

# Legal workplace policies for drugs and alcohol in Turkey

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The widespread of individual and social problems related to substance use/abuse provoked the new approaches for workplace drug testing systems in the world. Workplace drug testing laws are constructed to protect the community from the consequences of drug use by workers. In Turkey, the legal arrangements on workplace drug testing exist in Turkish Penal Code, Turkish Labour Law, Workplace Physicians Regulations, Maritime Labour Law and Medical Examination Instructions in Highway Transportation. Although Turkey has made the initial attempts to develop homogeneous and reliable regulations for workplace drug testing, a detailed workplace policy for drug testing at workplace has still not been provided. An amendment has been done in the Regulations on Seafarers and a drug test (marijuana, cocaine, amphetamine like drugs and opiate) has been added into the routine tests to take a "Seafarer Health Report". Copyright © 2012 John Wiley & Sons, Ltd.

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## Introduction

Widespread individual and social problems related to drug use/abuse provoked new approaches for workplace drug testing systems in the world.<sup>[1]</sup> Workplace drug testing (WDT) is used by the employer to check if employees or job applicants are using drugs. Drug testing is a complex issue with scientific, social, and economic dimensions.<sup>[2]</sup> Drug use/abuse creates significant health hazards and can result in decreased productivity and poor employee morale. Employees with drug problems can be identified by their behaviour and work habits.<sup>[3]</sup> The adverse effects associated with the use/abuse of drugs such as performance problems, loss of coordination and sedation, slow reaction time, and absenteeism are undesirable in the working environment.<sup>[4]</sup> In general, the main stages of workplace drug testing are application of legal issues, specimen collection, laboratory testing, and interpretation of the results.<sup>[5]</sup> In Turkey, even though WDT is not well defined, it is increasingly being used in the criminal justice system and in sports. The main regulations on workplace drug use/abuse exist in the Turkish Penal Code, the Labour Law, Workplace Physicians Regulations and Transport System (highway and maritime).

## Main regulations on workplace drug use/abuse

### Turkish penal code

In Turkey, the legal arrangements for drug use/abuse are regulated by Articles 188 to 192 of the Turkish Penal Code (TCK) which was published and adopted in 2004. The articles describe the rules for purchasing, accepting, and carrying abused/illegal drugs for use. According to Article 191, any person who purchases, accepts, or carries addictive or relieving/exciting drugs for use can be punished with imprisonment from one to two years. Anyone who grows plants with relieving or exciting affect for his or her own use is punished according to the provisions of this subsection. Precautions are imposed for those who use abused/illegal drugs by forcing them to receive treatment in an institution where all their actions are kept under control

(controlled liberty). A specialist is assigned to guide the person under control in an institution. This specialist explains the harmful effects of drugs to the subject during the implementation period of said precautions. The court may adjudicate a prolonged control or observation period up to a maximum of three years. The punishment imposed on the addict due to purchase, acceptance or carrying of addictive or exciting drugs is executed if failed to act in conformity with the requirements of precautions seeking treatment and control of actions of the addict. If the subject person is allowed to benefit from the provisions relating to sincere repentance, the action filed against him is proceeded and punishment is imposed according to the final judgment.<sup>[6]</sup>

### Turkish labour law

The Labour Law provides for rights and obligations regarding working conditions and the work environment for employers and workers. It also regulates employer-employee relationships in Turkey. Article 84 of this law indicates the prohibitions of using alcoholic beverages and narcotics at work but it does not contain any information about drug testing.<sup>[7]</sup> According to Article 84, it is illegal for an employee to enter an establishment while drunk or under the effect of narcotics or to consume alcoholic beverages or to take narcotic substances on the premises.

### Workplace physician regulations

There is also a regulation in the occupational medicine for drug/substance use at the workplace. According to Article 22 of the Workplace Physician Regulations, the occupational healthcare

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personnel should educate individuals who have problems with drug abuse about the hazards related to substance abuse at the workplace. Unfortunately, this Article does not mention the requirements for a drug test in order to guide the employer in identifying workers who abuse drugs. Occupational physicians must have the ability to recognize the employees with drug problems based on a pre-employment clinical evaluation. In addition, according to Article 24 of the Workplace Physician Regulations, information about the patient must be kept as a physician's secret and can be disclosed only with the patient's permission, unless stipulated otherwise by another law.<sup>[8]</sup>

### Medical examination instructions in highway transportation

Drug/substance abuse is especially important in highway transportation. Turkey has a zero tolerance drug policy – it is forbidden to drive while under the influence of alcohol or drugs. The health conditions for driver applicants (Medical Examination Instructions) are regulated by the Ministry of Internal Affairs.<sup>[9]</sup> Article 91 states that a driving license will not be given to addicted people or those under the influence of alcohol. An applicant with alcohol and/or drug misuse/dependency is likely to be refused a driving license if he or she does not prove abstinence from alcohol or drugs.

A big step by the local government at Izmir was the introduction of a pre-employment drug testing as part of the clinical examination for professional drivers, including bus and taxi candidate drivers.<sup>[10]</sup>

### Sailors' regulations

In order to obtain the Sailor's Health Report, sailors have to successfully perform physical, medical, and psychiatric examinations. The medical examination must be performed by the physician and identifies the disabilities or diseases that can prevent the sailor from working at sea. The sailor's alcohol and substance abuse history is part of the psychiatric examination. The psychiatrist examines the sailor carefully to find signs for use of drugs from their behaviour and working habits. The Sailor's Health Report is not given to those with alcohol and substance abuse/addiction.<sup>[11]</sup> According to a new legislation (Article 8, Regulations on Sailors, 2011), a drug test for marijuana, cocaine, amphetamines, and opiates has been added to the routine tests in order to obtain the Sailor's Health Report, but the requirements and limitations for drug testing are not clearly identified.<sup>[12]</sup>

## Drug testing in Turkey

Establishing and maintaining confidence in the results of the laboratory is very important, especially in drug testing. The test result depends on a number of factors. To ensure a correct result, a whole chain of measures must be built up (known as a chain of custody), from the directives to the test, identity checks of those providing samples, transport and analysis, to the reporting of results, interpretation, and action. To monitor substance use, urine specimens are collected from the patients and the patient

is typically instructed to go to the laboratory designated by the government. Urine samples are screened for drugs using Cloned Enzyme Donor Immunoassay (CEDIA); positive screens are confirmed by gas chromatography-mass spectrometry (GC-MS) or liquid chromatography-mass spectrometry (LC-MS). The recommended cut-off levels for screening tests in urine are as the same as defined in the European guidelines.<sup>[5]</sup>

## Conclusion

Drug-related situations are health problems and therefore should be dealt with, without any discrimination, like any other health problems at work and should be covered by the healthcare systems (public or private). Drug testing at work is a complex interdisciplinary issue. Ideally, employers and workers should jointly assess the effects of alcohol and drug use in the workplace, and should cooperate in developing a written policy for their enterprise. WDT laws are constructed to protect the community from the consequences of drug use by workers. Harmonization of procedures should ensure equal treatment of workers all over the country. In Turkey, although there is no specific legislation and regulation on drug testing at the workplace, there are some initial attempts to develop homogenous and reliable regulations. The main regulations on workplace drug use/abuse exist in the Turkish Penal Code, Turkish Labour Law, Workplace Physicians Regulations, Maritime Labour Law, and Medical Examination Instructions in Highway Transportation. In Turkey, drug testing is mandatory only for sailors since February 2011. A detailed workplace policy has to be provided in Turkey with rules and solutions that address substance use/abuse. Moreover, harmonization of procedures must be done to ensure equal treatment of workers all over the country.

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