

Overtime and excessive overtime

Legal requirements, compliance situations and opportunities for the Turkish (Istanbul) garment industry

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1. Legal requirements in Turkey

Working time regulations (excerpt from Jo-In/FWF background study Turkey):

1.1 The standard working week

The standard working week prescribed by Turkish law is 45 hours, a normal working day may not be more than 11 hours and there should be one day off per week. So overtime starts only after working 11 hours a day, or after having worked 45 hours a week.

In fact there is disagreement on the interpretation of the labour code in terms of the maximum working day. The majority of experts [jurists does not seem the right word] argue that maximum daily working time cannot exceed 11 hours under any circumstances. Their conclusion is based on article 63 which regulates 'compensatory work' [see section 1.5] and states that compensatory work shall not exceed three hours daily, and must not exceed the maximum daily working time in any case. If the employer breaks this rule and forces employees to work more than 11 hours per day, he will incur a penalty. Moreover, it is not clear whether he must pay overtime rates to employees even if their weekly working time remains less than 45 hours when a working day exceeds 8 or 11 hours.

Private sector employers may choose to give workers a day off on a day other than a weekend. If a factory works extra days after the normal working week, the one day off may be delayed, but the number of consecutive working days may not be longer than 10 days. The fine for not complying with the legal requirements on working times is very low (100-500 YTL, about 60 to 300 Euro).

1.2 Rest periods

Employees must be allowed a rest break in the middle of the working day timed with due regard to the customs of the area and to the requirements of the work as follows;

- fifteen minutes, when the work lasts four hours or less,
- half an hour, when the work lasts longer than four hours and up to (and including) seven and a half hours,
- one hour, when the work lasts more than seven and a half hours.

Breaks are not reckoned as part of working time.

1.3 Overtime

This is covered by Article 41. Overtime may be performed for such purposes as "the need to increase output". "Overtime work is work which, under conditions specified in this Act,

exceeds 45 hours a week. In cases where the principle of balancing is applied in concordance with Article 63, work which exceeds a total of 45 hours a week shall not be deemed overtime work, provided the average working time of the employee does not exceed the normal weekly working time.“ Employees must consent to overtime work and total overtime work must not be more than 270 hours in a year. Overtime work and methods of calculating it will be indicated in a regulation to be issued.

For contracts where the normal workweek is less than 45 hours per week, overtime hours are paid at 1.25 the normal hourly wage for up to 45 hours of work. If employees who have worked overtime or extra hours so wish, they may have free time of one hour and thirty minutes for each hour worked overtime and one hour and fifteen minutes for each extra hour worked, in lieu of overtime pay. Employees must use the free time to which they are entitled within six months, within their working time and without any deduction in wages.

No overtime work should be done during night work (Article 69) ('night' means the part of the day beginning not later than 20.00 hours and ending not earlier than 6.00 hours).

The 2003 Labour Law changed overtime wage regulations considerably, doing away with differences in overtime pay for Sunday work. Previous labour law provided for overtime at 200% of regular pay for Sunday work. Some have lamented this change in the law which aimed to discourage Sunday work. The previous 200% overtime rate for work on national holidays was also decreased, which is puzzling to many. The law now only provides for regular pay for work on these days if the hours worked fall within the 45 weekly legal limit. While a couple of brands reportedly require suppliers to pay 150% or even 200% for work on national holidays, most are reported to follow the new law and pay only regular rates on those days.

1.4 Balancing/ flexi-time

The Act entitles the employer to spread working hours unequally over a period of two months. Article 63 states that, “Unless the contrary has been decided working time shall be divided equally by the days of the week worked at the establishment. Provided that the parties have so agreed, working time may be divided by the days of the week worked in different forms on condition that the daily working time must not exceed eleven hours.” So a worker could work a maximum of 66 hours a week during a period of two months without receiving overtime pay if the average weekly working time has not exceeded the normal weekly working time of 45 hours.

This equalising period may be increased up to four months by collective agreement. It must be stated clearly at the beginning when the equalising or balancing period begins.

Working time is thus determined by collective labour agreements between the trade union and the employer and in the absence of a collective agreement, individual labour contracts determine this issue (these do not have to be in writing). This is up to the employee and in the absence of a collective agreement, the employee must consent to the spread of working hours when they accept the job or later.

1.5 Compensatory work

Article 64 covers situations where employees work fewer hours than contracted for, for example where operations are stopped entirely due to force majeure, on the days before or after national and public holidays, and where the employee requests time off. In these circumstances the employer may ask the employee to make up the hours in two months in order to compensate for the time lost.

Compensatory work must not exceed three hours daily, and must not exceed the maximum daily working time under any circumstances. Unlike flexi-time arrangements, compensatory work does not require the consent of either the Turkish Employment Organisation or the union signatory to the collective agreement.

1.6 Annual leave

Employees who have completed a minimum of one year of service, including the trial period, are entitled to paid annual leave of not less than;

- 14 days if their length of service is between one and five years (five included),
- 20 days if it is more than five and less than 15 years,
- 26 days if it is 15 years and more (fifteen included).

1.7 Conclusions

The maximum working week including legally allowed overtime in Turkey would be 50.6 hours (45+270 per year assuming 48 working weeks). This puts Turkey in between China 48.6 (40 hours plus 36 per month, assuming 21 working days in a month) and India 54.25 (48 plus 75 per quarter).

Comparing Turkish labour legislation with the Jo-In (draft) common Code, Turkish laws sets stricter standards on working times than the Code. The only element that the Code contains that is absent from Turkish labour legislation is the rule that "under no circumstances shall

overtime exceed 12 hours per employee per week.” As said before, Turkish law is not clear about this.

2. Overtime in the industry

2.1. Number of overtime hours

Like everywhere in the garment industry, excessive overtime is an issue. According to some commentators in Turkey, overtime is less of an issue than in countries that depend on migrant labour. In Turkey most factories employ local workers who live with their families so working days exceeding 12 hours are rare.

In general however, during busy periods, workers may be required to work very long hours for days or weeks on end. Some factories denote Saturday as a standard working day, making a six-day working week rather than just five. Workers are then paid the standard minimum wage, but this is officially based on 45 hours while their working week is in fact 54 hours. This results in minimum wage and overtime deficiencies for workers, not to mention the requirement to adhere to an expanded work schedule.

Some workers and departments are more likely to work to excessive overtime than others, for instance supporting functions like drivers, technicians and those departments preparing and finalising the product that often turn out to be bottle necks, like ironing, packaging and embroidery .

Labour legislation relating to working hours is not enforced in unregistered workplaces. Workers in these facilities do not have access to many of the protections provided by law. Working days are often between 14–16 hours in many unregistered and informal workplaces, depending on the nature of a particular order, and workers may often be required to work six or even seven days per week. Women and children are often required to work night hours, which is prohibited under the law.

Below are the results from a sample of five export-oriented, registered companies. Of course the outcomes of this comparison should be handled with caution but it seems justified to conclude that, compared with countries like China, where enforcing a maximum working week of 60 hours would be a step forward for many export factories, Turkey has less excessive overtime. Even an extreme case like the one reported at company 1 (about 600

overtime hours per year) would result in average overtime of only 12.5 hours per week. The worst performer (company 2) sometimes used 24-hour shifts.

Company	Number of employees	Regular working times days x hours	Overtime	Worst cases
1	185	5 x 9	Evenings till 21.00 Saturdays 8.30 -16.00 In total some 70 -100 hours per worker per month in peak season Some workers 333 - 670 hours per year	One case of a worker with 1004 overtime hours in a year (technician)
2	49	5 x 9	Not recorded in wage lists 24-hour shifts during peak months	One worker with six 24-hour shifts in a month No rest day for four-five weeks
3	43	5 x 8.5 plus 3.5 on Saturdays	Overtime not recorded and paid, instead a profit-sharing scheme combined with piece rates	21 days of work without one day off
4	>600	5 x 9	During peaks working week might sometimes be 60 hours or more: till 22.00 on weekdays, Saturday work 8.30 -16.00	Over 100 overtime hours for some workers in December, and over 50 hours in November and January
5	183	5 x 9	Evening work during peaks till 23.00, weekend work for seven to eight days per year	

Company 3 refused to think in terms of overtime; it was up to the workers to finish the work in time. Overtime is not paid. According to the management if workers finish the production in time they do not need to work overtime and if they have to work additional hours they get a share in the extra profit (a scheme enables workers to share 10 per cent of the profit). In the sewing department a piece-rate system was in use to distribute extra earnings, but only for a

small proportion of the workers. Management do not trust the workers. They are afraid that workers might decrease their performance during normal hours to ensure overtime and get more money. So they have developed this system with an external HR consultant to motivate the workers. But the workers do not trust the new wage system and there is now much discontent in the factory.

2.2 The use of balancing / flexi-time

The labour law that allows for 'balancing' of working hours over two or four months is not widely used in garment companies. While the law imitates similar laws in other European countries and seeks to provide more flexibility for Turkey's workforce, its use in the garment and textile sector is generally seen as weighing heavily on workers. As stated above, Article 41 provides that workers can opt to work overtime and receive compensation time at a rate of 1.5 hours for each overtime hour worked. While this may seem an attractive option to some, in practice this often means that workers work overtime at peak periods, but may not receive the extra pay they would otherwise expect for that work. Instead factories provide them with time off with pay during slow business periods.

Some companies are exploring the possibilities, but not officially. One of the problems with this system is that it is not clear when overtime should be paid. It might very well be that the maximum working hours have been reached at the end of the two or four month period and all hours still to be worked are then considered to be overtime. Also what appeared to be overtime might turn out not to be when these hours are compensated with time off later. If a worker who has worked many extra hours at the beginning of the two month period falls ill at the end, it would not be clear on what basis his/her sickness pay would be based.

Another problem is to keep track of all the working hours and how labour inspectors will check this.

Unions are not in favour of using article 63. They think it should be used only in exceptional cases because they fear that it will make very irregular working hours the normal practice. Workers may be concerned that they will not be given the option of overtime pay or compensation time as the law requires. When commenting on the new provision, one brand reported that implementing this provision in a way that does not correspond with the spirit of the law would violate Code standards on hourly overtime limits, overtime pay requirements and forced labour.

2.3. Overtime should be voluntary

It is hard to establish whether overtime is voluntary. In employment contracts it can be stipulated that workers are required to do overtime, for instance to avoid delay in shipments. A factory should inform workers in time that they are going to be asked to do overtime and workers should be excused for certain reasons, for example having a sick child at home.

Many workers may prefer to work overtime because of the extra income. This will also depend on their situation at home; is the worker the main/sole wage-earner; does the worker have small children or other dependants?

In integrated production processes it is hard to make overtime a purely individual choice. This depends on the production system (line system, group system, progressive bundling or individual work-through). But even if a majority of the workers favour working overtime, the minority should be protected to avoid a crude 'survival of the fittest'.

2.4 Overtime payment

Overtime payments are sometimes too low, even if they include the 50 per cent premium, because the hourly wage is calculated wrongly. Wages have a monthly basis. To calculate the hourly wage, the monthly figure should be divided by 225 according to the law but companies sometimes divide by 300. Workers often cannot work out this misleading calculation because it may be covered up in complicated presentations of the figures. This is compounded by the practice of double bookkeeping which means that workers often cannot use their wage slips to check management calculation of their overtime wages (see below). In many cases, workers may not have a reliable count of the number of hours of overtime worked or the hourly rate they should receive for those hours. Brands and unions have highlighted the importance of pay slips that accurately report all hours worked and the wages paid for those hours. They have also focused on the importance of worker and management education about Turkey's somewhat complicated wage laws.

Even where overtime is fully paid, including the 50 per cent premium, these payments are rarely officially recorded so no tax and social insurance contributions have to be paid on top of them. In this way even companies from the formal sector can sometimes operate in the grey or informal sector. (It is estimated that about 80 per cent of garment production comes from the informal sector.)

2.5 Auditing experiences

According to the companies in the ILO survey "Social Auditing in Bulgaria, Romania and Turkey (2005)", checking hours of work is often a priority of auditors but some skip it. There

is also a lack of consistency in the approach to checking overtime. One day off in seven is a strict requirement for most auditors.

The impact of auditing on overtime may differ but few companies reported a significant change. One company that improved reporting of overtime payments to the social security office said that the vendor that had required the company to do this later withdrew its orders because of rising costs.

Auditors associated with the Jo-In project reported that they monitored overtime against the Code limit of 60 hours per week, and followed Turkish labour limits of 11 hours of work per day. Auditors will concentrate on the data for peak seasons and check against other periods to see if the peak season situation is really that different.

Internal compliance staff of some big buyers will also check with the production department. They check with quality assurance people whether there have been problems (rework) and check how these have been dealt with. They will also check delays in receiving fabrics, or whether the factory has been overbooked. It will be difficult to obtain this information from external auditors.

3 Remediation and best practice

3.1 Root causes

It is not always because of the factory's management decisions that workers are asked to work overtime. Overtime can be the result of short lead times given by the buyers. Some buyers are willing to turn a blind eye on overtime issues if it is needed to get their orders shipped in time. The lack of cooperation in buying companies between auditing departments and buying / production departments is also an issue. Therefore it is very important to investigate the causes of excessive overtime.

In general there can be four possible causes:

1. delays in the supply chain outside the vendor's direct control: late arrivals of fabric and other materials, last-minute style changes, short lead times (especially for re-orders);
2. limited ability to adapt capacity to fluctuating orders; high and low seasons;
3. re-working products because of quality problems;

4. over-booking and/or bad planning by the vendor (including not taking into account the time needed to change set-ups from one style to another - the smaller the size of the batches, the bigger this problem can become).

Last-minute style changes, lack of security about future orders, short lead times; these causes of overtime can be said to be the responsibility of the buyer. Changes of buying practice could therefore be one solution but this was beyond the scope of this paper.

Readers should bear in mind that one of Turkey's competitive advantages is quick delivery times to the European market as is shown by the next table:

Production of a PE outdoor jacket	China	Turkey	Romania
Production time (minutes)	70	55	80
Labour costs per minute (euros)	0.04	0.12	0.08
Minimum order size	5,000	1,000	1,000
Delivery times	60 days (by sea)	20 days	25
Transport costs per piece (euros)	0.5	0.8	0.8

Source: TextilWirtschaft 30.12.2004

Overbooking is a general phenomenon in the industry. A company will not easily say no to an order. This can be partly resolved by using subcontractors, but that may easily result in pushing overtime problems onto someone else's plate. The problem for a successful company that receives more orders is that it can never be sure that these order flows are sustainable and it will be hesitant to invest in capacity expansion. Again this points to the buying policy too, but also to the intentions of the vendor. According to some brands' representatives, some vendors will always overbook. As soon as they have extended their capacity because of new orders, they will be tempted to accept more orders, and nothing will improve on the overtime issue.

Vendors should have a system in place to calculate the costs and benefits of orders that enables them to say no to the less profitable orders and to optimise the composition of the order book when they are almost fully booked. The costs of excessive overtime are often under-estimated:

- lower productivity and quality in the last hours of a working day that is stretched beyond its natural limits;
- energy costs;
- higher labour costs (overtime premiums, food, transport).

3.2 Control of overtime

Three steps a vendor can take to improve the overtime situation are:

- record all overtime;
- control it;
- reduce it.

Proper recording of overtime is the first step towards controlling the situation as the following cases illustrate.

Case 1:

A jeans factory, with over 1,000 employees, installed a very strict system at the request of a large buyer that puts much stress on compliance with overtime standards. This buyer receives overtime reports from the vendor on a weekly basis. These reports are displayed for the factory management's attention and workers can also see them. After management started to realise the costs of overtime they got more and more interested in reducing it.

Employees sign overtime lists to show that they do it voluntarily. Overtime is normally compensated by time off in lieu. The supervisor can check the total hours for each individual on a weekly basis, while the department manager and the HR manager also keep track of overtime records.

If overtime is foreseen the vendor will consult with the buyer to make arrangements on how to deal with it. This has made it possible to develop better planning. If overtime has occurred managers analyse why it happened. Often it turns out that overtime is not instrumental in reaching the targets, among others reasons because extra breaks are needed and the workers have less concentration.

Nowadays the factory is able to work six months without overtime and 6 months with it. According to management workers accepted the reduction in overtime even though it meant that they earned less. Many workers are women with family obligations and their income supplements that of their husbands who typically have a job too.

An incentive system has also been set up to provide for extra earnings if workers exceed a certain level of productivity during normal working hours. Targets are based on a combination of line and individual achievements and they include numbers of mistakes. Under the new system the number of mistakes has gone down significantly.

Case 2:

This factory's new 'Internal Procedures to Prevent Excessive Overtime' show how systems to record, control and reduce overtime relate to each other. The factory uses computer software called 'PDKS' to keep track of overtime hours of each worker. Reports are issued every week and month and are checked on a regular basis. Workers who have worked or exceeded the limit of 60 hours per week are identified and reported to the head of the

relevant department. The HR department audits the overtime reports to ensure compliance with the legal regulations.

If excessive overtime is unavoidable, the management team introduces a second shift as soon as possible. A production premium based on worker performance, quality and overall productivity has been introduced to increase the productivity of the workforce and make sure that they earn enough income within regular working hours and have little incentive to work overtime. This enhances production efficiency and workforce planning and results in on-time shipment.

Overtime is analysed and related to overall profitability. This has emphasised the benefits of eliminating overtime. While planning capacity and the workforce, set-up of the production line and technical limitations are considered and the new system has also improved planning for the purchase of raw materials.

3.3 Structural improvements

In general, vendors can apply three solutions to reduce the need for excessive overtime:

- shift systems;
- changes in systems of remuneration;
- more flexible set-up of production lines.

Using subcontractors is also a way to deal with fluctuations in demand or needs for different types of machines, expertise and so on. A fifth solution, using temporary workers, seems to be rare in Turkey, at least among the first-tier producers.

3.3.1 Shift systems

Introducing shift systems can be an effective solution to excessive overtime. If a new shift comes in it makes no sense to let the former one do overtime. In processes like knitting especially factories may work shifts to gain maximal use of the capital invested in high levels of mechanisation. Knitting factories often use a three-shift system that makes overtime virtually impossible. But a two-shift system may be used for 24-hour work and then overtime is always occurring.

A problem with introducing shifts systems is that this needs a sustainable order flow; it is not a way to gradually adjust capacity to orders. In general a second shift doubles production, a third raises it by an additional 50 per cent. Some companies combine within one factory for different groups of workers a shift system of six days of 7.5 hours or with a one shift system of five days of nine hours.

Case 3:

In this factory normal working days lasted 12 hours. After it became unionised, a three-shift system was introduced. Hourly wages were increased so that workers hardly earned less for eight hours than the 12 hours they worked before. Management agreed on this, on condition that the union could convince workers to accept

the system, which they did. According to the employer's calculations, the new system is more cost effective. Employment increased from 270 to 350.

Case 4:

This factory has two different systems. One group of workers works five days of nine hours, while another group works a shift system of six days of 7.5 hours.

Shift systems are not without problems however. It was reported that the second shift was less productive, maybe because there were fewer managers in the evening or workers were a bit disoriented or already tired because of their activities during the day time. Organising the break-off between two shifts in departments such as sewing in such a way as to enable a smooth re-start is a challenge to management. Also workers must be used to working with standard set-ups of their machines and standards procedures, without personal adjustments. Shift working also incurs extra costs for transport, food and energy.

3.3.2 Changing the remuneration system

The remuneration system can be another element in a policy to reduce overtime. When workers rely on overtime to earn a decent income, they might be reluctant to reduce it and may even try to generate overtime by going slow during normal hours. Introducing performance-related pay can solve this. This can be related to individual or group/line performance, or even to the profit the company is making as a whole. Care should be taken to make the system transparent and understandable, otherwise it may cause resentment and conflicts with workers who feel unfairly treated. Also workers must be able to have control over the units on which the payment is based. For instance in a strict line system workers depends on others and so individual performance pay would not make sense. An individual who has to change between many different styles of garment will be less productive than someone who makes large quantities of the same style.

3.3.3 Changing production methods

Changing the set up and engineering of the production system can limit the need for overtime. In an inflexible line system, bottlenecks easily occur, making planning more difficult. More flexible systems can deal with small difficulties without hampering planning, for example when workers can perform different tasks. Target production times can be reduced sharply by introducing team work. (A Finnish company, PTA Group Oy, that changed from teams of 15-20 to self-directed teams of eight people reduced production time from 21 to seven days. These models are of special interest to Turkey because one of Turkey's strong points in the international market is short lead times due to proximity to the European market).

The next case study gives an example of this:

Case 5:

This large company, which does all stages of garment production, uses a 'lean production' system in the factory. The fabrics are checked before cutting by special machines, while pre-cutting and pattern operations are done by computer. In the sewing department the classical line system has been recently replaced by a 'modular system'. As many clients order garments in small quantities of 300-500 pieces, the line system designed for higher quantities of at least 1000 -2000 pieces, was unsuitable. The company's research and development team devised the modular system by applying Total Productive Management (TPM). This system aims to reduce interval stocks, better quality products and the shortest production time 'door to door'.

In the sewing department all the production processes except embroidery and pressing are done by teams (modules) of 35 – 38 workers working in a circle. Each worker is trained to undertake several processes to avoid bottlenecks and the work is overseen by supervisors to reduce mistakes. All the planning is done in minutes. This approach has increased the delivery performance by about 90 per cent.

The workers know that their wages are based on an evaluation of their performance though few understood how the evaluation is done.

According to the R&D team, they have reached their goals with those modules which have completed the training programme but they still need time to establish the system as planned and to equalise the productivity of all the modules.

Case 6:

Adidas promotes the 'Lean Manufacturing' system which involves, first, the systematic elimination of waste - overproduction, waiting, transportation, inventory, motion, over-processing, defective units, knowledge disconnection and, second, implementing the concepts of continuous flow and customer pull. Productivity has a direct relation with overtime. If the workers are able to do the same amount of work as a result of increased productivity there will be no need to work any extra hours.

Adidas is also conducting an internal project between the compliance department and Lean which is called SEA-LEAN synergy. (You can read more about it at www.adidas-salomon.com/en/sustainability/reports/default.asp. Adidas 2004 *Social & Environmental Report* contains an article about SEA-Lean synergies in El Salvador on page 31.)

Case 7:

A last case shows how all the above-mentioned elements come into play. This company has introduced:

- effective planning for large orders. This provides consistent and continuous production;
- effective production line design and set up;
- detailed analysis of the production process, improving where there is room and regular tracking of productivity;
- on-the-job training for workers;
- process engineering;

- a worker representation system to communicate company objectives and productivity goals to educate/enhance awareness among the workforce. This also enables the company to learn about the expectations of the workers;
- investigation by the HR department of the reasons for overtime. Meetings are scheduled with department supervisors whose department has exceeded 60 hours per week;
- better salaries for those workers who are more qualified and productive;
- a performance assessment system based on team success rather than individual success as it used to be.

4 Conclusions

Although excessive overtime may not be as big a problem in the large Turkish export sector as elsewhere in the world, it still poses a problem for many workers, especially as they are not migrant labourers but tend to combine a family life with their job.

Solutions at the factory level are possible but require a complex interplay of different policy measures that fit hand in glove with measures needed to upgrade the industry as a whole. It would be useful to work with a few factories, producing detailed calculations to prove the business case for reducing overtime and show the pros and cons of 'lean manufacturing' / team work for employers and workers.