

Unpaid and special leave

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□□ Introduction

The Labor Code provides for two special forms of leave from work that an employee can take:

- **unpaid leave** – upon the request and with the consent of the employer,
- **occasional leave** – due to important life events, while retaining the right to remuneration.

Both types of leave are regulated differently and have different legal effects.

□□ Unpaid Leave

□ What is it?

Unpaid leave is a period free from work **granted upon a written request from the employee**, with the employer's consent. During this time:

- **obligations of employment cease,**
- **no remuneration or social security contributions are payable** (with exceptions – e.g., under Article 174¹ of the Labor Code).

□□ Legal basis:

- **Articles 174 and 174¹ of the Labor Code**

□□ Duration:

- It is not limited by regulations – it depends on the agreement of the parties,
- It can last days, weeks, or even years (e.g., in the case of a trip abroad).

□□ Conditions and consequences:

- Requires a **written request from the employee** and the consent of the employer,
- Does not count towards the employment period (unless regulations state otherwise, e.g., in the case of delegation to another employer),
- The employee is not covered by insurance (unless they voluntarily register for social security).

☐ **Exception:** If an employee is on unpaid leave to work for another employer (based on a company agreement) – this period **is counted towards the employment period** (Article 174¹ of the Labor Code).

☐☐ **Occasional Leave**

☐ **What is it?**

Occasional leave is **exemption from work with retention of the right to remuneration**, granted due to important life events of the employee.

☐☐ **Legal basis:**

- **Regulation of the Minister of Labor and Social Policy of May 15, 1996**, § 15 (Journal of Laws of 1996, No. 60, item 281)

☐☐ **Dimensions:**

Employee's wedding - 2 days

Child's wedding - 1 day

Birth of the employee's child - 2 days

Death and funeral of spouse, child, parent - 2 days

Death and funeral of in-laws, grandparents, siblings - 1 day

☐☐ **Documents:**

- Employee's request (usually oral or via email),

- A copy of the document confirming the event (death certificate, birth certificate, marriage certificate, etc.),
- Usually, there is no obligation to submit a request before the event – effective **notification** and **submission of the request immediately after the event** is important.

☐ Days of occasional leave are treated as **paid leave from work**, not as part of vacation leave.

☐ 3. Employer's Obligations

Unpaid - Written consent required, updating personnel records

Occasional - Granting leave ex officio upon notification, paying remuneration

☐ 4. Example - how to settle?

An employee submits a request for occasional leave due to the death of their father – they are entitled to:

- 2 days off with full remuneration,
- The notification can occur after the funeral if it was impossible earlier.

In the case of unpaid leave for a month:

- The employee does not receive remuneration,
- Social security contributions are not calculated,
- The time does not count towards periods qualifying for e.g. a jubilee award.

☐ Legal Basis

- **Labor Code**, Articles 174 and 174¹

- **Regulation of the Ministry of Labor and Social Policy of May 15, 1996**
concerning the justification of absence from work
- Judgments of the Supreme Court and interpretations by the National Labor Inspection (e.g., regarding documenting occasional events)