

(English version)

**Priority question for written answer P-003784/25
to the Commission
Isabelle Le Callennec (PPE)
(29 September 2025)**

Subject: Interpretation of Directive 2003/88/EC in relation to carrying forward paid leave in the event of sick leave

In its judgment of 10 September 2025, the French Court of Cassation held that an employee recorded as being sick during a period of paid leave has the right to carry forward that leave. It based its ruling on the case-law of the Court of Justice of the European Union of 21 June 2012 (Case C-78/11), which sets out the distinction between the purposes of paid annual leave and sick leave. This principle falls within the scope of Article 7(1) of Directive 2003/88/EC on the organisation of working time.

If applied, the Court of Cassation's decision will place a great deal more financial burden on many employers. Already in 2023, a previous ruling of a similar nature introduced an obligation to take paid leave into account during sick leave, with significant financial consequences. The accumulation of judgments and legal uncertainty we are currently seeing is weakening businesses.

Will the Commission clarify the proper interpretation of Directive 2003/88/EC to prevent businesses from facing further costs and ensure paid leave entitlements are predictably and consistently applied in the event of sick leave?

Submitted: 29.9.2025

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

In order to assist national authorities, citizens and businesses in the application of Directive 2003/88/EC, in 2017 the Commission adopted an Interpretative Communication on the directive, based on the case-law of the Court of Justice of the European Union (CJEU) and aimed at enhancing legal certainty and clarity on the obligations and flexibilities of the directive.

The Interpretative Communication was updated in 2023 ⁽¹⁾. It contains a section on paid annual leave and its interaction with other types of leave, including sick leave, and takes into account the judgment of the CJEU in Case C-78/11 ⁽²⁾.

⁽¹⁾ [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023XC0324\(01\)R\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023XC0324(01)R(01)).

⁽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.