

Breaks, duties, business trips

Igor Kyczewski · 24.05.2025 · Kadry i Płace – JDG, Kadry i Płace – Spółki

□ Introduction

Accurate accounting of working time is crucial not only for the payment of salaries but also for complying with daily and weekly norms. Correctly determining **what counts as working time** and what does not is particularly significant in the case of:

- **breaks at work,**
- **employee on-call duty,**
- **business trips and travel.**

Below you will find a detailed discussion of each of these issues.

□ 1 Breaks at Work

□ a) 15-Minute Break (Article 134 Labor Code)

- An employee working at least 6 hours a day is entitled to a **15-minute break**,
- It is **included in working time**,
- Commonly referred to as the “breakfast break.”

△ b) Breaks of 5-60 Minutes (Article 141 Labor Code)

- The employer may introduce an additional break (e.g., for lunch),
- It is not included in working time (unless otherwise stipulated in the regulations),
- It may be **unpaid**.

□ c) Nursing Break (Article 187 Labor Code)

- Entitled to a nursing mother – 2×30 minutes (or 1 hour for work over 6 hours),
- **Included in working time**,
- Also applicable in the case of remote work.

□ **2Employee On-Call Duty (Article 151⁵ Labor Code)**

□ **Definition:**

An on-call duty is the time when an employee is **outside regular working hours but remains ready to perform work**, e.g., at-home duty, weekend duty, with a phone.

□ **Included in Working Time:**

- **Only the actual time worked during the on-call duty.**

□ **Not Included:**

- Simply remaining on standby (e.g., at home with the phone), unless work was performed.

□ **Compensation:**

- The on-call duty time (not counted) is compensated with time off or remuneration.

Exception: On-call duty performed **at the workplace** or where the employee **does not have the freedom to manage time** can be **considered as working time in full** (case law of the Supreme Court and the Court of Justice of the European Union).

□ **3Business Travel (Delegation)**

□ **Is business travel considered working time?**

□ It is included in working time when:

- it occurs **during working hours**,
- it involves **driving a company car as a professional obligation** (e.g., driver),

- it involves **participation in meetings, training sessions, conferences**.

□ It is not included when:

- it occurs **outside working hours** (e.g., train travel after work),
- **it is not associated with performing duties**, but only with transportation.

□ However **travel time outside working hours is not working time**, but it may be the basis for the payment of **per diem** and reimbursement of costs (hotel, travel, parking, etc.).

□ 4. Additional Situations

□ a) Training

- If organized by the employer and mandatory - **always included in working time**,
- If voluntary - it depends on the purpose and location of the training.

□ b) Waiting to Start Work (e.g., lack of access to systems, breakdown)

- Included in working time - the employee is on standby (Supreme Court judgment I PRN 63/78).

□ 5. Records and Documentation

The employer is obliged to:

- maintain **records of working time**, including actual working hours and on-call duty,
- indicate which breaks are included (in the regulations or contract),
- document business trips - travel order, report, cost settlement.

Legal Basis

- **Labor Code**, Articles 129–151, Articles 134–137, Article 141, Article 151⁵
- **Regulation of the Minister of Labour and Social Policy from May 28, 1996** regarding the recording of working time
- **Act on Working Time of Drivers (if applicable)**
- Case law of the Supreme Court, including I PK 157/11 – on-call duty at home