

Leave on demand

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□ Introduction

Leave on Demand is a form of vacation leave that allows an employee to take a day off in an emergency without prior planning. Although it is available to every employee employed under a labor contract, its use is associated with specific obligations – both for the employee and the employer.

□ 1. Legal Basis

According to **Article 167² of the Labor Code**:

The employer is obliged to grant at the request of the employee **in a given calendar year no more than 4 days of vacation leave**, at the time indicated by the employee.

□ 2. Who is entitled to leave on demand?

- Only **persons employed under a labor contract** (does not apply to contractors or temporary employees),
- Who **have the right to vacation leave** (this does not apply, for example, to a new employee in the first month of employment).

□ 3. Scope of leave on demand

- Maximum **4 days in a calendar year**,

- These days **are included in the pool of vacation leave** (for example, from 26 days due - 4 may be used "on demand").

Non-transferability: If the employee does not use these 4 days by the end of the year - **they transform into regular overdue vacation leave.**

□ 4. Rules for requesting leave on demand

□ Employee's obligations:

- To submit a request **at the latest on the day the leave begins, before the planned start time of work,**
- Form of submission: by phone, SMS, email, through HR system - **effective notification counts.**

□ The employee **does not have to provide a reason for the leave.**

□ 5. Can the employer refuse?

As a rule: **no**, but...

According to the jurisprudence of the Supreme Court (including the judgment of 16.09.2008, reference II PK 26/08):

The employer **may refuse to grant leave on demand if their absence would seriously threaten the company's interests** or the safety of employees.

□ Examples of justified refusal:

- threat of paralyzing the plant (for example, lack of people in the production department),
- lack of possibility for substitution in a key situation.

□ 6. Employer's obligations

- Granting leave based on a request submitted in accordance with the provisions,
- Recording it in the **work time register** as "vacation leave - on demand",
- Informing the HR department or accounting (if applicable for payment for leave).

□ 7. Leave on demand and disciplinary action

□ If the employee:

- does not show up for work **without effective notification**,
- or is **absent without the employer's consent** (e.g., has been clearly called),

→ This may be classified as:

- **unexcused absence**, or even
- **grave violation of basic employee obligations** (which may lead to disciplinary dismissal - Article 52 of the Labor Code).

□ 8. Sample provision of internal policy

The employee is obliged to report the intention to take leave on demand **at the latest before the start of the workday**, via email, by phone, or through the HR system. The employer may refuse leave on demand only in situations justified organizationally.

□ Legal Basis

- **Labor Code**, Article 167², Articles 152-173
- Judgment of the Supreme Court of September 16, 2008, reference II PK 26/08
- Jurisprudence: judgment of the Supreme Court of October 28, 2009, reference II PK 123/09

