

Statement of interpretation on Article 2§1

This paragraph, like Article 1-1, lays down provisions that are dynamic in character. Nevertheless, the Committee was aware of the limits to change in this direction, particularly in connection with the fixing of the length of the working week, since the current tendency for the 5-day, 40-hour week to become general is already giving rise to new social problems, such as those of the use of leisure time, etc.

When it came to study the first reports submitted by governments, the Committee felt that it should first determine the number of working hours which might be considered "reasonable" in the eighteen member States of the Council of Europe. It found that what could be thought reasonable under the Charter varied from place to place and from time to time, depending on productivity and other factors. It was therefore out of the question for the Committee to lay down a number of daily or weekly working hours which might be considered reasonable in absolute terms. Nevertheless, in certain particular cases it was able to conclude that the number of hours worked could be considered reasonable.

The Committee also acknowledged that, in order to judge whether a State really fulfilled its obligations under this provision, it was not enough to consider the number of working hours laid down by law in that State. Account had also to be taken of the effect of collective agreements.

The nature and extent of an employer's right to require overtime to be worked was also, in the Committee's opinion, an important factor in any such assessment.

The Committee furthermore emphasised that Article 2-1 laid a special obligation on those Contracting States bound by it in which the overall employment situation was marked by the presence of a relatively high number of unemployed persons.