

(English version)

**Question for written answer E-003603/25
to the Commission
Thierry Mariani (Pfe)
(17 September 2025)**

Subject: Accruing paid leave when off sick

In the interests of aligning itself with EU law, the French Court of Cassation recently recognised that paid leave can be accrued during sick leave and carried over in the event of illness occurring during holiday, and that overtime should be calculated as if the week had been worked in full, as if the worker had not been absent.

These decisions, based on Directive 2003/88/EC, are seriously damaging the cash flow of SMEs, to the sole benefit of large global platforms.

Does the Commission intend to revise this directive in order to maintain a fair balance between the protecting employees and ensuring the economic viability of European SMEs?

Submitted: 17.9.2025

**Answer given by Executive Vice-President Mînzatu on behalf of the European Commission
(10 November 2025)**

The French Court of Cassation has recently adopted two judgments aiming at aligning its case-law with the case-law of the Court of Justice of the European Union (CJEU) in relation to paid annual leave under Directive 2003/88/EC ⁽¹⁾.

In its judgment in case ANGED ⁽²⁾, the CJEU ruled that a worker who becomes unfit for work during a period of paid annual leave is entitled subsequently to the paid annual leave which coincided with the period of unfitness for work.

In case Koch Personaldienstleistungen ⁽³⁾, the CJEU ruled that in order to determine whether a threshold of hours worked granting entitlement to overtime pay is reached, the hours corresponding to a worker's period of paid annual leave must be taken into account as hours worked.

The Commission does not envisage a revision setting aside the Court's interpretation of the directive, which establishes minimum standards aimed at improving the protection of the safety and health of workers within the EU. The directive applies to all employers regardless of the company size.

⁽¹⁾ <https://eur-lex.europa.eu/eli/dir/2003/88/oj/eng>.

⁽²⁾ Judgment of 21 June 2012, Case C-78/11, Asociación Nacional de Grandes Empresas de Distribución (ANGED) v Federación de Asociaciones Sindicales (FASGA) and Others, ECLI:EU:C:2012:372. The judgment regarded the interpretation of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time.

⁽³⁾ Judgment of 13 January 2022, Case C-514/20, DS v Koch Personaldienstleistungen GmbH, ECLI:EU:C:2022:19. The judgment regarded the interpretation of Article 7(1) of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time, read in the light of Article 31(2) of the Charter of Fundamental Rights of the European Union.