MINISTERS' DEPUTIES | Resolutions | **CM/ResCSS(2024)15** | 10 July 2024

Resolution CM/ResCSS(2024)15
on the application of the European Code of Social Security
by Romania
(Period from 1 July 2022 to 30 June 2023)

(Adopted by the Committee of Ministers on 10 July 2024
at the 1504th meeting of the Ministers' Deputies)

The Committee of Ministers,

In the exercise of the functions conferred upon it by Article 75 of the European Code of Social Security (hereinafter referred to as the "Code") and with a view to supervising the application of this instrument by the Contracting Parties;

Whereas the Code, opened for signature on 16 April 1964, entered into force on 17 March 1968 and since 10 October 2010 has been binding on Romania, which ratified it on 9 October 2009;

Whereas, when ratifying the Code, the Government of Romania stated that it accepted, in addition to the parts which must be applied by every Contracting Party (Parts I, XI, XII, XIII and XIV), the following parts of the Code:

– Part II on "medical care",
– Part III on "sickness benefit",
– Part V on "old-age benefit",
– Part VII on "family benefit",
– Part VIII on "maternity benefit";

Whereas, in pursuance of paragraph 1 of Article 74 of the Code, the Government of Romania submitted its 12th annual report on the application of the Code, as modified by the Protocol, for the period from 1 July 2022 to 30 June 2023;

Whereas, in accordance with paragraph 4 of Article 74, that report was examined by the ILO Committee of Experts on the Application of Conventions and Recommendations, at its 94th meeting in November and December 2023;

Whereas, when Contracting Parties are invited to submit annual reports under the Code and its Protocol, if the country has ratified one or more of ILO Convention Nos 102, 121, 128 or 130, copies of the relevant reports may be used in order to report on the Code provided that, where necessary, they are completed by any other information requested in the form;

Whereas, at the 133rd meeting of the Governmental Committee of the European Social Charter and the European Code of Social Security (9-13 May 2016), the ILO representative presented the ILO's approach to assisting governments in fulfilling their reporting obligations by bringing together information on social security provisions in national reports under the Code and relevant ILO treaties, including the above-mentioned ILO conventions, into one "consolidated report" to be updated by the government, with a view to ensuring consistency;

Recalls that the ILO Conclusions on the application of the Code and its Protocol for the period 1 July 2022 to 30 June 2023 were transmitted to the government representatives of the Contracting Parties in view of the adoption of the draft resolutions on the application of the Code and its Protocol at the 148th meeting of the Governmental Committee, 13-17 May 2024;

Recalls that the information which the government is requested to provide in its next report (due by 31 July 2024) for the period 1 July 2023 to 30 June 2024, will be examined by the ILO Committee of Experts at its next meeting in November/December 2024;

Notes:

I. concerning Part V (Old-age benefit), Article 28 of the Code, Replacement rate of pensions, the Committee of Ministers notes that the government calculates in its report the replacement rate of an old-age pension by comparing the pension attained in 2022 after a full contributory period of 35 years (1,586*1.25 = 1,983 RON) with the net wage (4,751 RON) of a skilled manual male employee of the same year determined in accordance with Article 65(6)(c) of the Code, which results in a replacement rate of 41.7%. The Committee of Ministers recalls once again that the Government calculates the replacement rate of an old-age pension based on a full contributory period of 35 years, pursuant to article 53(3) of the Law No. 263 of 16 December 2010, while according to Article 29(1) of the Code, the old-age pension of a standard beneficiary should be calculated on the basis of 30 years only. In this regard, the Committee of Ministers observes that, in 2022, a standard beneficiary determined in accordance with the Code was entitled to an old-age pension equal to 30/35 of the full pension, i.e. 1,586 * 30/35*1.25 RON (= 1,699 RON) and thus to a replacement rate of (1,699 RON/4,751 RON =) 35.76%, which is below the minimum level of 40% set out in the Schedule to Part XI of the Code;

II. concerning Part XII (Common provisions), Article 70(2) of the Code, Collective financing of benefits, the Committee of Ministers previously noted that section 42 of the Government Emergency Ordinance No. 79/2017 of 8 November 2017 for amending and completing Law No. 227/2015 regarding the Fiscal Code determined the contribution rates to be borne by employees for the pension insurance for 2018 and 2019 at 25% of their gross salary, whereas employers have to pay social insurance contributions only in case of difficult or special working conditions at a rate of 4% and 8% of the payroll, respectively. Regarding the health insurance, the Committee of Ministers noted that section 69 of the Government Emergency Ordinance states that "the share of the social health insurance contribution is 10% and is due by the natural persons who are employed or for whom there is the obligation to pay the social health insurance contribution, according to the present law". It further noted that employers were obliged to pay a contribution of 2.25% of the payroll for labour insurance providing, *inter alia*, for cash sickness and unemployment benefits and benefits in case of employment injury;

The Committee of Ministers also noted the government's indication that the reform, resulting in the changes of the contribution rates, pursued the aim of simplifying the system of administration and collection of contributions, and that the increase of the contribution rate at the expense of employees had been accompanied by fiscal compensatory measures preventing that, as a result of the reform, employees experience a reduction of their net income. However, the Committee of Ministers also observed that the figures presented by the government did not demonstrate that the total amount of the contributions borne by employees under the new rules remained below the 50% of the total costs of the benefits received by insured employees and their wives and children, as required by Article 70(2) of the Code;

The Committee of Ministers notes the government's reply that no normative acts have been adopted to modify the level of compulsory social security contributions payable by employees and employers. The Committee of Ministers further notes the figures for 2022 provided by the government regarding the total amounts of contribution revenues and expenses of the State Social Insurance and the Health Insurance Fund, which show that, as in the year before, the biggest part of expenses is covered by contributions, mainly paid by employees. The Committee of Ministers therefore notes that the above-mentioned provisions governing the financing of social insurance benefits in Romania are still not in compliance with Article 70(2) of the Code which requires that the total of insurance contributions borne by the employees protected shall not exceed 50% of the total of financial resources allocated to their protection and the protection of their family members;

III. concerning Part XIII (Miscellaneous provisions), Article 74(1) of the Code, Consolidated reporting on the Code, the Committee of Ministers thanks the government for reviewing and updating the consolidated report which greatly facilitated the understanding of the particularities of the Romanian social insurance system;

Finds that law and practice in Romania continue to give effect to Parts II, III, VII and VIII of the Code, and that they also apply Part V, subject to further increasing the replacement rate of old-age pensions;

Decides to invite the Government of Romania:

I. concerning Part V (Old-age benefit), Article 28 of the Code, Replacement rate of pensions, to take the necessary measures to ensure a replacement rate of old-age benefit of at least 40% of the reference wage for a standard beneficiary after 30 years of contribution, as specified in Article 29, in conjunction with Article 65 and the Schedule to Part XI of the Code. It also invites the Government to provide calculations of the replacement rate attained in the year 2023 after 30 years of contribution in accordance with Article 29(1)(a) of the Code;

II. concerning Part XII (Common provisions), Article 70(2) of the Code, Collective financing of benefits, to take the necessary measures to rebalance the respective shares of social insurance contributions borne by employers or the State, on the one hand, and by employees, on the other, with a view to bringing the provisions of the Fiscal Code into compliance with Article 70(2) of the Code in this respect.