

## LEGAL CONDITIONS FOR GRANTING UNPAID LEAVE

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The regulation of unpaid leave is an important part of labor law because it is connected to the employee's right to rest, which is stated in Article 45 of the Constitution of Ukraine [1]. Granting unpaid leave directly affects the balance between employees' social and economic rights and the legal interests of employers. On the one hand, employees may need time off from work due to financial difficulties, armed conflicts, or personal and social reasons, but without ending their employment. On the other hand, employers want to organize labor effectively, and manage staff in the best way.

According to Article 4 of the Law of Ukraine "About Leaves," there are such types of leaves: annual leave, additional leave for study purposes, creative leave, leave for preparation and participation in competitions, social leave, and unpaid leave. However, it is important to note that this list is not exhaustive, and other types of leave may be established by legislation, collective agreements, contracts, or employment agreements [3].

The Labor Code of Ukraine and the Law of Ukraine "About Leaves" do not contain a definition of "unpaid leave" [2]. However, scientists have developed their own interpretations of this term. L. P. Harashchenko states that an unpaid leave can be defined as a certain number of calendar days granted to employees on grounds specified by law, with job (position) retention but without salary payment during the working year [6, p. 137]. S. V. Popov considers that an unpaid leave is a period of unpaid calendar days when an employee is free from performing work duties [7, p.8]. This leave is granted based on the employee's request and cannot exceed the maximum duration established by law. There are two types of unpaid leave in the current Ukrainian legislation: mandatory leave and leave granted by mutual agreement of the parties.

**Unpaid leave at the employee's request** must be granted in the following cases: to a mother or a father raising children without the mother, who has two or more children under the age of 15 or a child with a disability; to a husband whose wife is on maternity leave; to a mother or other persons if a child requires home care; to war veterans; to family members of deceased war veterans; to family members of deceased Defenders of Ukraine; to pensioners and persons with a Group III disability; to persons with Group I and II disabilities; to individuals that are getting married; to employees in case of the death of a close relative by blood or marriage; to employees admitted to entrance exams for higher education institutions; to part-time employees and to other persons in accordance with the Law of Ukraine "On Leaves." This leave may last from a few days to up to 60 calendar days per year, depending on the grounds for its provision [3].

**Unpaid leave by mutual agreement of the parties** may be granted due to family circumstances or other reasons for a period agreed upon between the

employee and the employer, but not more than 30 calendar days per year [5]. An employee is entitled to unpaid leave only on the basis of a written request, which must specify the type of unpaid leave, the grounds for its granting, and the period of absence. If an worker applies for mandatory unpaid leave, he or she must attach supporting documents to the request. However, for unpaid leave granted by mutual agreement of the parties, only the request is required, with no additional documents [8, p. 9]. The employer formalizes the granting of unpaid leave through an official order or directive, which must include the grounds for granting the leave and its duration. Such an order may follow a standard format or be prepared in any form, but it must contain all necessary details.

During the period of martial law, an employer may refuse to grant unpaid leave to an employee if that employee is engaged in work at critical infrastructure facilities, involved in the production of defense-related goods, or assigned to the fulfillment of a mobilization task. Additionally, during the period of martial law, an employer may, at the employee's request, grant unpaid leave without any time limitation [4].

In conclusion, unpaid leave may only be granted to individuals who are in an employment relationship with an enterprise, institution, organization, or sole trader. The law provides for two types of unpaid leave: mandatory leave and leave granted by mutual agreement of the parties. The duration of unpaid leave is determined by law or agreed upon between the employee and the employer. During the period of martial law, legislation establishes additional regulations concerning unpaid leave, including the possibility of granting it without a time limit and the employer's right to deny leave to employees in specific cases.

## References:

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