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The Eight Hour Day and the Problem of Overtime in Germany

by

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I

THE 8-hour day was introduced in Germany by Regulations dated 23 November and 17 December 1918 on behalf of the industrial worker, and by those dated 18 March 1919 on behalf of the salaried worker⁽¹⁾. The Regulations of 23 November 1918 covered industrial workers in all industrial undertakings, including mining; further, in all public services controlled by the Federal Government, the States, municipalities or groups of municipalities, even though not carried on for purposes of profit, and, finally, workers in all those occupations connected with agriculture which are of an industrial character. The normal working day exclusive of rest pauses may not exceed eight hours. In cases where there is an agreement between employer and employed to shorten the working day on Saturday afternoons and afternoons preceding holidays, the hours not worked on such days may be spread over the rest of the week.

In the case of transport undertakings and communications (which are interpreted to include railways, posts, and telegraphs) exemptions are allowed by agreement between the management and the workers' organisations. Exemptions are also provided for where the nature of an industry makes them necessary. For instance, in continuous-process industries or in those where the public interest demands Sunday service persons of male sex over 16 years of age may be employed for one shift of 16 hours once in the course of three weeks in order to ensure regularity of the shifts. With a view to making it possible to employ two shifts

⁽¹⁾ For the text of the Regulations of 23 November 1918 see *Reichsgesetzblatt*, p. 1334 (English translation in *Bulletin of the International Labour Office (Basle)*, Vol. XIII, p. 8). For text of the additional Regulations of 17 December of the same year see *Reichsgesetzblatt*, p. 1436 (translation in *Bulletin of the International Labour Office (Basle)*, Vol. XIV, p. 1). For text of the Regulations on the hours of work of salaried employees see *Reichsarbeitsblatt*, No. 65 (English translation in *Legislative Series* of the International Labour Office, 1919, Ger. 1).

of female workers it is made allowable in works running two or more shifts to employ female workers over 16 years of age up to 10 p.m. The regulations of the industrial code have, however, been expressly maintained, prohibiting the employment of women before 6 a.m., so that the only possible arrangement is to employ them in two shifts each lasting 8 hours inclusive of rest pauses, namely, from 6 a.m. to 2 p.m. and from 2 p.m. to 10 p.m. Another point to note is that the industrial inspectors (in the mining industry the mine inspectors) have powers to permit exemptions in continuous-process undertakings or in those where the public interest makes a continuous service necessary, but on condition that the requisite number of workers cannot be obtained. The same condition is essential when employers are allowed to disregard factory regulations for industrial workers by agreement between themselves and their organised workers or workers' committees.

The supervision and application of these regulations is in the hands of the industrial and mining inspectors.

Finally, it is laid down that the restrictions contained in the Regulations shall not apply to urgent emergency work.

With a view to providing against any unforeseen contingencies arising out of the period of economic reconstruction, the demobilisation commissioners were empowered by additional Regulations dated 17 December 1918 to allow further exemptions on the recommendation of the industrial inspectors, provided that such exemptions shall be urgently required in the public interest, and more especially provided that they shall be necessary to the smooth carrying out of industrial reconstruction, to the prevention of unemployment, or to safeguarding the public food supply. Copies of the permits thus granted must be communicated by the demobilisation commissioners to the Demobilisation Office (now replaced by the Federal Ministry of Labour). The Minister is thus constantly informed of permits issued up to date and can intervene if not satisfied as to the reasonableness of any one of them.

The Regulations concerning the hours of work of salaried employees are drawn up on very similar lines to those regulating the hours of work of industrial workers. A discussion of them may therefore be omitted. The two sets of Regulations came into force as soon as issued. They are still valid, as the Bill for the regulation of the working hours of industrial employees, which has been before the Federal Economic Council since October of last year, is still under discussion.

The 8-hour day has now been in force in Germany for over three years and a half. A study of the annual reports of the factory inspectors, who supervise the application of the legislation, reveals the extent to which exemptions have been permitted, as all such exemptions are uniformly grouped under a single heading. Given this basic information from official sources, there is no difficulty in calculating the amount of overtime worked in Germany, a process not without significance in view

of the repeated assertion that the 8-hour day is not maintained in Germany, but is made largely ineffective by constant grants of exemptions.

The results show that during the year 1920 overtime was permitted in the case of, roughly, 116,000 adult male workers, 78,000 female workers, and 4,000 young persons—a total of 198,000. According to the annual reports of the inspectors, the 300,000 active industrial undertakings in the country during 1920 employed a total of 7,000,000 persons, i.e. 5,000,000 males over 16 years of age, 1,500,000 females over 16 years of age, and 500,000

TABLE I. NUMBER AND PERCENTAGE OF PERSONS WORKING OVERTIME ON AUTHORISED EXEMPTIONS, ACCORDING TO INDUSTRIAL GROUPS, 1920

Industry	Number of establishments in which exemptions authorised	Number of workers in such establishments				Number employed overtime in such establishments							
		Men	Women	Young persons (%)	Total	Men		Women		Young persons (%)		Total	
						Number	Per cent.	Number	Per cent.	Number	Per cent.	Number	Per cent.
Mining, smelting, salt works, peat cutting	451	81,447	4,692	4,020	86,838	6,407	7.5	361	24.4	221	5.5	6,689	7.7
Stone and earth (quarrying)	736	23,279	5,947	1,279	30,505	16,370	70.3	2,475	41.6	306	23.9	19,151	62.8
Metal working	399	28,819	12,484	3,636	44,939	7,829	27.2	4,967	39.8	239	6.6	13,035	29.0
Machinery, tools, instruments, apparatus	450	75,550	8,812	5,452	89,814	18,345	24.3	2,314	26.3	681	12.5	21,340	23.8
Chemicals	38	3,052	2,292	126	5,470	649	21.3	824	36.0	4	3.2	1,477	27.0
Forestry, by-products, fats, oils, varnishes	39	1,160	854	60	2,074	296	25.5	601	70.4	15	25.0	912	44.0
Textiles	700	33,843	55,748	5,307	94,898	16,887	49.9	31,475	56.5	1,669	31.4	50,031	52.7
Paper	176	6,004	8,175	1,462	15,638	2,787	46.4	5,459	66.8	277	18.9	8,523	54.5
Leather and allied industries	79	5,404	2,468	332	8,204	1,118	20.7	1,061	43.0	59	17.8	2,238	27.3
Wood working	484	12,800	3,798	1,036	17,634	6,770	53.0	2,260	59.5	99	9.4	9,438	51.8
Food and drink	1,030	43,861	25,466	1,812	70,839	31,035	70.8	16,980	67.5	435	24.0	48,450	68.4
Clothing	369	3,731	8,827	875	13,433	1,953	52.3	6,001	68.0	163	18.6	8,117	60.4
Laundry and cleaning	65	330	1,283	79	1,692	200	60.6	1,096	83.4	6	7.6	1,302	77.0
Building, including timber yards, etc.	417	2,492	40	61	2,563	2,068	83.0	4	40.0	24	39.3	2,096	81.8
Printing and allied industries	412	6,797	4,498	837	12,132	2,030	29.9	1,628	36.2	48	5.7	3,706	30.5
Miscellaneous industries	73	1,367	440	62	1,839	1,412	81.3	315	76.8	16	23.8	1,443	78.5
Total	5,048	329,603	142,464	26,465	498,532	115,565	35.1	77,821	54.6	4,262	16.1	197,648	39.6
Total for 1919	6,074	261,538	69,454	17,382	348,374	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)

(1) 16 years and under.

(2) Not reported.

young persons between 14 and 16. Moreover, as the permits normally run only for a few days, it is safe to assume that the average duration of overtime worked by each person coming under an overtime permit was not over 30 hours per year. The total number of hours of overtime worked, therefore, would not exceed 5,940,000; in other words, taking the whole number of persons employed in 1920, the average amount of overtime worked per person would be 0.85 hours per year. It must, therefore, be conceded that the amount of overtime permitted has been relatively very small.

Any analysis of table I must bear in mind the fact that in Germany every hour of overtime worked outside the scheduled hours requires a permit. For instance, if the scheduled working week is one of 45 hours, a permit is required even to increase it to the statutory limit of 48 hours. Again, many permits are issued but not used, though it is also true that overtime is worked without a permit, as appears from the reports and occasionally from the imposition of fines. The inspectorate, however, where it has expressed an opinion, holds the view that the figures give a fairly correct idea of the amount of overtime worked.

TABLE II. NUMBER OF OVERTIME AUTHORISATIONS GRANTED, BY INDUSTRIAL GROUPS, 1920

Industry	Number of establishments in which exemptions authorised	Number of authorisations granted					Number granted by		Number of authorisations refused
		1 hour and less	1-1 1/2 hours (including 1 1/2 h.)	1 1/2-2 hours (including 2 hours)	Over 2 hours	Total authorisations	Disability-commissioner	Industrial inspector	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Mining, smelting, salt works, peat cutting	451	8	8	49	29	94 ⁽¹⁾	47	47 ⁽¹⁾	9
Stone and earth (quarrying)	736	75	32	589	64	760	498	278	46
Metal working	399	80	77	282	31	470	349	152	47
Machinery, tools, instruments, apparatus	450	136	81	297	32	546	353	193	52
Chemicals	38	6	10	25	5	46	33	13	8
Forestry, by-products, fats, oil, varnishes	39	7	5	24	7	43	28	16	3
Textiles	700	324	463	377	35	899	598	302	74
Paper	176	47	28	146	25	246	137	80	17
Leather and allied industries	79	25	20	48	5	98	73	25	14
Wood working	484	123	95	319	35	572	239	337	81
Food and drink	1,030	400	37	462	330	929	682	252	61
Clothing	399	109	72	481	13	375	205	169	56
Laundry and cleaning	65	17	6	37	8	68	46	22	9
Building, including timber yards, etc.	117	12	8	98	5	123	52	74	36
Printing and allied industries	142	38	43	76	23	150	81	68	18
Miscellaneous industries	73	6	16	55	6	83	45	38	39
Total	5,048	1,413	671	3,035	653	5,472	3,436	2,066	576
Total for 1919	6,071	1,032	273	3,108	633	5,046	2,838	2,208	1,151

(1) The figures in columns (2) to (6) do not absolutely agree with those in columns (7) and (8). The inconsistencies are due to the original figures supplied by the industrial inspectors, and arise out of some overlapping of work, two independent authorities sometimes sending in returns for the same undertaking.

More overtime was worked in 1921 than in 1920. The number of permits issued rose from 5,502 to 16,385. Exact figures are given in the report from Saxony. The number of workers in Saxony totals over 800,000 and the whole amount of overtime licensed was 4,000,000 hours; of this 1,700,000 hours were licensed for the principal industry in the State, namely, the textile and clothing industry, employing about 260,000 workers, of whom about 70,000 worked overtime. This gives an average of 24 hours overtime per worker per year. As the scheduled working week is only a 45-hour week, and as the workers are entitled under the terms of collective agreements to a holiday lasting three to

six days, calculation shows that the whole amount of overtime worked could have been disposed of if a 48-hour week had been substituted for the 45-hour week for two months of the year only, or if the holiday days had been sacrificed.

The figures supplied by the inspectors' reports are confirmed by two careful and independent enquiries. The first of these was undertaken by the General Federation of German Trade Unions⁽²⁾, on the suggestion of certain unions in other countries. When demanding the introduction of the 8-hour day in their own country and quoting the example of Germany, trade unionists in other countries are often told that the 8-hour day in Germany is mere pretence, the real truth being that the average working day in Germany is 10 or 12 hours or often longer. The officers of the General Federation, therefore, recently instituted enquiries both into time wage-rates as laid down in collective agreements, and into the length of the working day applying to certain different groups of employees in 22 occupations and in 29 different localities. The choice of localities covered all parts of the country

TABLE III. NUMBER OF WORKERS HAVING SPECIFIED HOURS OF WORK PER WEEK, BY OCCUPATIONS, 1921

Occupation	42 hours	44 hours	Over 44 hours and under 46 hours	46 hours	Over 46 hours and under 48 hours	48 hours	Total
Miners	216,354	—	28,508	—	—	36,278	281,140
Metal workers	—	—	—	160,927	201,886	180,079	542,892
Building trades	—	—	—	—	—	—	—
Navvies	—	2,378	2,461	2,700	11,896	12,329	31,764
Bricklayers	—	3,235	21,159	5,650	27,998	33,747	91,759
Masons	—	135	410	90	1,300	2,938	4,873
Carpenters	—	703	7,500	327	7,194	6,440	22,164
Painters and decorators	—	1,992	4,008	510	178	16,421	23,109
Wood workers	—	—	—	43,866	1,840	1,117	46,823
Leather workers	—	—	—	2,305	—	10,490	12,795
Boot and shoe workers	—	—	—	—	13,337	41	13,378
Tailors	—	—	—	—	—	36,338	36,338
Printing trade	—	—	—	—	—	—	—
Book printers	—	—	—	—	—	37,805	37,805
Book binders	—	—	—	—	—	21,067	21,067
Lithographers	—	—	—	—	8,011	—	8,011
Food trades	—	—	—	—	—	—	—
Millers	—	—	—	—	—	5,147	5,147
Bakers	—	—	1,556	7,405	—	4,688	13,649
Workers in brewery trade	—	—	—	—	—	20,953	20,953
Workers in spirit distilleries	—	—	—	—	—	1,099	1,099
Transport	—	—	—	—	—	18,883	18,883
Dockers	—	—	—	—	—	13,257	13,257
Workers in commercial undertakings	—	—	—	—	—	29,096	29,096
Workers in municipal services	—	—	—	—	—	113,384	113,384
Total	216,354	8,443	65,602	223,780	273,640	601,594	1,389,413

(2) *Allgemeiner Deutscher Gewerkschaftsbund.*

and every type of locality. On the basis of the results obtained from these enquiries the General Federation drew up a conspectus of the length of the working day in the different occupations considered. The outcome is that, of 1,389,413 persons employed, 601,594 were found to have a regular working week of 48 hours and 787,819 one of under 48 hours. Table III shows the length of the working week for each occupation.

In view of these figures the General Federation of German Trade Unions emphatically protests against the statement that the 8-hour day in Germany is a mere sham. The Federation draws attention to the fact that the maximum 8-hour working day is not only fixed by Regulations, but is incorporated in a very large number of collective agreements, that overtime is strictly limited, and that every attempt to extend it is energetically opposed by the trade unions. The Federation maintains that, even if it has not been possible wholly to abolish overtime and the evils to which it gives rise, yet there can be no doubt that the 8-hour day has been established in Germany.

The second enquiry was undertaken by a Commission sent by the Government of the Netherlands. The Netherlands employers were constantly demanding permission to work overtime on a great scale and supporting their demand by the statement that similar industries in Germany were working 10, 11, or 12 hours per day or longer. The report issued by the Commission has already been reprinted in this *Review* in a previous article, to which readers are referred (3). I only quote part of the conclusions reached by the Commission. These were as follows.

(1) With certain exceptions . . . the normal working week . . . does not exceed 48 hours, being thus at the outside 3 hours longer than that in force in the Netherlands. In certain important industries, however, these hours have been reduced by collective agreement by an amount varying from $1\frac{1}{2}$ to 3 hours. . .

(2) The total number of hours worked per week . . . is in certain German industries twice, and even three times, as high as in the Netherlands, owing to the fact that the two and three shift systems for adult male workers are subject to no restriction in Germany and are not even opposed by the workers.

(3) During the last quarter of 1921, owing to a rush of orders . . . industrial activity increased considerably, thereby . . . forcing certain industries to work 5 to 10 hours' overtime per week more or less regularly. The general opinion is, however, that this overtime will automatically disappear. . .

(4) As a general rule, no authorisation of overtime is granted in order to reduce cost of production. . . .

(5) In practice German legislation affords heads of undertakings more freedom than the Dutch Act. . . . It should, however, be noted that in Germany the statutory representation of the workers in each establishment by a works council forms a guarantee against abuse. . . .

II

It is impossible in the face of these enquiries to continue to maintain that the 8-hour day has not been established in Germany.

(3) *International Labour Review*, Vol. V, No. 5, May 1922, pp. 784-798.

At the same time not a few questions have been asked as to why Germany failed to ratify the Washington Draft Convention on the 8-hour day. I can only draw attention to the fact that the German Government recommended to the Provisional Economic Council and to the Federal Council acceptance of all the Washington Draft Conventions, with the sole exception of the Maternity Convention, in January 1921, and submitted the text of a Bill to that effect. The Economic Council passed a resolution in favour of accepting all the Conventions including the Maternity Convention. The Federal Council has so far not taken any action. Germany had not taken part in negotiations which preceded the drawing up of the Draft Conventions, and, as there was some doubt as to the interpretation and application of certain clauses, the Government recommended to the Federal Council to delay action until the text of a Bill to regulate working hours could be prepared. The original assumption that this text would be ready by the end of 1920 had long since proved out of the question. The negotiations with various federations and the incorporation of the necessary amendments had taken a very long time, so that eventually the text was not submitted to the Economic Council until August of last year. The Economic Council desires to discuss this Bill simultaneously with another Bill on the hours of labour of salaried employees. This means more delay. However, it is to be hoped that discussions will now soon be resumed.
