The employee may refuse to work, without this refusal constituting misconduct or grounds for dismissal.

2. Bridge days

2.1. Do employees have a legal obligation to bridge the gap?



There is **no legal obligation** to bridge the gap since this practice is not regulated.

Thus, this practice stems from a **collective agreement, or a unilateral decision of the employer.**

Consequently, an employee cannot bridge the gap at his or her own initiative.

However, this practice may be imposed on employees by the employer. In this case, the employer must carry out the following formalities:

- Consult the CSE when it exists.
- View the modified work schedule.
- Notify the labour inspector of its decision.

2.2. Recovery of non-working hours due to a bridge day

A legal principle

Bridging the gap can prevent the employee from working during certain hours. Thus, the Labour Code provides for the possibility of recovering non-working hours due to a bridge.

The labour inspector must be informed in advance by the employer of the bridge days in the year and of the terms and conditions of recovery.



Recovery procedures

It is up to a company or establishment collective agreement or, failing that, to a branch agreement to set the terms and conditions for recovering lost hours, failing which it is up to the employer to set the terms and conditions for recovering the hours lost under the bridge days.

Please note that the terms and conditions for recovering hours are regulated.

Thus:

- Lost hours can be made up when the bridge day precedes or follows the holiday. On the other hand, the same public holiday cannot allow the recovery of the hours lost both for the bridge days that precede it and for those that follow it.
- Lost hours can only be recovered in the **twelve months** preceding or following their loss.
- Recovery hours **cannot be evenly distributed throughout the year**.
- Recuperation hours may not increase working hours by more than **one hour per day**, nor by **more than eight hours per week**.

2.3. Compensation for recovery hours

The hours of recovery of a bridge are paid at the normal rate, without any increase unless there are more favourable contractual provisions. Indeed, they are normal hours of work whose performance has been deferred.

3. Public holidays

3.1. The framework for public holidays



The Labour Code lists the following public holidays: 1 January - Easter Monday - 1 May - 8 May Ascension Day - Whit Monday - 14 July - 15 August - 1 November - 11 November - 25 December.

Only May 1st is a compulsory non-working day.

Thus, a company, establishment or branch agreement determines and sets **the public holidays worked or non-working**, also known as **ordinary public holidays**. Failing this, the employer shall determine this list.

In the absence of provisions, all public holidays are considered non-working days.

NB: We remind you that in Alsace-Moselle, there are two additional public holidays on Good Friday and December 26; special measures for this territory apply concerning the legislation on public holidays and Sundays. The principle is that, with some exceptions, all public holidays are non-working.

3.2. Ordinary public holidays worked

Working on legal days (except in the case of 1 May) does not entitle you to **any salary increase** in the absence of a more favourable contractual provision.

3.3. Ordinary public holidays

Unemployment on an ordinary public holiday may not result **in any loss of salary** for employees with at least 3 months' seniority.

3.4. The rest obligation: 1 May

May 1st is a public holiday and a **mandatory non-working** day. This day of unemployment cannot lead to **any loss of salary**.

By way **of exception**, work on 1 May is authorised in establishments and services which, due to the nature of their activity, cannot interrupt work.

In this case, employees who work on May 1st benefit from an exceptional salary. The employer must pay them, in addition to the salary corresponding to the work performed, an equal amount of compensation.

The work on 1 May is therefore increased by 100%.

NB: May 1st cannot correspond to the day of solidarity.

The applicable sanctions: fine corresponding to 4th class offences in the event of infringements of the rules relating to compulsory unemployment on 1 May – applicable as many times as there are unduly employed or paid employees.



CUMULATION RULES:

1 May and Sunday: The increases for working on Sundays set by the employment contract, the agreement, collective agreement or customs **are not cumulative** with the increased remuneration on 1 May provided for by law in application of the non-cumulation of benefits for the same purpose.

1 May and ordinary public holiday: It is advisable to look at the applicable collective agreements – in the case of days of leave corresponding to the planned legal holidays, in addition to the annual leave, the employee benefits from the compensation of the ordinary public holiday and 1 May.

3.5. Special cases

Absence of the employee on a public holiday not a non-working day:

When an ordinary public holiday is not a non-working day, the employee's refusal to work constitutes an irregular absence that can be sanctioned.

Non-recovery of public holidays:

Employers are prohibited from having work hours lost as a result of unemployment on a public holiday made up.

Day of solidarity:

When a public holiday is worked as a result of the solidarity day, the salary is maintained within the limit of 7 hours, or on a pro rata basis for part-time workers.

This sheet contains summarized information. Please contact us for advice tailored to your situation. We cannot be held responsible for misinterpretation

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