



SOCIONEWS



LAW

CULTURAL LEAVE RETURNS

1. BACKGROUND

Cultural leave was created by the law dated 12 July 1994 in order to promote professionalisation within the Luxembourg cultural scene and to allow persons working in the cultural sector to participate in cultural and artistic events in Luxembourg and abroad.

However, in 2014, cultural leave was suspended because it was determined that the professionalisation of the cultural and artistic scene had not been achieved.

Cultural leave was reintroduced by the law dated 6 January 2023 ¹ in Articles L.234-10 et seq. of the Labour Code.

It came into force on 1 February 2023. A Grand-Ducal regulation dated 25 January 2023 sets out entitlements and detailed rules for cultural leave ².

2. OBJECTIVES

The main objective of cultural leave is to enhance the value of cultural work and to professionalise the cultural and artistic scene. The aim is to enable applicants to participate in high-level cultural events or recognised artistic events that are not part of their professional activity. In addition, cultural leave offers the opportunity to participate in specialised cultural or artistic training in an approved organisation.

Among the main changes to the former cultural leave scheme is the replacement of the maximum number of days of leave spread over a whole professional career by a maximum number of days of leave spread annually, in order to ensure greater flexibility. The number of days of leave granted per year depends on the category of beneficiaries.

¹ Loi du 6 janvier 2023 portant institution d'un congé culturel, publié au Mémorial A16.

<https://legilux.public.lu/eli/etat/leg/loi/2023/01/06/a16/jo>

² <https://legilux.public.lu/eli/etat/leg/rgd/2023/01/25/a73/jo>



In addition, a new category of persons eligible for cultural leave is added, namely designated volunteers.

Also, within one month of the cultural event for which leave was granted, beneficiaries must submit a brief report to the

Minister about the event outlining the impact of their participation on their artistic careers.

As such, this legal framework seeks to recognise the cultural work done by volunteers by modernising it and adapting it to the needs of the cultural and artistic sector.

3. PERSONS ELIGIBLE FOR CULTURAL LEAVE

Cultural leave is intended for salaried employees, the self-employed and state and municipal staff.

Three categories of people can benefit from cultural leave:

- Persons working in the cultural sector;
- Administrative staff;
- Persons designated by federations, national networks or associations in the cultural sector.

3.1 Persons working in the cultural sector

The following are eligible for cultural leave:

- Creative and performing artists³ in the fields of visual and audio-visual arts, multimedia and digital arts, performing arts, literature and publishing, music and architecture.
- Any other person involved in film, audio-visual, musical, performing arts, graphic, plastic, visual or literary project or production, at all stages of the project to include preparation, creation, execution, dissemination or promotion.

a. Eligibility conditions

Persons working in the cultural sector must have been continuously affiliated to the Grand Duchy of Luxembourg social security system for at least 6 months preceding the date of application for cultural leave.

They must also demonstrate a notable commitment to the Luxembourg cultural and artistic scene by virtue of the public dissemination of their work, the impact of their activity and the recognition of their peers.

In addition, the cultural activity they carry out must be ancillary to another paid professional activity.

Employees must have at least 6 months' service with an employer with whom they have an employment contract at the time they apply for cultural leave.

b. Purpose of cultural leave

The purpose of cultural leave is to enable persons working in the cultural sector to participate in high-level cultural events or to take part in specialised training in the cultural sector organised by a body approved as a continuing professional development organisation.

Cultural leave is only granted to persons working in the cultural sector who have been invited to participate in high-level cultural events both within the Grand Duchy of Luxembourg and abroad.

The following high-level cultural events are eligible for the granting of cultural leave, both in the preparation and execution phases of the event:

- Theatrical, musical, dance or multidisciplinary productions of recognized festivals, public cultural institutions and private theatres or ensembles;
- Film productions supported by the National Fund for the Support of Audio-visual Production;
- Visual art exhibitions in a museum, art gallery, art centre or at a contemporary art biennial;
- Festivals, fairs, literary shows and reading tours;
- Cultural and artistic exchanges organised under cultural agreements;
- International congresses and symposia on cultural and artistic themes;
- Awards and distinctions.

Cultural events that take place in the Grand Duchy of Luxembourg or abroad, that are recognized in the artistic or cultural fields concerned and that have acquired an international reputation, are taken into account.

Training courses, private research projects and promotional events are not eligible for cultural leave.

³ Loi du 19 décembre 2014 relative aux mesures sociales au bénéfice des artistes professionnels indépendants et des intermittents du spectacle, ainsi qu'à la promotion de la création artistique.
<https://legilux.public.lu/eli/etat/leg/loi/2014/12/19/n10/jo>

c. Duration of cultural leave

The duration of cultural leave for persons working in the cultural sector is limited to 12 days per year and per beneficiary.

3.2 Administrative staff

Administrative staff includes natural persons who are responsible for the management or direction of a federation, national network or professional association from an administrative point of view, or who regularly contribute to the management or direction of such entities.

a. Eligibility conditions

Administrative staff of national federations and networks in the cultural sector who play a leading role in the cultural field, who receive annual financial support from the State and who carry out their administrative activity as an adjunct to another paid professional activity, are eligible for cultural leave.

The same applies to administrative staff of cultural associations who carry out their administrative activity as a side-line to another paid professional activity.

Persons' normal employment must be at a workplace located on Luxembourg territory and applicants shall be bound by an employment contract to an employer legally established and active in the Grand Duchy of Luxembourg.

They must have at least six months of service with the employer with whom they have an employment contract at the time of application.

b. Purpose of the cultural leave

Administrative staff may be granted cultural leave to manage the organisation, to attend international meetings of national federations or networks or to participate in specialised training in the cultural sector organised by a body approved as a continuing professional development organisation.

c. Duration of cultural leave

The maximum number of days of leave depends on the total number of active members of the federations, networks or associations.

Active members are those members who are regularly registered and whose contributions are paid to date.

Administrative managers of a federation or a national network in the cultural sector

The annual duration of cultural leave per organisation is limited to:

- 5 days for national federations and networks in the cultural sector whose affiliated associations or institutional members total fewer than one thousand active members;

- 10 days for national federations and networks in the cultural sector whose affiliated associations or institutional members total at least one thousand active members.

Administrative managers of cultural associations

The annual duration of cultural leave per organisation is limited to:

- Two days for cultural associations with less than 150 active affiliated members;
- Three days for associations in the cultural sector with between 150 and 200 active affiliated members;
- Four days for associations in the cultural sector with more than 200 active affiliated members.

3.3 Designated volunteers

The new category of beneficiaries allows national federations and networks in the cultural sector that play a leading role in the cultural field and receive annual financial support from the State, as well as associations in the cultural sector, to designate individuals eligible for cultural leave via a quota of leave days made available to them.

a. Eligibility conditions

Persons' normal employment must be at a workplace located on Luxembourg territory and applicants shall be bound by an employment contract to an employer legally established and active in the Grand Duchy of Luxembourg.

They must have at least 6 months of service with the employer with whom they have an employment contract at the time of application.

b. Purpose of the cultural leave

The purpose of cultural leave is to enable volunteers to participate in the organisation of high-level cultural events within the Grand Duchy (e.g. international congress, Manifesta events, etc.).

The following high-level cultural events are eligible for the granting of cultural leave, both in the preparation and execution phases of the event:

- Theatrical, musical, dance or multidisciplinary productions of recognized festivals, public cultural institutions and private theatres or ensembles;
- Film productions supported by the National Fund for the Support of Audio-visual Production;
- Visual art exhibitions in a museum, art gallery, art centre or at a contemporary art biennial;
- Festivals, fairs, literary shows and reading tours;

- Cultural and artistic exchanges organised under cultural agreements;
- International congresses and symposia on cultural and artistic themes;
- Awards and distinctions.

Cultural events that are recognized in the artistic or cultural fields concerned and that have acquired an international reputation are taken into account.

Training courses, private research projects and promotional events are not eligible for cultural leave.

c. Duration of cultural leave

For national federations and networks in the cultural sector

Fifty days of cultural leave per year.

For associations in the cultural sector

Ten days of cultural leave per year.

4. COMMON PROVISIONS

4.1 Submitting applications

Applications for cultural leave must be submitted in writing to the Minister of Culture at least two months before the date of the event for which leave is requested.

A Grand-Ducal regulation ⁴ determines the procedures for requesting and granting leave and the documents to be submitted by beneficiaries.

The written application for cultural leave shall contain the following information about applicants:

- Surname, given names, civil status, address and bank details;
- Profession and, where applicable, the length of service with an employer;
- With regard to applications from persons working in the cultural sector, artistic curriculum vitae including a statement of professional artistic activities;
- The place, date and type of the activity in which an applicant intends to participate;
- A description of the activity and its impact at national or international level;
- The date and duration of requested leave.

The application must be submitted together with:

- a copy of the invitation or contract from an event organiser, addressed to applicants or to the organisation of which they are members;
- a written opinion drafted by the employer or the head of the administration.

Employers shall give their opinion on the request for leave within 8 working days. They may reject the project if an

employee's absence is likely to have a major impact on their company's operations, the proper functioning of the administration or public service or the smooth execution of other staff members' paid leave.

4.2 Ministerial approval

The Minister responsible for culture, after hearing an advisory Commission, approves or rejects the application and, if approved, determines how much cultural leave to grant.

Except in exceptional and duly justified cases, applicants are notified of the decision within two weeks of the Commission's meeting.

The Commission is composed of three members, two of whom are appointed by the Minister responsible for culture and one by the Minister responsible for education. The Commission shall elect a chairman from among its members.

Before giving its opinion to the Minister responsible for culture, the Commission may consult an expert or a representative of the federations, national networks and associations in the cultural sector directly concerned by the application for cultural leave.

The Commission shall examine the applications submitted and shall provide the Minister with a written opinion on each file.

The Commission meets as often as its tasks require, and at least once a month.

The opinion of the Commission may, on the initiative of the chairman, and in particular if the prompt dispatch of business so requires, be obtained in writing. The Chairman may decide that, on expiry of a time limit, the absence of an opinion from a member shall be deemed to constitute a positive opinion.

⁴ Règlement grand-ducal du 25 janvier 2023 fixant les modalités d'application du congé culturel, Mémorial A73.
<https://legilux.public.lu/eli/etat/leg/rgd/2023/01/25/a73/jo>

4.3 Terms and conditions for cultural leave

Split leave is possible

Cultural leave may be split, with each leave segment having at least four hours.

Prorating for part-time employees

Days of cultural leave are calculated proportionally for persons working part-time.

Saturdays, Sundays and public holidays not taken into account

Saturdays, Sundays and public holidays are not taken into account in calculating days away from work.

Separate from annual leave

The duration of the cultural leave cannot be deducted from annual recreation leave.

Unless an employer agrees, cultural leave may not be attached to a period of paid annual leave or to a period of sickness where such attachment would result in a continuous absence exceeding the total period of annual leave due.

Absorption into a period of actual work

The period during which cultural leave is granted is considered as a period of actual work.

During cultural leave periods, the legislative provisions on social security and employment protection remain applicable to the beneficiaries.

4.4 Compensatory allowance

In the public sector, beneficiaries of leave continue to receive their remuneration and to enjoy the benefits attached to their function during cultural leave periods. The public sector includes the State, municipalities, unions of municipalities, public establishments and services under the supervision of the State or municipalities, semi-public organisations and the Luxembourg national railway company (Société nationale des chemins de fer luxembourgeois).

Non-public sector employees receive a compensatory allowance for each day of leave equal to their average daily wage, but not exceeding four times the minimum social wage for unskilled workers. This compensation allowance is paid in advance by employers, with the State reimbursing employers up to four times the minimum social wage for unskilled workers for the amount of the allowance and the employer's share of social security contributions paid in advance. Payment occurs on submission of a declaration, the model of which is prepared by the Minister.

4.5 Post-event report

Within one month of the cultural event for which leave or compensatory allowance was granted, beneficiaries must submit a brief report to the Minister about the event outlining the impact of their participation on their artistic careers.