

Operational readiness in TRANSPORT in the SLOVAK REPUBLIC according to the new Act no. 462/2007 Coll.

Peter Grendel¹

Summary: Operational readiness is a condition inevitable for functioning of any type of transport. All types of transport must be able to operate constantly according to the interest of the public or the customers. Therefore, it is important to determine limits of the maximum acceptable period of transport employee's readiness.

Key words: operational readiness, transport, minimum hours

Anotace: Pracovná pohotovosť je okolnosťou, bez ktorej by nemohol nijaký druh dopravy fungovať. Všetky druhy dopravy musia byť spôsobilé fungovať nepretržite podľa záujmu verejnosti alebo zákazníkov. Preto je dôležité ustanoviť limity maximálneho prípustného času pohotovosti zamestnancov v doprave.

Kľúčové slova: pracovná pohotovosť, doprava, minimálna pracovná doba

1. INTRODUCTION

The Act no. 462/2007 Coll. consists of a general part and a special part, while the special part of the act represents the *lex specialis* as compared to its general part *lex generalis*. Provisions of the general part apply only in case that the special part of the act does not regularize given field differently. General definition of the operational readiness applicable to every transport branch is outlined in its general part, whereas special provisions regularizing deviations or specifications dependent on the conditions in individual types of transport precede this definition, for example definition of operational readiness in road transport taken over from the regulation no. 2002/15/ES.

2. OPERATIONAL READINESS AND WORK SITES

There is a condition saying that transport employees do not need to be present at the work site during the period of operational readiness, but they must be available to their employer and be ready to perform work that should last for the expectable period known to them in advance. This period of time and its duration must be notified to transport employees in advance, mainly on the basis of work shift schedule or according to the timetable.

¹ Ing. Peter Grendel, PhD. , Technická Univerzita Košice, Fakulta BERG, Ústav logistiky priemyslu a dopravy, email: grendel@grendel.sk, Trieda SNP 42, 04011 Košice

The given Act determines the basic total time limit of the operational readiness for a transport employee throughout the calendar year with regard to specific nature of transport activities, for which it is typical that they must be carried out with an emphasis on traffic smoothness. The objective provision enables employers to ensure necessary tasks by ordering operational readiness to an employee **without his/her consent** in extent of up to 300 hours per calendar year, or 400 hours in case of the corporate fire fighters. **Operational readiness above this extent is acceptable only with prior agreement with an employee.**

Operational readiness within the work shift for a transport employee, except for a plane crew member, must not exceed 24 hours per week and 72 hours per calendar year. Different definition is specified by the given act in its second part concerning the air transport – plane crew members. The maximum limit, however, can be reduced by a collective agreement or an agreement between an employer and representatives of employees. Operational readiness period within the work shift does not include time for break and rest.

3. AMOUNT OF OPERATIONAL READINESS ALLOWANCE

The law defines the amount of allowance to be paid to an employee for each hour of operational readiness. This issue is exclusively the matter of collective negotiation or an agreement between an employer and representatives of employees; however, it must not be lower than the determined limit. Each hour of operational readiness within the work shift based on an agreement between the social partners must be compensated to a transport employee in the amount representing at least the hour minimum wages defined by the Act no. 90/1996 Coll. of the National Council of SR on minimum wages, as amended. If operational readiness is ordered beyond the work shift frame, an employee must be paid with at least 20% of the minimum hour wages.

Operational readiness period, during which a transport employee performs work according to an employer's requirements or is obliged to be present at the work site ready for performance of work, is counted in working time for which a transport employee is paid. According to the given provision, period of time during the operational readiness period is already regarded as performance of work. This time is counted in working time and must be rewarded with a salary, not with an allowance.

4. CONCLUSION

Given provisions are in accordance with the decisions made by the European Court of Justice dated 3 October 2000 (case no. C-303/98), 9 September 2003 (case no. C-151/02) and 1 December 2005 (case no. C-14/04), which decided that working time includes every presence at the work site which was ordered by an employer, i.e. also the period of operational readiness. Therefore, period of operational readiness at the work site is counted in the working time limit, contrary to operational readiness out of work site, for which the transport employee is paid a salary.

USED LITERATURE

[1] www.justice.gov.sk

Reviewer: Ing. Fedorko Gabriel, PhD.
Technical University of Košice, Faculty of Mining, Ecology, Process
Control and Geotechnology