



International
Labour
Office



THE STATE OF APPLICATION OF THE PROVISIONS
FOR SOCIAL SECURITY OF THE INTERNATIONAL
TREATIES ON SOCIAL RIGHTS RATIFIED BY

Romania

ILO
TECHNICAL
NOTE

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The information and data contained in the Technical Note is taken from the Government reports, on-line databases of the National Statistical office, official web-sites of the government departments, MISSCEO, MISSOC, SSI, ILOSTAT and EUROSTAT.

List of international abbreviations:

CAS	Committee on the Application of Standards, International Labour Conference
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
COE	Council of Europe
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECSR	European Committee of Social Rights
ECSS	European Code of Social Security
ESC	European Social Charter
EU	European Union
EUROSTAT	Statistical Office of the European Union
GC	Governmental Committee of the European Social Charter and European Code of Social Security
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILS	International Labour Standards
IMF	International Monetary Fund
MISSEO	Mutual Information System on Social Protection of the Council of Europe
MISSOC	Mutual Information System on Social Protection
OECD	Organisation for Economic Co-operation and Development
SSI	Social Security Inquiry

*CHAPTER I. Adequacy of social security
benefits: income and poverty indicators and
standards*

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Country profile by Eurostat indicators, National indicators and ILO minimum standards

<u>Eurostat</u>	EU-Avg 2013	2005	2012	2013	2014
At-risk-of-poverty threshold (40%, single person)	€ 462.3		€ 70.5	€ 68.8	€ 73.2
At-risk-of-poverty threshold (50%, single person)	€ 577.8		€ 88.2	€ 86.1	€ 91.5
At-risk-of-poverty rate - 50%, before social transfers	19.5%		21.8%	21.2%	22.8%
At-risk-of-poverty rate - 50%, after social transfers	10.2%		16.5%	16.3%	19.1%
At-risk-of-poverty rate for children under 18 y.o. - 50% thrd	12.4%		26.7%	24.3%	31.2%
In-work poverty rate - 50% threshold	5.2%		14.4%	13.3%	15.3%
At-risk-of-poverty rate for pensioners - 50% threshold	6.0%		5.8%	6.4%	7.4%
Aggregate replacement ratio	55%		67%	65%	64%
Severe material deprivation (% of total population)	9.6%		29.9%	28.5%	26.3%
Persistent at-risk-of-poverty rate - 50% threshold	5.2%		13.0%		
Social protection expenditure as % of GDP	25.0%	13.5%	15.6%		
Gini coefficient before social transfers	36.1%		36.2%	37.0%	37.7%
Gini coefficient after social transfers	30.5%	31.0%	33.2%	34.0%	34.7%

<u>National indicators</u>			
Guaranteed minimum income	€ 30.6	RON 141.5	2013, The Department of Community Assistance
Social reference indicator	€ 112.7	RON 500.0	2013, MISSOC
Minimum wage	€ 179.9	RON 800.0	2013, The Government Decision no. 23 of January 22
Minimum pension	€ 90.9	RON 400.0	2015, Government Report on the ECSS 2015
Average wage	€ 508.6	RON 2240.8	2013, The National Institute of Statistics
Average pension	€ 182.7	RON 811.0	2013, The National Institute of Statistics

<u>Government Report under the ECSS submitted in 2015</u>				
Standard benefits amounts for Parts III, VII and VII to be provided in the detailed report 2016.				
The standard benefit amount for Part V has been updated :				
Reference wage of skilled worker	<u>Article 65-6c:</u> Skilled manual male employee whose earnings are 125% of the average earnings of all protected persons	€ 652.8	RON 2872.5	2015
Standard old-age pension	<u>Skilled worker</u>	€ 202.2	RON 889.5	2015
Replacement rate Man with wife of pensionable age			31.0%	2015

Fig. 1. Income and poverty- single person, 2013

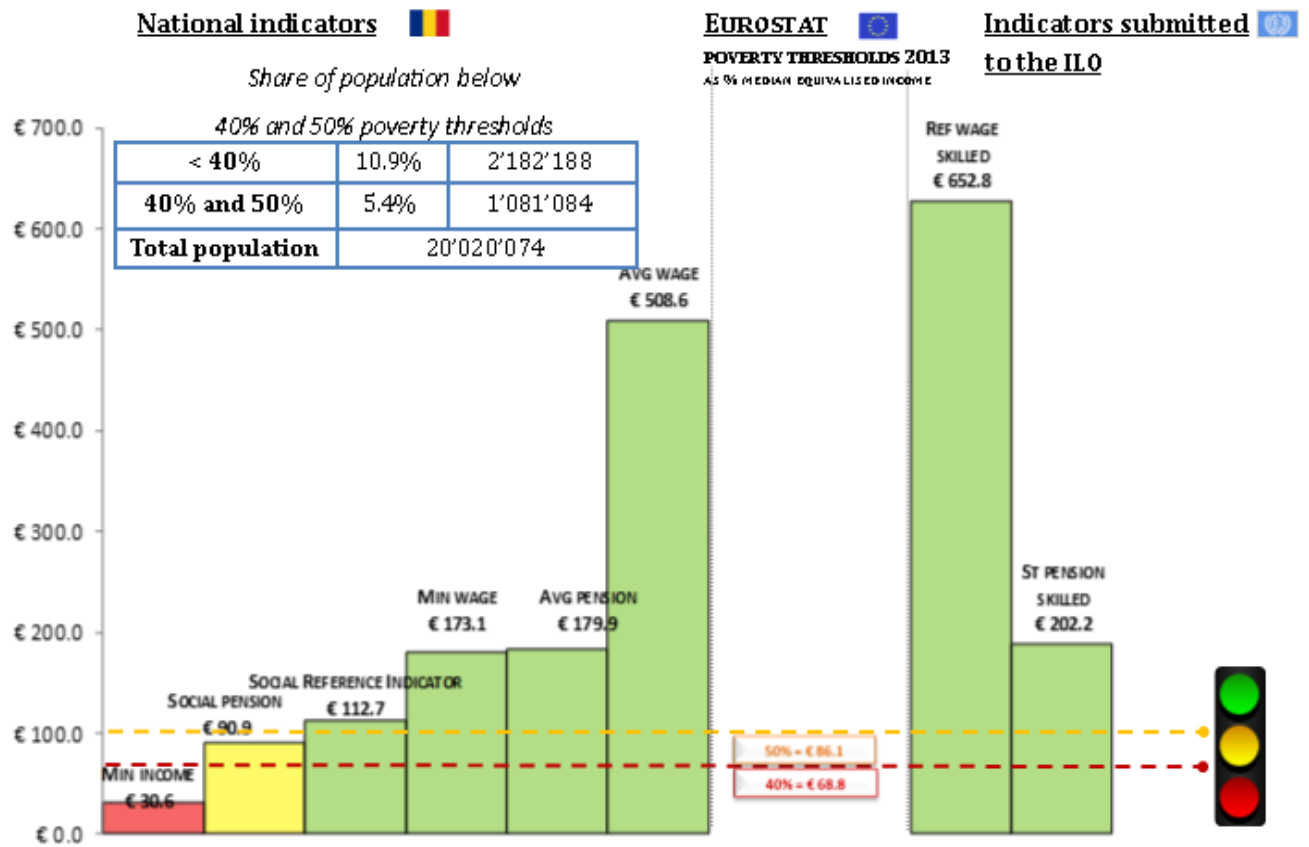


Fig. 2. Structure of population in poverty (Eurostat poverty thresholds of 60%) by the most frequent employment status, 2013

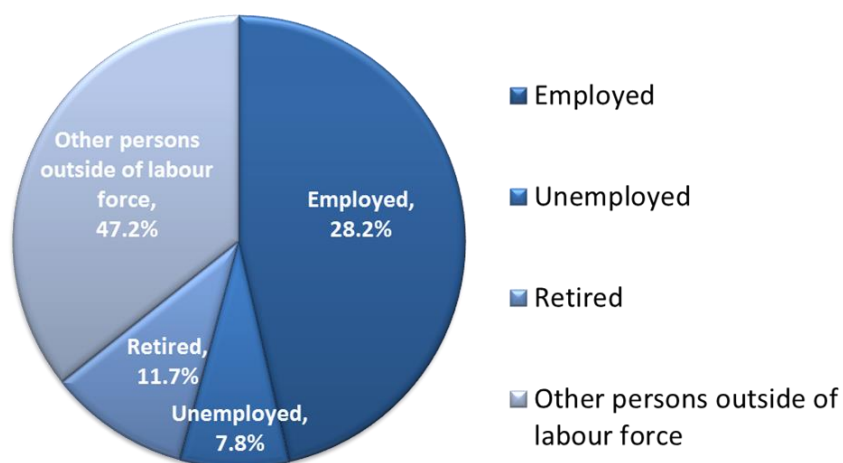
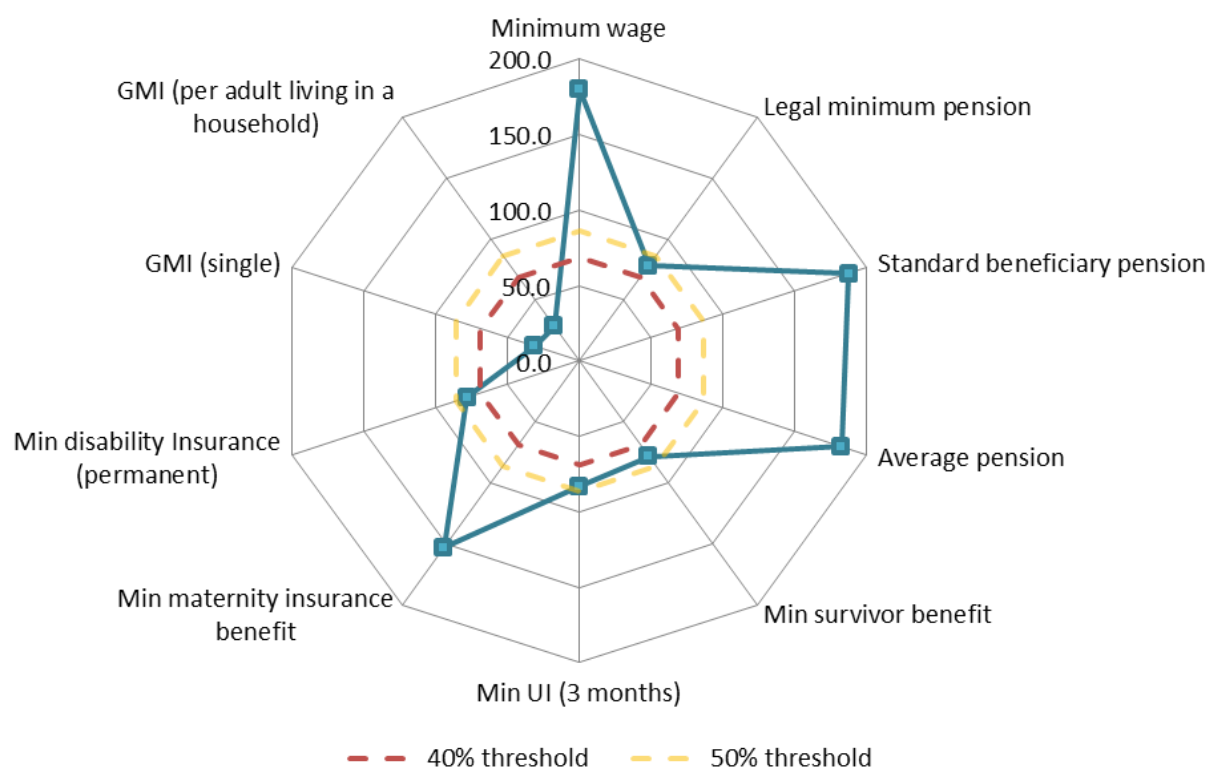
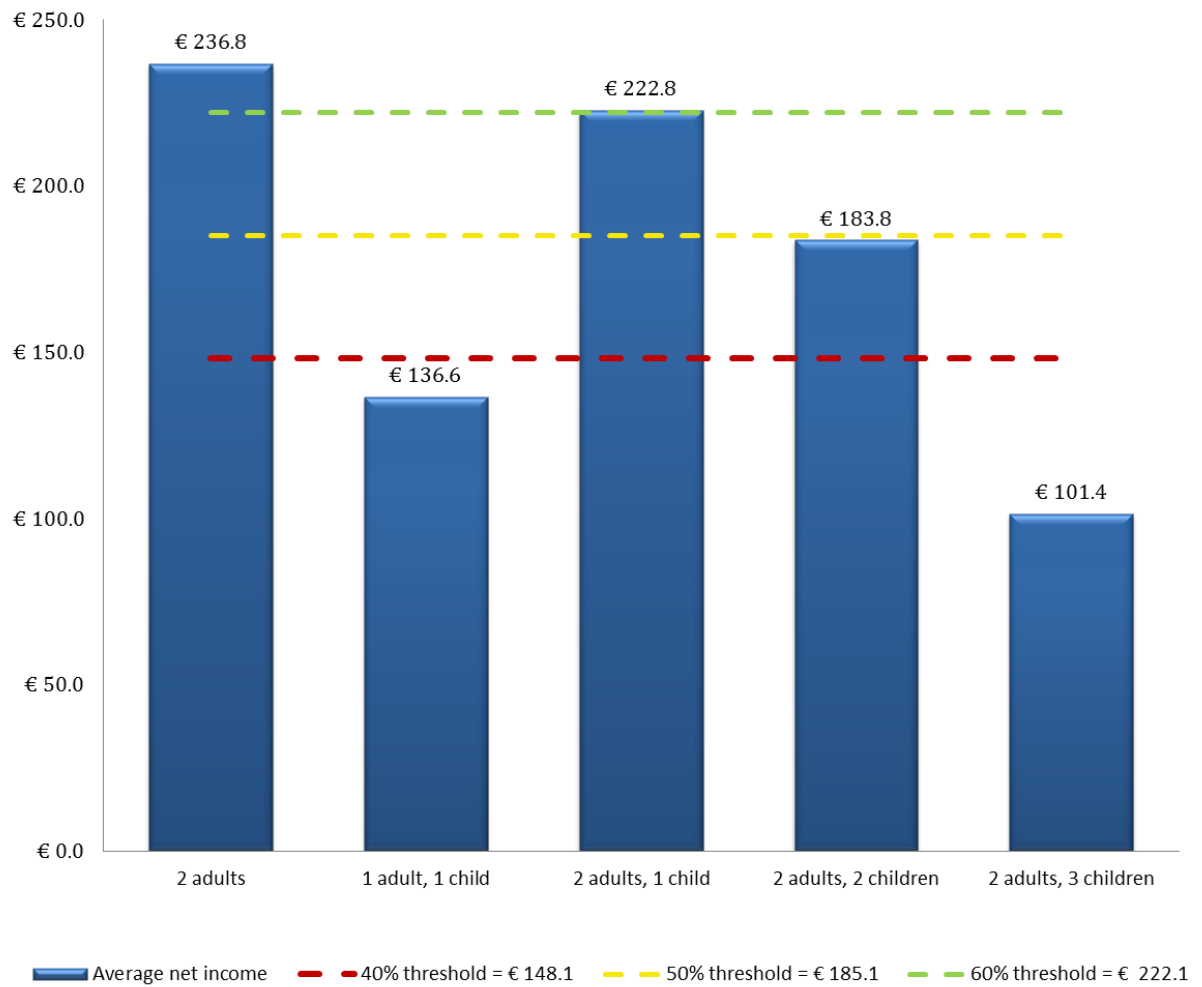


Fig. 3. Social benefits in comparison to Eurostat 40% and 50% poverty thresholds, 2013



Benefits/payments	Amount per month	Sources
Minimum wage	€ 179.9	The Government Decision no. 23 of January 22, 2013
Legal minimum pension	€ 78.0	MISSOC, 2014
Standard beneficiary pension	€ 187.9	Pension for average case worker, Government Report 2014
Average pension	€ 182.7	The National Institute of Statistics, 2013
Survivor benefit	€ 78.0	MISSOC, 2014
Unemployment insurance benefit (UI - 3 months)	€ 83.3	SSA, 2011-2012
Maternity insurance benefit	€ 152.9	SSA, 2011-2012
Disability Insurance (permanent)	€ 78.0	MISSOC, 2014
GMI (single)	€ 31.4	MISSOC, 2014
GMI (per adult living in a household)	€ 28.3	MISSOC, 2014
At-risk-of-poverty threshold, 40%	€ 68.8	Eurostat, 2013
At-risk-of-poverty threshold, 50%	€ 76.1	Eurostat, 2013

Fig. 4. Income and poverty indicators by type of household, 2012



(at-risk-of-poverty thresholds for the household with 2 adults and 2 children)

Household composition:	Average net income	At risk of poverty rate (60% threshold)
2 adults	€ 236.8	11.5 %
1 adult, 1 child	€ 136.6	39.8 %
2 adults, 1 child	€ 222.8	18.7 %
2 adults, 2 children	€ 183.8	27.2 %
2 adults, 3 children	€ 101.4	59.8 %

Fig. 5. Comparison of monthly wages and pensions (40% replacement rate) to the Eurostat thresholds in 2013-2014, by decile

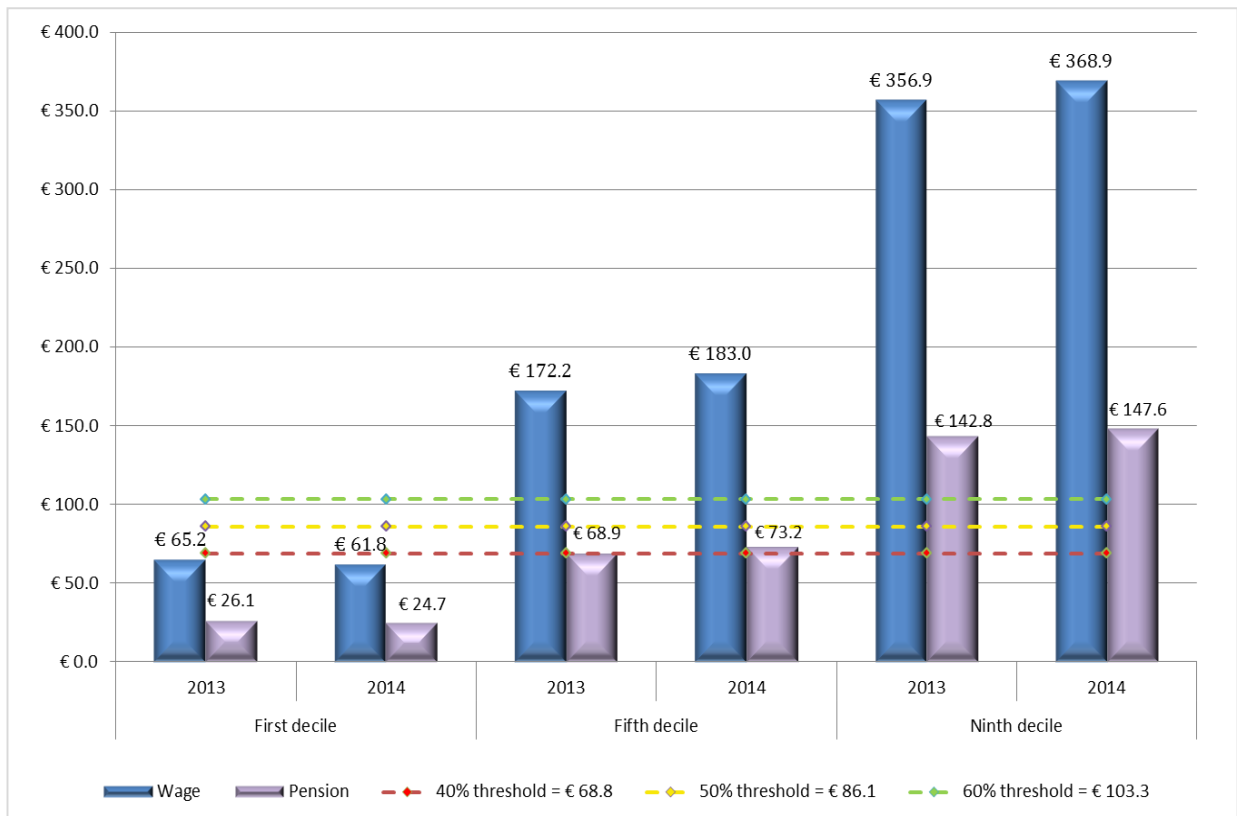


Fig. 6. Test on precarious employment: share of employed population by different job security situation, as % of total employment, 2012

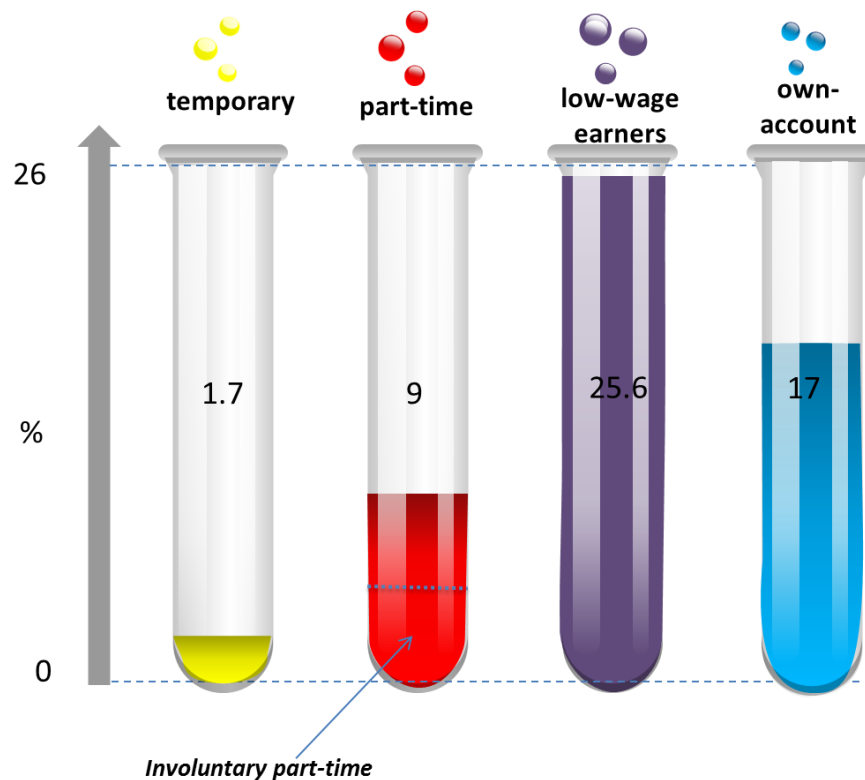
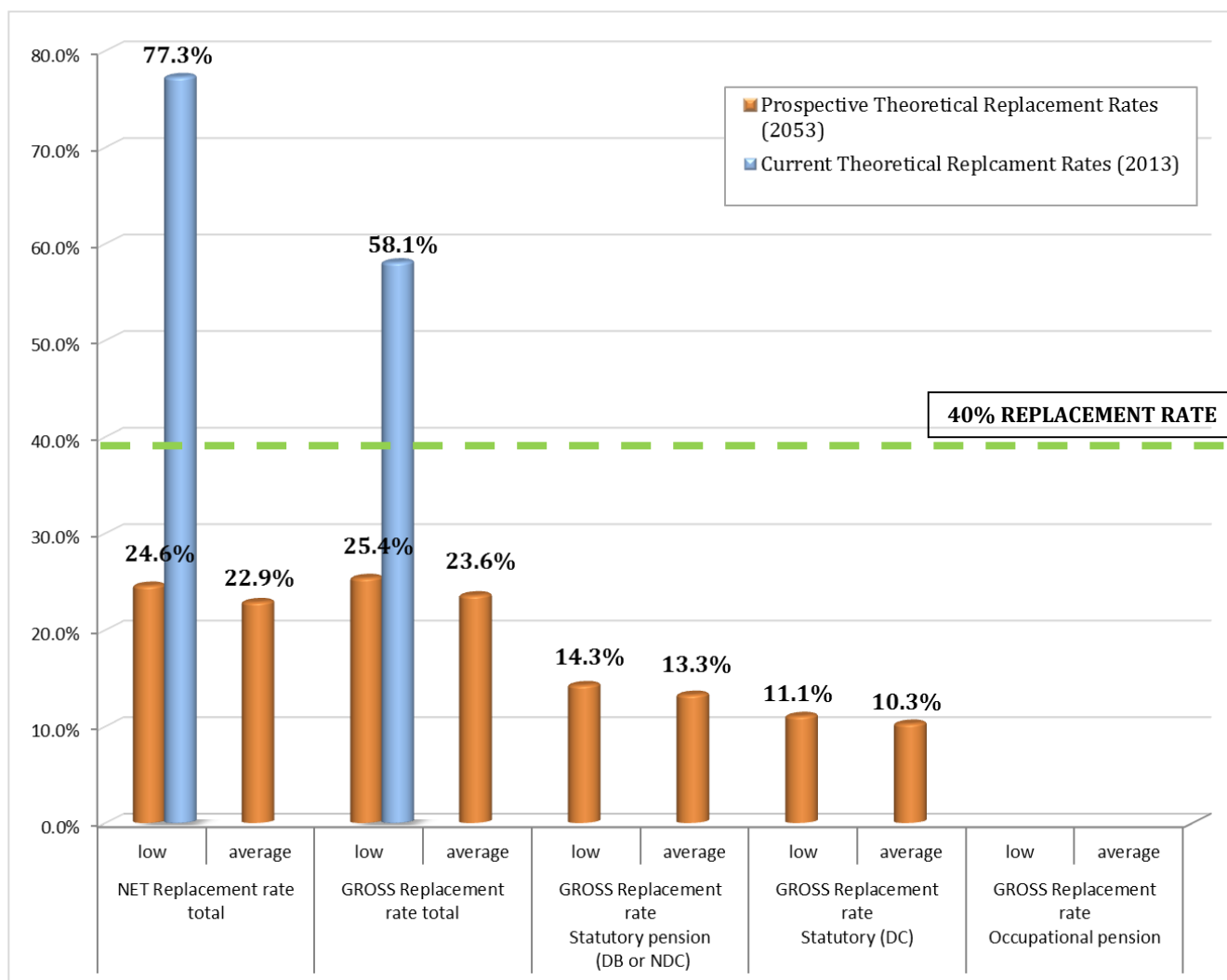


Fig. 7. Theoretical Replacement Rates for low and average wage earners, retiring in 2053 at statutory pension age (67) with 30 years of contributions between 2013 and 2053



**Male, 20 years work from age 25 - career break until 10 years prior to SPA - 10 years work.
10 years of career break in the middle of the career**

	NET Replacement rate total		GROSS Replacement rate total		GROSS Replacement rate Statutory pension (DB or NDC)		GROSS Replacement rate Statutory (DC)		GROSS Replacement rate Occupational pension	
	low	average	low	average	low	average	low	average	low	average
2053	24.6%	22.9%	25.4%	23.6%	14.3%	13.3%	11.1%	10.3%	-	-
2013	77.3%	-	58.1%	-	-	-	-	-	-	-

Source: The 2015 Pension Adequacy Report: current and future income adequacy in old age in the EU, Volume I

CHAPTER II. Selection of the Article 65, 66 or 67 under C102/ECSS and determination of the Standard Reference Wage used for calculating the replacement level of benefits

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Fig. 1. Article 65: Type of social security schemes and method of benefit calculation

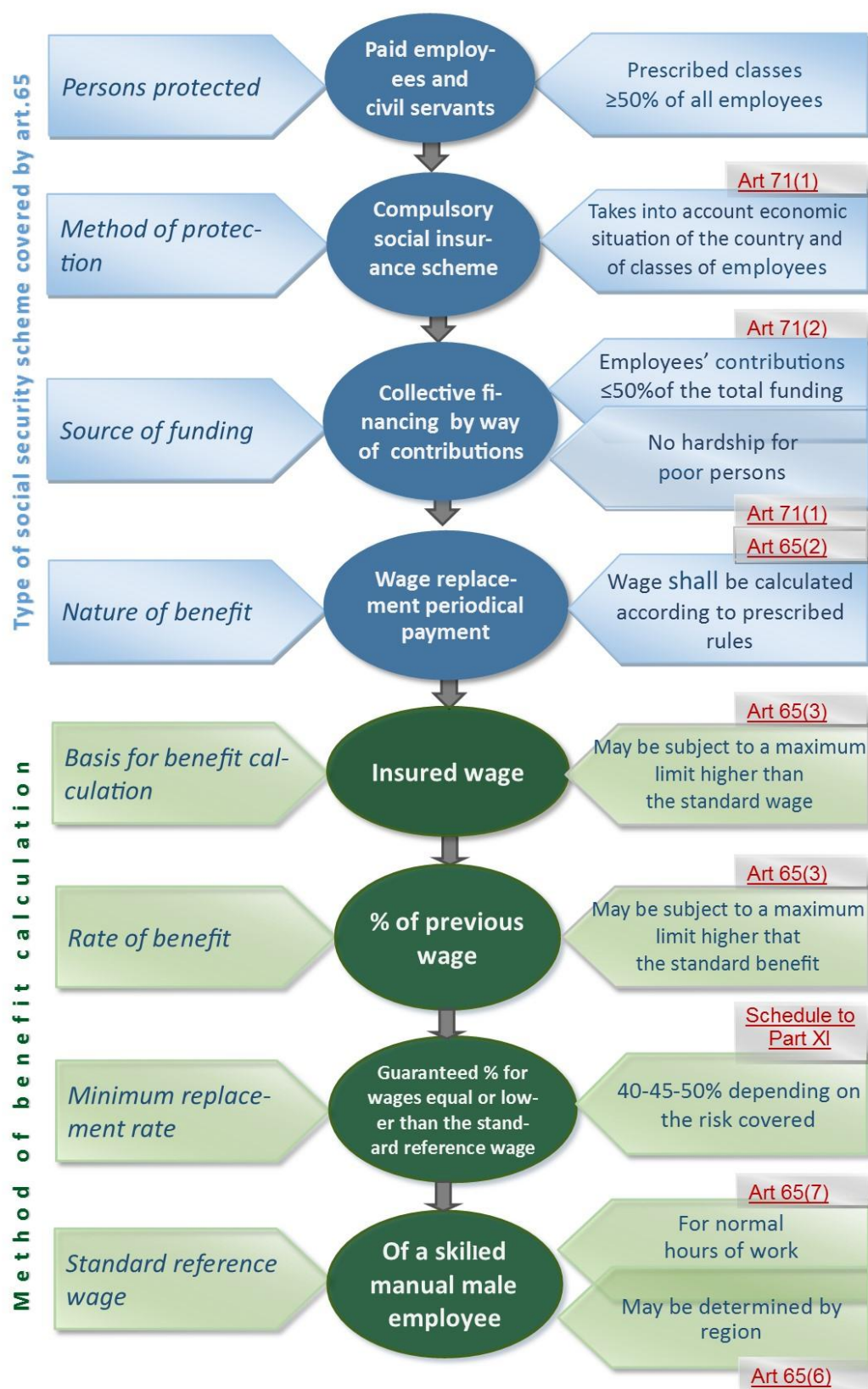


Fig. 2. Article 66: Type of social security schemes and method of benefit calculation

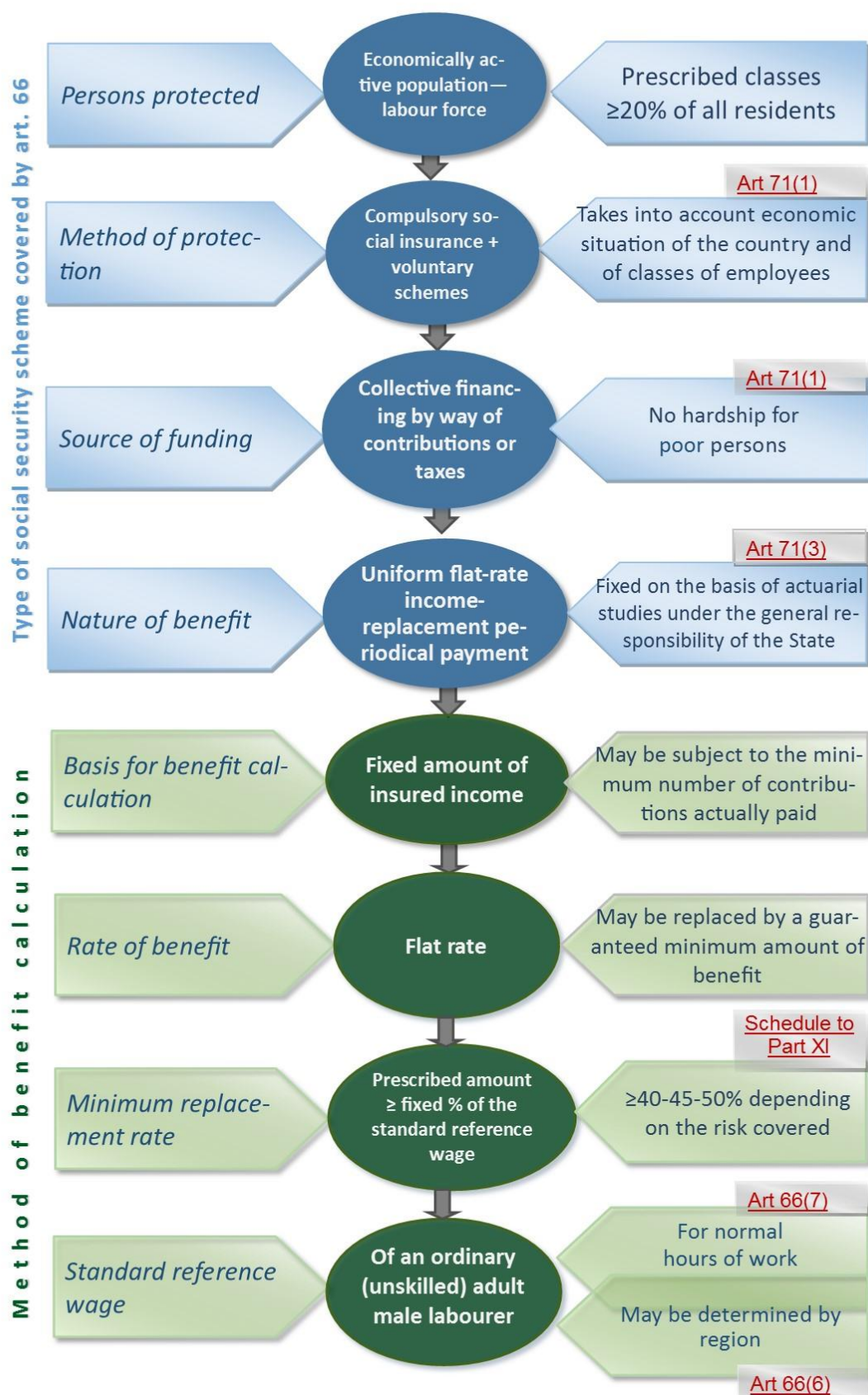
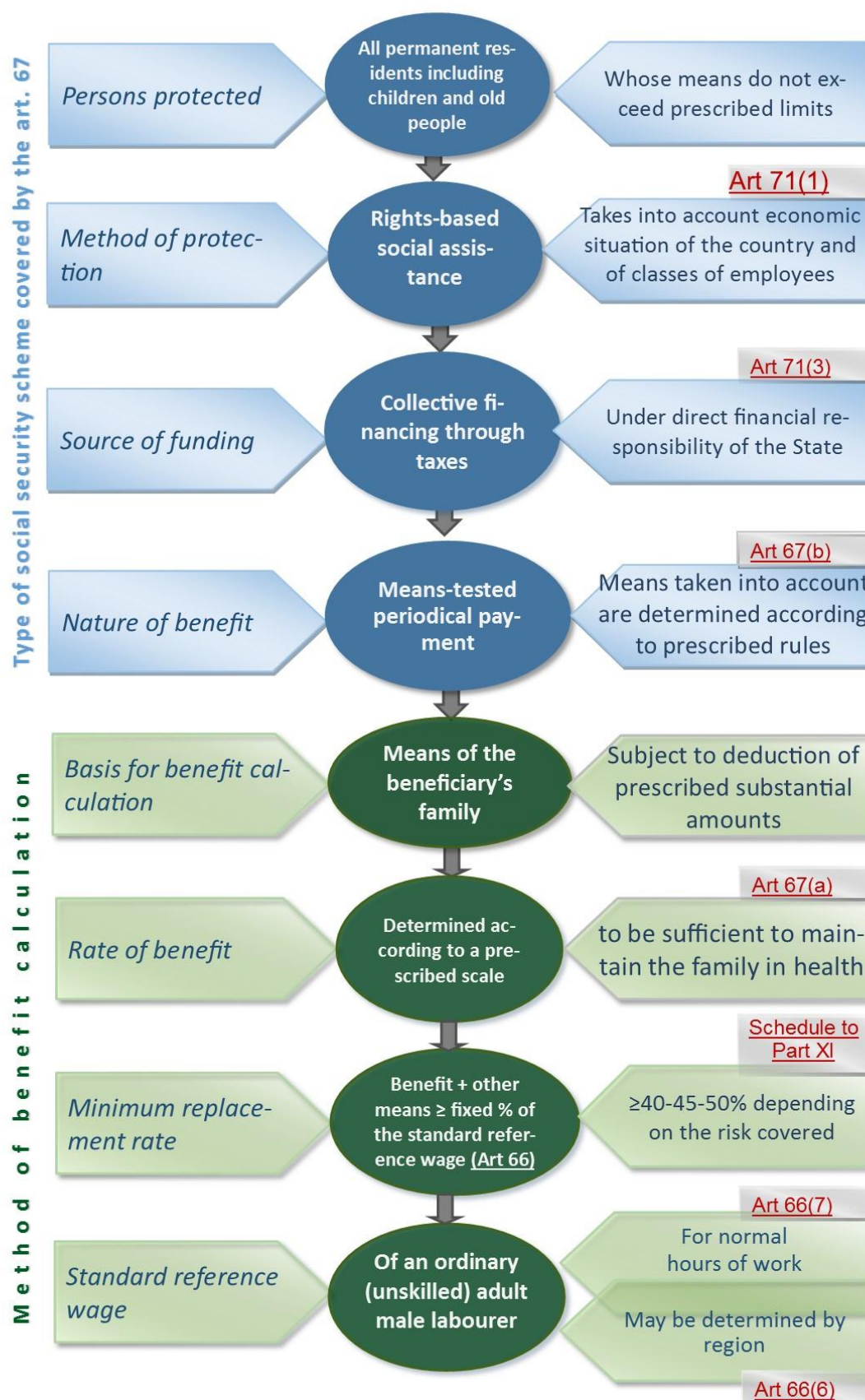


Fig. 3. Article 67: Type of social security schemes and method of benefit calculation



Extracts from the Government Reports (2010-2015) on the ECSS concerning the Reference Wage

4th Report of Romania under Article 74 of the European Code of Social Security and its Protocol (1 July 2014 - 30 June 2015), p. 33-34

Salary of a skilled male worker selected in accordance with paragraphs 6.a and b of this article shall be established on the basis of due wages for normal hours of work determined by collective agreements, or, if appropriate, under its national legislation or by custom, including compensation for price increases, if any, when wages so determined varies from region to region and in case the paragraph 8 of this Article is not applied, the average salary will be considered.

According to Art. 102 of Law No. 263/2010, as further amended and supplemented, in conjunction with art. 18 of Law No. 187/2014 on the social insurance state budget, in 2015 the pension point value was 830,2 RON.

The gross average wage used at the substantiation of the social security state budget in 2015, according to art. 16 of Law no. 186/2014 on the state budget, was 2,415 RON.

Applying Article 65, paragraph 6, letter c) of the Code: the reference income of a standard beneficiary is 125% of average gross salary (= 2,415 in 2015), i.e. $1.25 * 2.415 = 3,018.75$ RON.

Calculation of the replacement rate of an old-age pension after 30 years of insurance (in accordance with Title I and III under Article 65 of the Report Form):

December 2015

C. Standard wage of a skilled manual male employee 2.872,5 RON

D. Amount of old-age pension granted after 30 years of insurance 889,5 RON

(= 830,2 RON x 1,25 x 30/35)

G. Replacement rate D./ C = 30,96%

3rd Report of Romania under Article 74 of the European Code of Social Security and its Protocol (1 July 2013 - 30 June 2014) p. 34

Average gross salary used to substantiate the the state social insurance budget for 2013, according to art. 16 of Law no. 6/2013, **was lei 2,223.**

Applying Article 65 paragraph 6, letter c) of the Code: the reference income of a standard beneficiary is 125% of the average gross salary (= 2,223 în 2013), ex: $1,25 * 2,223 = 2778,75$

2nd Report of Romania under Article 74 of the European Code of Social Security and its Protocol (1 July 2012 - 30 June 2013) p. 34

The standard reference wage was determined in accordance with paragraph 6 letter c of Article 65, the amount will be 125% of average earnings (= 1801 lei in 2012), the reference wage of a standard beneficiary will amount to $1.25 * 1801 = 2251$ lei.

2nd Report of Romania under Article 74 of the European Code of Social Security and its Protocol (1 July 2012 - 30 June 2013) p. 39

Average gross salary used to substantiate the state social insurance budget for 2012, according to art. 17 of Law no. 294/2011, **was lei 2,117.**

Applying Article 65 paragraph 6, letter c) of the Code: the reference income of a standard beneficiary is 125% of the average gross salary (= 2,117 in 2012), i.e. $1.25 * 2117 = 2646.25$

Conclusions of the Committee of Experts - 2013

- Part XI (Standards to be complied with by periodical payments), Article 65. Replacement rate of the old-age benefit. According to the report under Article 16 of the Code, the amount of the average earnings in Romania in 2012 was RON1,801, and the reference wage of the skilled manual male employee determined under subparagraph (c) of paragraph 6 of Article 65 was RON2,251. According to the report under Article 28 of the Code, the reference wage determined under the same paragraph

6(c) of Article 65 amounted to RON2,646.25 calculated on the basis of the average gross salary of RON2,117 used to substantiate the state social insurance budget for 2012, according to section 17 of Law No. 294/2011. The Committee notes that the replacement rate of the old-age pension after 30 years of insurance calculated on the basis of this later reference wage attained in 2012 only 31.46 per cent – much below the level of 40 per cent required by the Code. The Committee also notes that the report stated under Article 16 of the Code that in the national legislation for the determination of the reference wage subparagraph (b) of paragraph 6 of Article 65 can be applied, and under Article 28 of the Code, that subparagraphs (a) and (b) of paragraph 6 of Article 65 can be applied and that, in line with subparagraph (b), a craftsman artisan was selected as a standard beneficiary representing the occupational group containing the largest number of skilled workers in the manufacturing industry. Notwithstanding these statements, the report had actually proceeded to determine the reference wage in accordance with subparagraph (c) of paragraph 6 of Article 65, giving two different amounts of RON2,251 and RON2,646.25. ***The Government should be asked to clarify the situation and to recalculate the replacement level of the old-age pension on the basis of the properly determined reference wage. Please compare the replacement level of pensions with the established poverty threshold.***

Conclusions of the Committee of Experts - 2012

Part XI (Standards to be complied with by periodical payments). Article 65. Replacement rate of the sickness, old age and maternity benefits. The report on Convention No. 102 indicates under Part III that the monthly earnings of the person deemed typical of skilled labour in 2010 were RON1,724, while under Part V the monthly salary of a skilled manual labourer employed in the major group of economic activities attained only RON1,531, which was the amount of the national monthly average wage. In contrast, the report on the Code determined the reference wage under Part V at the level of RON1,931 as the wage of a person whose earnings were equal to 125 per cent of the average earnings of all persons protected, that is RON1,531. However, according to the National Institute of Statistics, the national monthly average wage in 2010 was RON1,910 and not RON1,531. ***In view of these incompatibilities, the Committee asks the Government to clarify how the skilled manual male employee is selected, what is his reference wage, and what national monthly average wage should be used in the formula for the calculation of old-age pension. Please make the calculations requested by the report form on the basis of the updated statistics.***

1st Report of Romania under Article 74 of the European Code of Social Security and its Protocol (1 July 2010 - 30 June 2011) p. 19, 28

The amount of wage of a skilled male employee whose earnings refer to para 3 of Article 65 of the Code: 1724 lei.

An average gross wage of the employee who worked 21 days in October 2010 in manufacturing industry is 1531 RON.

Table 1. Calculation of the reference wage under all options permitted by articles 65-66 of the ECSS/C102

Articles in the ECSS/C.102		Comments	Reference wage: amount	
			ILO calculations ¹ -2010	Government ²
Article 65 (para 6): a skilled manual male employee				
Option 1	Art.65 (6)a: a fitter or turner in the manufacture of machinery other than electrical machinery	occupations of fitter and turner can be found among skilled employees of ISCO 08 ³ (group 7)	N/A	
Option 2	Art.65 (6)b: a person deemed typical of skilled labour	a skilled employee of the ISIC rev.4 ⁴ group with the highest number of male employees: typical skilled male worker in manufacturing	393 euros ⁵	
Option 3	Art.65 (6)c: a person whose earnings are equal to 125 per cent of the average earnings of all the persons protected	in countries where all employees are protected average wage is normally used in the economy	564 euros ⁶ (full-time and part-time employees)	2012: 2646.25 lei =585.3 euros (ex. rate 2012) 2013: 2778,75 lei=627.1 euros (ex. rate 2013) 2015: 2872.5 LEI = 641.3 euros (ex. rate 2015)
Article 66 (para 4): an ordinary male labourer				
Option 4	Art.66 (4)a: a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery	an employee of the ISIC rev.4 Manufacture of machinery (2-digit level of the classification: ISIC Rev.4 Section C. Manufacturing, code 28)	N/A	
Option 5	Art.66 (4)b: a person deemed typical of unskilled labour	an unskilled employee of the ISIC rev.4 group with the highest number of male employees: typical unskilled male worker in manufacturing	262 euros ⁷	

* Gross wages are used unless stated otherwise

¹ ILO calculations based on EUROSTAT data from Labour Force Survey LFS-2013 and SES-2010 (see detailed information further)

² Reference wage reported by the Government under ECSS and C.102

³ ISCO 08 – International Standard Classification of Occupations 2008 (detailed explanation to follow)

<http://www.ilo.org/public/english/bureau/stat/isco/isco08/>

⁴ ISIC rev.4 - International Standard Industrial Classification of All Economic Activities, Rev.4, 2008

<http://unstats.un.org/unsd/cr/registry/iscic-4.asp>

⁵ Structure of earnings survey (SES) – Eurostat, 2010 http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

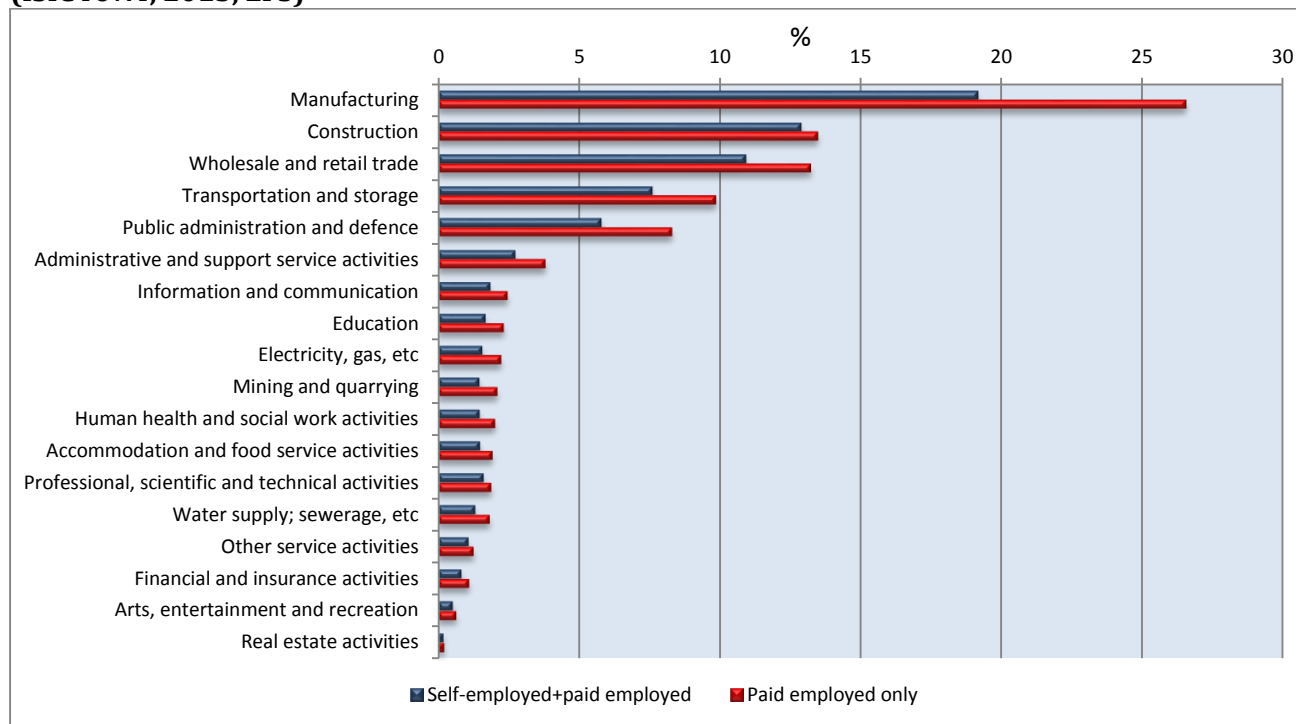
⁶ Structure of earnings survey – Eurostat, 2010 http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en

⁷ Structure of earnings survey – Eurostat, 2010 http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

ILO assessment of the options offered by articles 65-66:

OPTION 2 - a typical manual male employee is found in the sector with the highest number of employed males = Manufacturing

Fig.4. Share of employed males by economic activity in total male employment and share of males in paid employment by economic activity in total number of males in paid employment (ISIC rev.4, 2013, LFS)



Source: Eurostat LFS - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lfsa_egaps&lang=en

- **Fig. 5. The average wages of a typical skilled/unskilled manual male employee are determined by cross-tabulating of the two classifications**
- ISCO 08 – International Standard Classification of Occupations (group 7- skilled and 9 – ordinary)
- ISIC rev.4 - International Standard Industrial Classification of All Economic Activities, Rev.4, 2008

		ISCO 08	
ISIC rev.4	ISCO 08	Total	7. Craft and related trades workers
	ISIC rev.4		9. Elementary occupations
	Total		
	...		
	C. Manufacturing		skilled
	...		unskilled

ISCO 08:

ISCO 08: Major group 7

Craft and related trades workers apply their specific knowledge and skills to produce or process goods. The tasks call for an understanding of all stages of the production process, the materials and tools used and the nature and purpose of the final product. Most occupations in this group **require skills** at the second ISCO level.

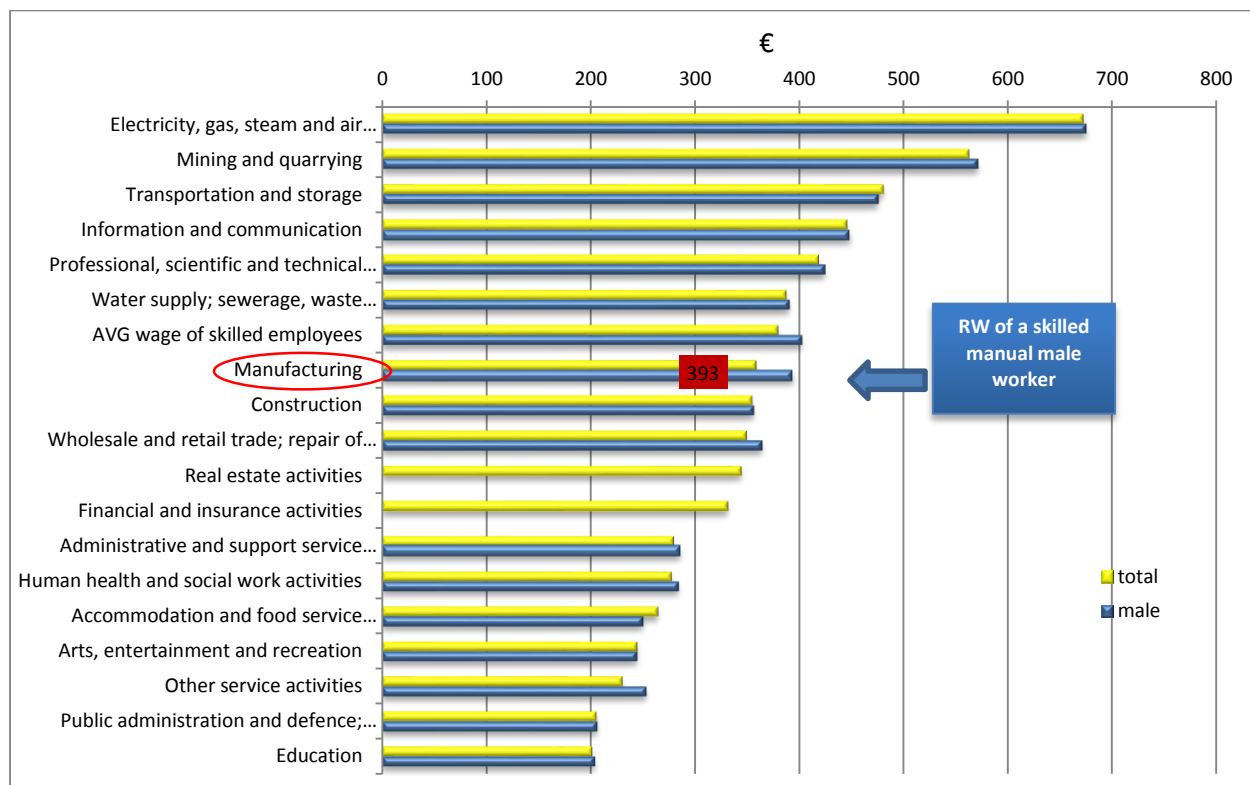
The work is carried out by hand and by hand-powered and other tools.

ISCO 08: Major group 9

Elementary occupations involve the performance of simple and routine tasks which may require the use of hand-held tools and considerable physical effort.

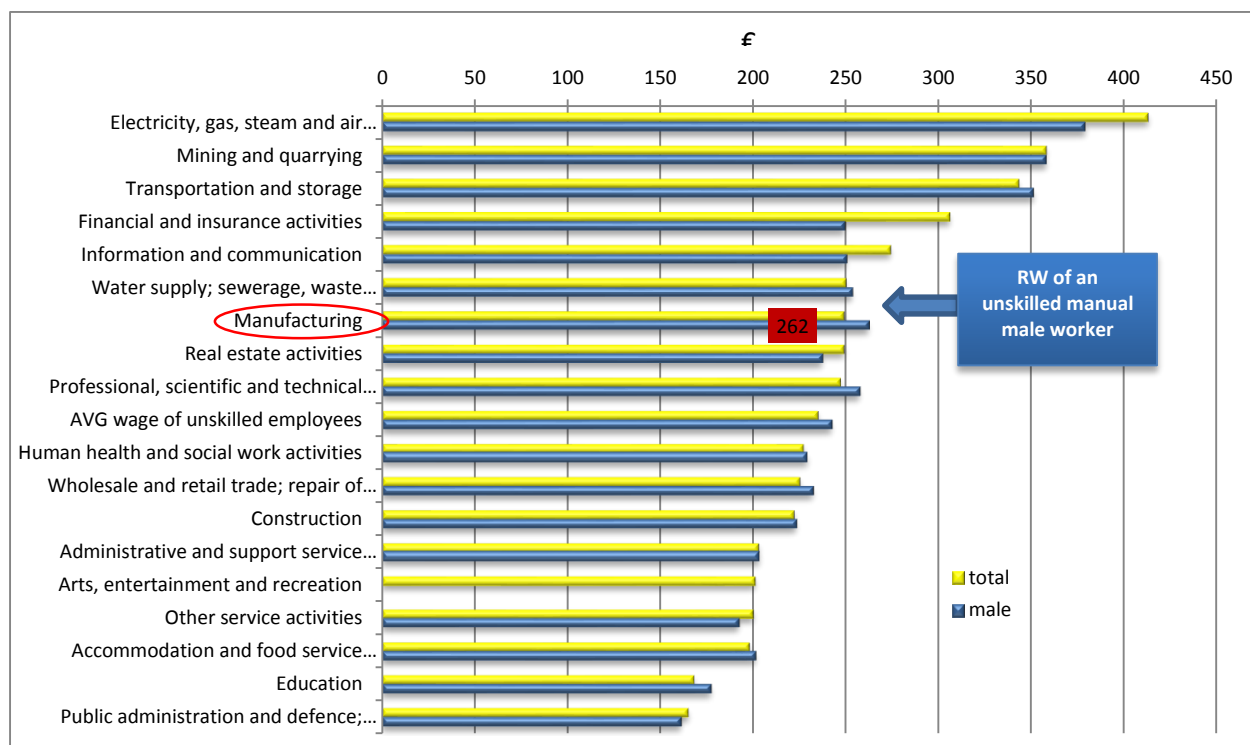
Most occupations in this major group require skills at first level of ISCO (involve physical and manual tasks, require only primary education at most)

Fig.6. Average monthly wages of skilled employees by economic activity, SES-Eurostat, 2010 (new survey in 2014)



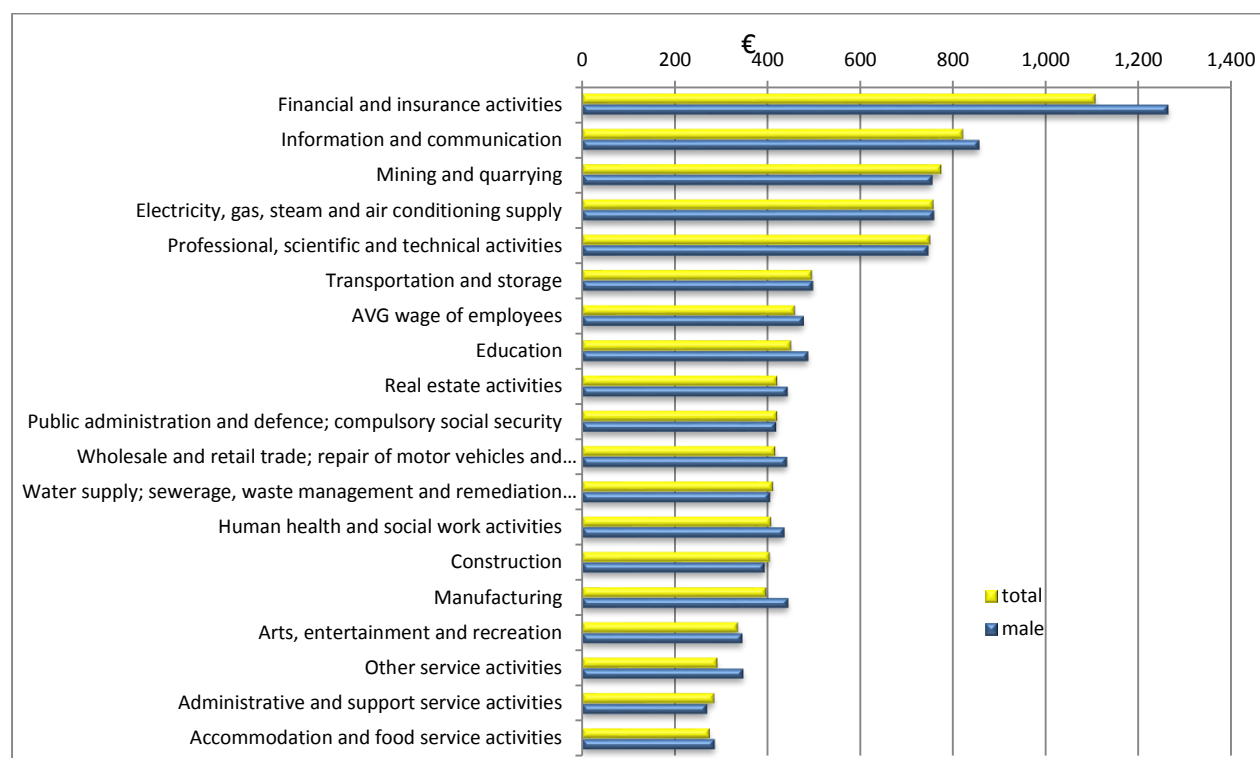
Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

Fig.7. Average monthly wages of unskilled employees by economic activity, SES-Eurostat, 2010 (new survey in 2014)



Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

Fig.8. Average monthly wages of employees by economic activity, SES-Eurostat, 2010 (new survey in 2014)



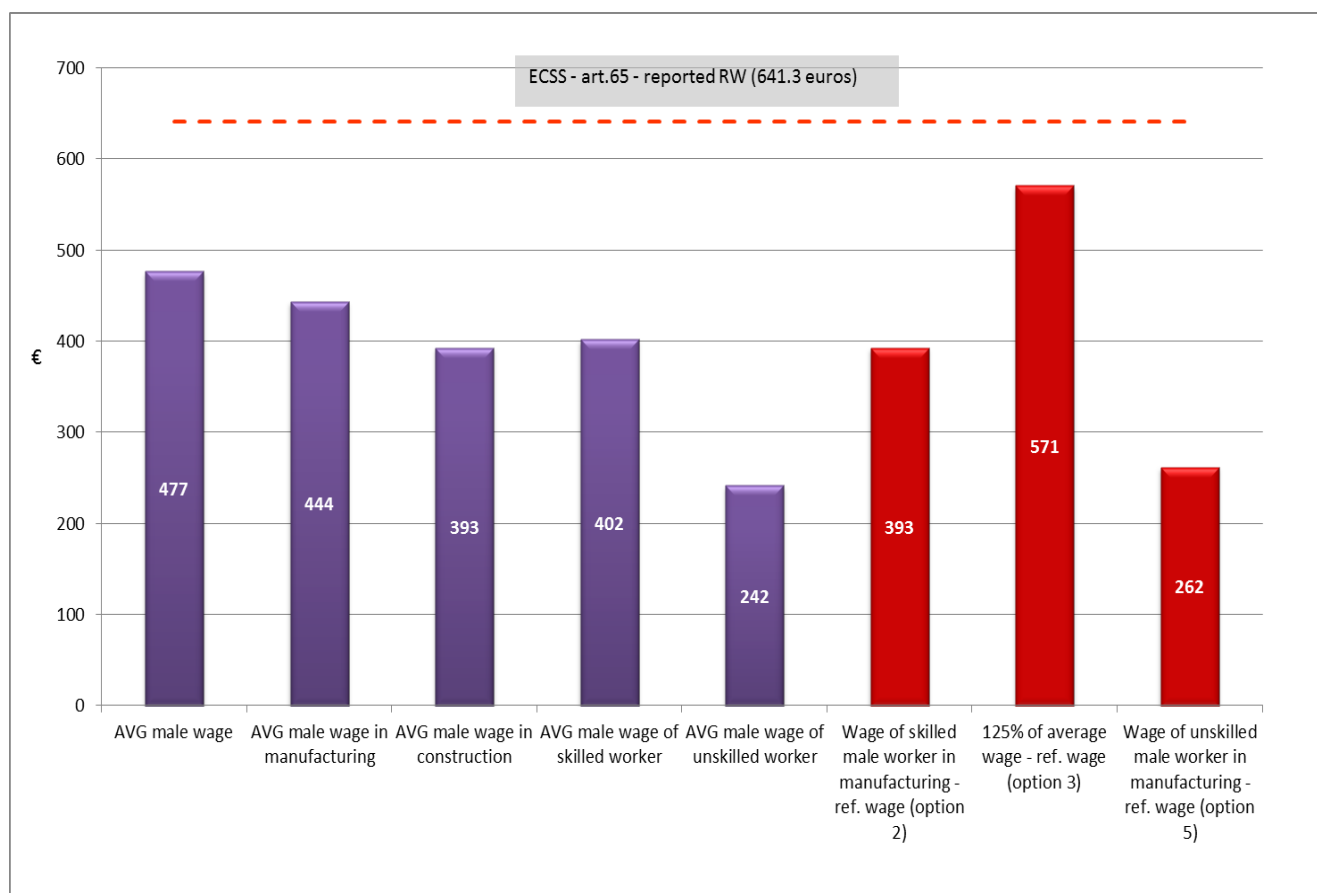
Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

Fig.9. Average monthly wages of male and female skilled and unskilled employees in the 2 sectors (Manufacturing and Construction) with the highest number of male employees, in comparison to other wage indicators in Romania, SES –Eurostat, 2010 and EU-SILC, 2010



Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en and http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en – 125% of average wage (include both full-time and part-time employees)

Fig.10. Comparison of the reported reference wage to other wage indicators in the Romania, 2010



Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en and http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en for option 3 – 125% of average wage (include both full-time and part-time employees)

Comments:

No data for 2015 online, but it can be found for 2013

<http://statistici.insse.ro/shop/index.jsp?page=tempo3&lang=en&ind=FOM121A> :

- wage of a skilled male worker in manufacturing - 1443 RON (makes 61% RR)
- the other possibility is to take 125% of an average basic gross salary = $1.25 \times 1708 = 2135$ RON (makes 41.6% RR).
- Gross achieved income according to administrative data sources (D112) comprises the gross amounts achieved on salary basis and reported by employers for the employees, for the calculation of social insurance contributions. The gross achieved income includes the following components:
 - gross basis salary established in the individual employment contract;
 - bonuses, allowances and amounts granted as percentage of gross basic salary or as fixed amount, either permanent or not;
 - other salary bonuses, stipulated by law or in the individual or collective employment contracts (bonuses, incentives, compensations, allowance for the annual holiday leave not-taken, the 13th salary, holiday bonuses, as well as other amounts representing current income or related to previous periods);
 - amounts resulting from payment "on hourly basis", for emergency duties and clinical benefits;
 - amounts granted for retirement.
- As the ECSS concerns the salary for normal hours of work, all the "extra" payments should be excluded

CHAPTER III. Integrated Management of compliance and reporting obligations of Romania under social security provisions of the ratified international treaties on social rights

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- [Coordination of reporting between the ECSS and C102. Form for the annual report on the European Code of Social Security](#)
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Table 1.Up-to-date social security standards in force

<div>Social Human Rights</div> <div>International treaties</div>	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
ICECSR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, 13§1		Art.1§1§3	Art.23	Art.3§1§2§3, 15§2	Art.16	Art.8§1	Art.15§1		Art.4§1, 13 §1§2§3	
					Art.3§4	Art.27 §1b,c		Art.15§3		Art.14, 30	
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing& Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII

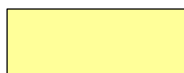


Social Security Standards in force for Romania



Social Security Standards not in force

Social Human Rights International treaties	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
ICECSR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1 Art.4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11§3		Art.1§1	Art.23	Art.3§1, 15§2	☹️ Art.16	Art.8§1	Art.15§1		☹️ Art.4§1, 13§1§3	
	☹️ Art.11 §1§2,13§1		☹️ Art.1§3		☹️ Art.3§2§3	Art.27§1b,c		Art.15§3		Art.13§2	
			Art.3§4					Art.14, 30			
	☹️ Right to Social Security Art.12§1§2§3										
	Art.12§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing& Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII



Pending comments of the supervisory bodies



critical comments or non-compliance

Table 2. Pending comments of the supervisory bodies

Table 3. Up-to-date standards on which reports are due in 2016

<div>Social Human Rights</div> <div>International treaties</div>	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
ICECSR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, 13§1		Art.1§1§3	Art.23	Art.3§1§2§3	Art.16	Art.8§1	Art.15§1		Art.4§1	
					Art.15§2					Art.13 §1§2§3	
					Art.3§4					Art.14, 30	
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing& Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII



Report in 2016

Social Human Rights International treaties	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
ICECSR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, 13§1		Art.1§1§3	Art.23	Art.3§1§2§3, 15§2	Art.16	Art.8§1	Art.15§1		Art.4§1	
						Art.13 §1§2§3					
					Art.3§4	Art.27§1b,c		Art.15§3		Art.14, 30	
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing& Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII

Report in 2017

Table 4. Up-to-date standards on which reports are due in 2017

Next detailed report of Romania under Article 74 of the ECSS

(Extract from CEACR 2015 Conclusions)

In accordance with the reporting cycle on the Code, by 31 July 2016 the Government shall submit once in five years a detailed report covering the period from 1 July 2011 to 30 June 2016. In accordance with the five year reporting cycle on Convention No. 102, by 1 September 2016 the Government shall also submit a detailed report on the Convention for the period from 1 June 2011 to 31 May 2016. The Committee draws the Government's attention to the alignment of the reporting procedures under the Code and Convention No. 102 and the similarity of the Report Forms on both instruments, which was put in place in 1964 specifically with a view to reduce administrative workload and avoid duplication of reports. For this purpose, the Report Form on the Code expressly stipulates that, if a government is bound by similar obligations as a result of having ratified the ILO Convention No. 102, "it may communicate to the Council of Europe copies of the reports it submits to the International Labour Office on the implementation of this Convention". The Committee points out that this simplified procedure can be used next year to report on all accepted Parts of the Code.

Furthermore, by 31 October 2016, the Government will also have to report on the application of the accepted provisions of the European Social Charter belonging to the thematic group "Health, social security and social protection", which includes the right to protection of health (Article 11), the right to social security (Article 12), the right to social and medical assistance (Article 13), the right to benefit from social welfare services (Article 14), the right of elderly persons to social protection (Article 23), and the right to protection against poverty and social exclusion (Article 30). The Committee observes that these articles of the Charter are directly related to many provisions of the Code and Convention No. 102, which form a single legal space of the international social security law. Taking into account that the reference period for the report on the Charter (1 January 2012–31 December 2015) falls inside the reference periods for detailed reports on the Code and Convention No. 102, the Government is invited to coordinate the fulfilment of its reporting under these instruments in order to improve the quality and consistency of the information provided. Such coordination could be extended further to include future reporting on the social security provisions of the United Nations human rights treaties, including the International Covenant on Economic, Social and Cultural Rights, for which the report is due in 2019.

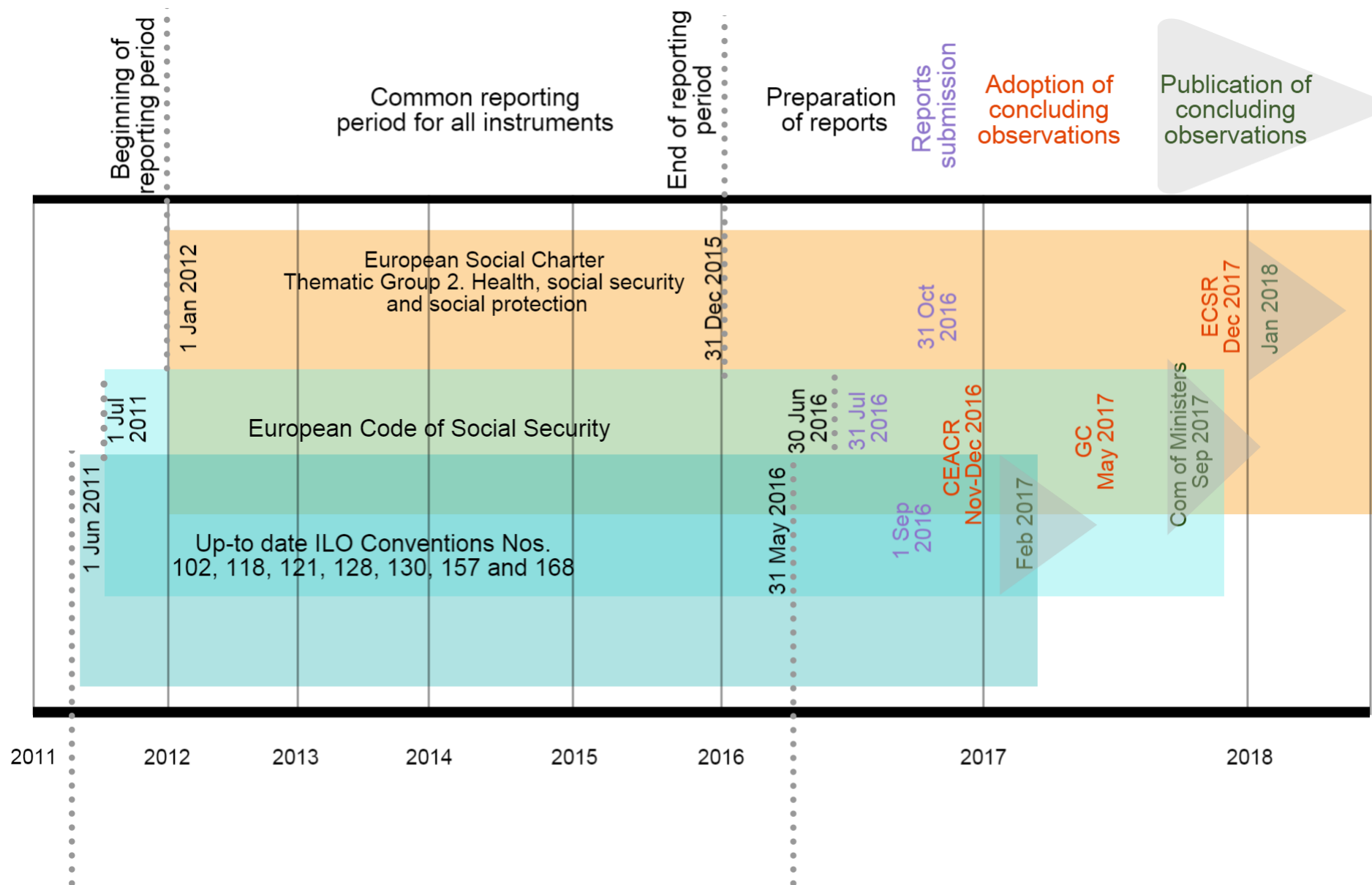
With regard to coordination of compliance obligations, the Committee recalls that, in formulating its country conclusions on the application of the Code, it takes account of the relevant observations made by other supervisory bodies, such as the European Committee of Social Rights and the United Nations Committee on Economic, Social and Cultural Rights. To facilitate the integrated management of the country's obligations under the social security provisions of the main European and international treaties on social rights, the Committee refers the Government to the coordination tables and reporting timelines presented in the ILO technical note, together with the compilation of the related comments made by their supervisory bodies. The Committee hopes that such a holistic vision will help the Government to apply the rights-based approach to its fiscal consolidation policy and complement it by the legal consolidation of all international obligations binding Romania to the full respect of social security rights.

Coordination of reporting between the ECSS and C102
Form for the annual report on the European Code of Social Security (as modified
by the Protocol additional thereto)

If a Government is bound by similar obligations as a result of having ratified the Social Security (Minimum Standards) Convention adopted by the 1952 General Conference of the International Labour Organisation, it may communicate of the Council of Europe copies of the reports it submit to the International Labour Office on the implementation of this Convention.

Council of Europe, Strasbourg 1967

Fig. 1. Time management of the 5 years reporting cycle (2011-2016/17) on international and European social security standards



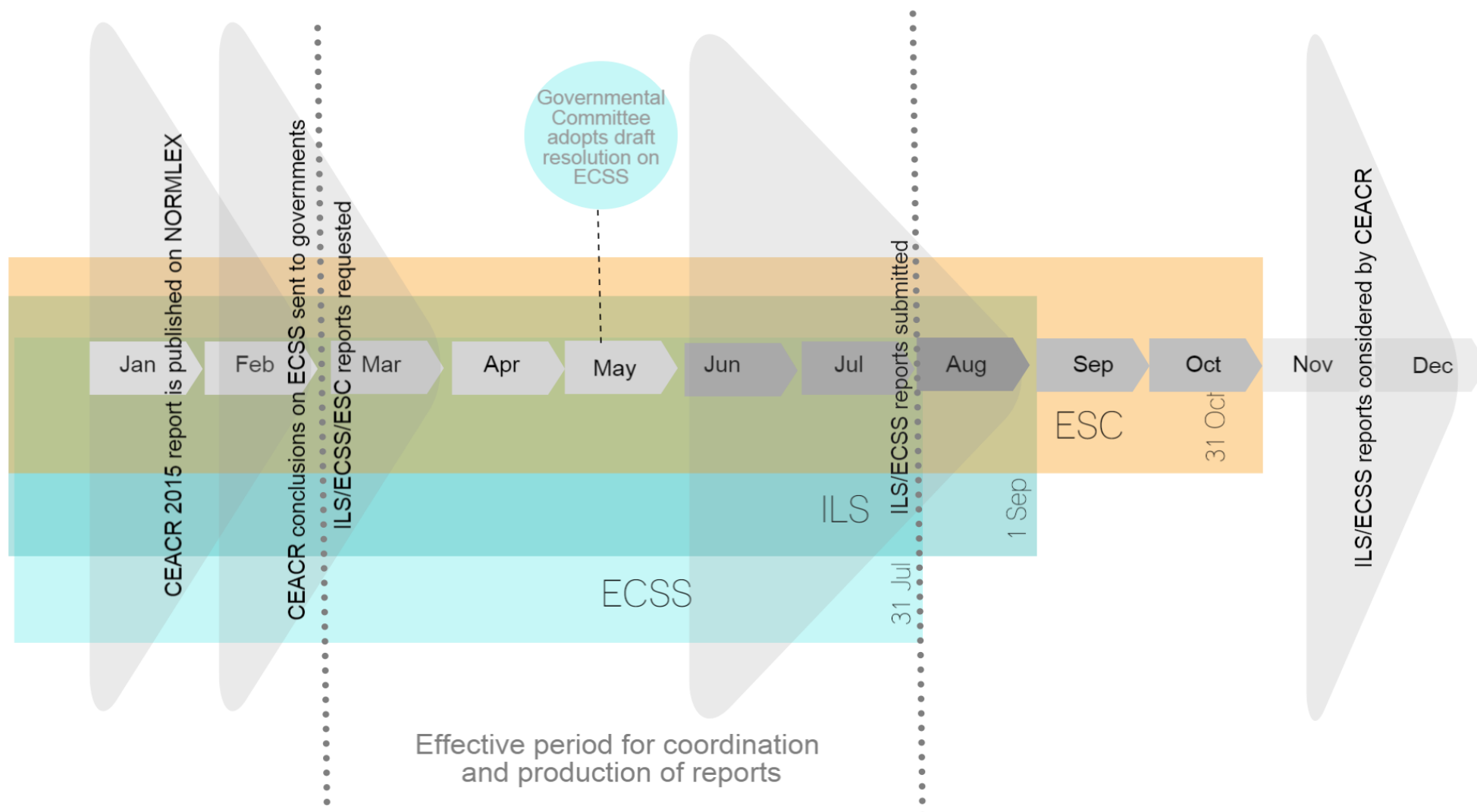


Fig. 2. Time management for reporting on social security standards in 2016

Chapter IV. Concluding observations of the supervisory bodies concerning provisions of the ratified international treaties on social rights and statements of other international bodies reviewing national economic and social policy

- [Table 1. International treaties on social rights ratified by Romania](#)
- [Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations](#)

1. **United Nations**

- [International Covenant on Economic, Social and Cultural Rights](#)
- [Convention on the Rights of the Child](#)
- [Convention on the Elimination of All Forms of Discrimination against Women](#)
- [Convention on the Right of Persons with Disabilities](#)

2. **Council of Europe**

- [European Social Charter](#)
- [European Code of Social Security](#)

3. **International Labour Organization**

- [Social Security \(Minimum Standards\) Convention, 1952 \(No. 102\)](#)
- [Employment Promotion and Protection against Unemployment Convention, 1988 \(No. 168\)](#)
- [Maternity Protection Convention, 2000 \(No. 183\)](#)

4. **EU Country-Specific Recommendations: 2015**

Table 1. In force international treaties on social rights ratified by Romania

Body	International Treaty	Entry into force for Romania	Next report due on
United Nations	ICESCR	9 Dec 1974	30 Nov 2019
	Convention on the Rights of the Child	28 Sep 1990	Submitted 09 Jun 2015
	Convention on the Elimination of All Forms of Discrimination against Women	7 Jan 1982	LoIPR 2/1/2011
	Convention on the Rights of People with Disabilities	31 Jan 2011	2 Feb 2013
Council of Europe	European Code of Social Security	10 Oct 2010	1 Jul - 31 Aug 2016
	European Social Charter (Revised)	7 May 1999	31 Oct 2015
International Labour Organization	Convention 102	15 Oct 2009	1 Jun - 1 Sep 2016
	Convention 103		
	Convention 121		
	Convention 128		
	Convention 130		
	Convention 168	15 Dec 1992	1 Jun - 1 Sep 2016
	Convention 183	23 Oct 2002	1 Jun - 1 Sep 2018
European Union	Country-Specific Recommendation of 14 July 2015		

Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations

Instrument	Supervisory body	Type of a State party report/Reporting cycle	Comments of a supervisory body
International Covenant on Economic, Social and Cultural Rights (ICESCR)	Committee on Economic, Social and Cultural Rights (CESCR)	Periodic reports – every 5 years; initial report – within one year after the entry into force (Art.17)	Concluding observations of the CESCR
Convention on the Rights of the Child	Committee on the Rights of the Child (CRC)	Periodic reports – every 5 years; initial report – within two years after the entry into force (Art.44)	Concluding observations of the CRC
Convention on the Elimination of All Forms of Discrimination against Women	Committee on the Elimination of Discrimination against Women (CEDAW)	Periodic reports – every 4 years; initial report – within one year after the entry into force (Art.18)	Concluding observations of the CEDAW
Convention on the Rights of People with Disabilities	Committee on the Rights of Persons with Disabilities (CRPD)	Periodic reports – every 4 years; initial report – within two years after the entry into force (Art.35)	Concluding observations of the CRPD
European Code of Social Security (ECSS)	ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) ; European Committee on Social Rights (ECSR) ; Governmental Committee of the European Social Charter and the European Code of Social Security; Committee of Ministers of the Council of Europe.	Full reports – every five years in conjunction with the ILO Convention 102; Annual reports every year (Art.74).	Conclusions of the CEACR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
European Social Charter/ Revised European Social Charter (ESC)	European Committee on Social Rights (ECSR) ; Governmental Committee (GC) of the European Social Charter and the European Code of Social Security; Committee of Ministers of the Council of Europe.	Normal reports – annually on one of four thematic groups; simplified reports – every two years in case of acceptance of the collective complaints procedure.	Conclusions (national reports) and decisions (collective complaints) of the ECSR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
ILO Conventions (C102, C121, C128, C130, C168, C183)	Committee of Experts on the Application of Conventions and Recommendations (CEACR) ; Conference Committee on the Application of Standards (CAS) .	Five-year cycle – simplified reports under the ILO technical conventions; detailed report – one year following the entry into force.	Observations and direct requests of the CEACR; Conclusions of the CAS.

1. United Nations

International Covenant on Economic, Social and Cultural Rights – Concluding observations 2014

(the numeration of comments is kept in accordance to the original)

[*UN Office of the High Commissioner for Human Rights website link, Treaty bodies database*](#)

Maximum available resources

7. The Committee is concerned that the resources allocated to social sectors, notably health, social protection and education, remain inadequate. In addition, the Committee regrets that the State party has not been able to fully absorb and utilize the funds allocated to it by the European Union owing to limited administrative capacity, excessive bureaucracy and instances of corruption (art. 2, para. 1).

The Committee recommends that the State party:

(a) Ensure that resources are effectively allocated according to programme budgeting criteria, and increase political awareness of the need to allocate substantial additional resources to the social protection system, health and education;

(b) Regularly assess whether the maximum available resources have been used to progressively achieve the full realization of the rights recognized in the Covenant, taking into account the Committee's statement of September 2007 on the obligation to take steps to the "maximum of available resources" (E/C.12/2007/1);

(c) Improve administrative capacity and increase transparency and consultations at all levels of decision-making concerning the distribution and use of structural funds and the ongoing evaluation of their impact on the realization of economic, social and cultural rights.

Unemployment

11. The Committee is concerned at the low overall employment rate in the State party and the level of high long-term unemployment. It is particularly concerned that, despite targeted measures, the rate of unemployment among young persons, Roma, and persons with disabilities remains high. In addition, the Committee notes with concern that 16.8 per cent of people between 15 and 24 years were neither in employment nor in education or training in 2012 (arts. 2, para. 2, and 6).

The Committee recommends that the State party step up its efforts to further reduce unemployment, in particular unemployment among young people, Roma, and persons with disabilities, including by:

(a) Prioritizing vocational training, especially for the long-term unemployed in order to strengthen their position in the labour market, taking into account the needs of disadvantaged and marginalized individuals and groups;

(b) Pursuing and strengthening the programmes addressing youth unemployment and maintaining the incentives for employers who create new jobs for young people, including young graduates with disabilities, and youth with a social marginalization risk, and ensuring that individuals so employed retain their jobs when such incentives are no longer offered;

(c) Ensuring effective compliance by public and private companies and institutions with the 4 per cent quota for the employment of persons with disabilities, including by providing for dissuasive sanctions for employers in case of non-compliance;

(d) Adopting a revised action plan addressing the insufficiencies of the Strategy for the Inclusion of Romanian citizens from the Roma community in order to ensure that the Roma enjoy equality of opportunity and treatment in employment and are provided with sustainable income-generating opportunities, including by enhancing their training skills.

Minimum wage

13. The Committee is concerned that, despite recent increases, the minimum wage set in the State party is not sufficient to provide recipients and their families with a decent living (arts. 7 and 9).

The Committee recommends that the State party establish an effective system of indexation and regular adjustment of the minimum wage to the cost of living, providing recipients and their families with a decent standard of living.

Social security

15. While taking note that some of the cuts that were introduced to social security benefits owing to austerity measures have been reversed, the Committee remains concerned that the amounts of the benefits, such as child-raising allowance, unemployment benefits, the minimum pension and other social assistance benefits, are not sufficient to ensure an adequate standard of living for the recipients and their families (art. 9).

The Committee recommends that the State party take the necessary measures to ensure that the amounts of benefits, such as child-raising allowance, unemployment benefits and the minimum pension, are sufficient to provide the recipients and their families with a decent standard of living. The Committee also recommends that the State party reconsider cuts and eligibility criteria for social assistance benefits insofar as they affect the most disadvantaged and marginalized groups, in compliance with the human rights-based approach. The Committee refers the State party to the letter concerning austerity measures, which was sent to all States parties to the Covenant by the Chairperson of the Committee on 16 May 2012, and to its general comment No. 19 (2007) on the right to social security.

Social services

16. The Committee is concerned that the decentralization of social services has led to disparities in the provision of social care in the State party.

The Committee recommends that the State party establish appropriate mechanisms to monitor and ensure adequate provision of social care services at the local level through an effective distribution of resources and accountability of local authorities in the delivery of such services.

Poverty

17. The Committee is concerned that the level of poverty remains among the highest in Europe, with 41.7 per cent of the population at risk of poverty or social exclusion in 2012. The Committee is also concerned that children, older persons, persons with disabilities and the Roma are particularly affected by extreme poverty, with 70 per cent of Roma living below the poverty line in 2011 (art. 11).

The Committee strongly urges the State party to intensify its efforts to combat poverty, especially among the most disadvantaged and marginalized members of the population, and to reduce disparities in poverty levels between regions. In that respect, the Committee draws the State party's attention to its statement concerning poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10).

Health-care system

21. The Committee is concerned that Romania has a low life expectancy at birth, and very high infant and maternal mortality rates. It is also concerned about the inequalities in terms of access to and quality of health services, especially in rural and remote areas and for disadvantaged and marginalized groups, and regrets that the decentralization process has led to a decrease in the number of Roma Health Mediators. Furthermore, cases of alleged segregation of Roma patients in sub-standard hospital wards and negligent treatment of those patients are of particular concern to the Committee. The Committee is further concerned that the practice of payments of non-official fees persists, despite measures taken to combat corruption (art. 12).

The Committee calls on the State party to continue health sector reforms and substantially increase funds allocated to public health. It recommends that the State party intensify its efforts to ensure de facto access to affordable, good quality and timely health care and medical treatment for all segments of the population, including persons living in rural and remote areas, as well as disadvantaged and marginalized individuals and groups. In order to curb infant and maternal mortality, the State party should thoroughly assess the causes of all cases of mortality and develop specific and adapted strategies in that regard. The number of community nurses and Roma Health Mediators should be increased and all cases of discrimination and segregation of patients should be severely punished. The Committee also calls on the State party to take the necessary measures to fight corruption in the health sector so that non-official fees are not collected from patients.

Convention on the Rights of the Child – Concluding observations 2009

[*UN OHCHR website link, Treaty bodies database*](#)

Allocation of resources

The Committee notes the reported budget increase in public spending on education, health and child protection. However, the Committee is concerned that the budget allocation process may be insufficiently demand-driven and therefore not ensure the most effective and efficient use of allocated resources, as exemplified by spending in the child care and protection system. In light of the serious circumstances, including the high rates of infant and under-5 mortality, affecting the right to life of children, the Committee notes with regret that there are no specific budget allocations to children, while also no information is collected on the overall state spending in fulfilling obligations under the Convention, making it difficult to evaluate the adequacy of provided resources. The Committee also takes note of the concern expressed by the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2005/78/Add.2) that corruption is a problem at all levels of administration and undermines the enforcement of the law, the delivery of social services and the overall capacity of the State to prevent and redress human rights violations.

The Committee strongly recommends that the State party, in accordance with article 4 of the Convention and taking into account the Committee's recommendations issued after the day of general discussion devoted to "Resources for the Rights of the Child - Responsibility of States" on 21 September 2007, increase the budget for the implementation of child rights and create a monitoring and oversight mechanism to

ensure that allocation of resources and their expenditure are as effective as possible. In particular, the Committee recommends that the State party:

Utilize a child right's approach in the elaboration of the State budget by implementing a tracking system for the allocation and the use of resources for children throughout the budget, thus providing visibility to the investment on children. The Committee also urges that this tracking system be used for impact assessments on how investments in any sector may serve "the best interest of the child", ensuring that the differential impact of such investment on girls and boys is measured;

When possible, follow United Nations recommendation to start budgeting-by-results to monitor and assess the effectiveness of resource allocation;

Define strategic budgetary lines for disadvantaged or particularly vulnerable children and for those situations that may require affirmative social measures (such as birth registration) and make sure that those budgetary lines are protected even in situations of economic crisis, natural disasters or other emergencies;

In the context of the decentralization process currently carried out, ensure transparent and participatory budgeting through public dialogue and participation especially that of children and for proper accountability by local authorities;

Ensure the creation of a clear mechanism for budget allocation through the General Directorates of Social Assistance and Child Protection to the county and local level, especially with regard to existing disparities.

Convention on the Elimination of All Forms of Discrimination against Women – Concluding observations 2006

[UN OHCHR website link, Treaty bodies database](#)

28. The Committee expresses concern about the situation of women in the labour market, which remains characterized by the concentration of women in low-paid sectors of public employment, such as health and education, and the wage gap between women and men, in both the public and private sectors.

29. The Committee urges the State party to intensify its efforts to ensure that all job-creation programmes are gender-sensitive. The Committee recommends that efforts be strengthened to eliminate occupational segregation, both horizontal and vertical, and to adopt measures to narrow and close the wage gap between women and men by applying job evaluation schemes in the public sector connected with wage increase in female dominated sectors.

30. The Committee is concerned about the situation of rural women, who are disproportionately affected by poverty and have limited access to education, employment, and health-care services. The Committee is concerned that, in practice, women living in rural areas may not benefit fully and equally from the State party's extensive recent legislative and policy framework for the promotion of gender equality. The Committee is also concerned about the absence of development programmes for rural women to assist them in obtaining the skills and resources necessary to become competitive in the labour market.

31. The Committee urges the State party to give full attention to the needs of rural women and ensure that all policies and programmes aimed at promoting gender equality, including those in regard to health, education, employment and elimination of violence against women, reach the rural areas and are fully implemented at county level.

In particular, it recommends that clear benchmarks and timetables be set and the implementation of the measures targeting rural women in the National Strategy for Equal Opportunities between women and men for the period 2006-2009 be effectively monitored. The Committee recommends that in its next report the Government provide information on the measures undertaken to empower rural women.

Convention on the Right of Persons with Disabilities – Concluding observations

No concluding observations available yet.

2. Council of Europe

European Social Charter

[*Official website of the European Social Charter. link to conclusions*](#)

Article 1 – Right to work – Conclusions 2012

Paragraph 1 - Policy of full employment

Employment situation

The Committee notes from Eurostat that the GDP growth rate in Romania fell from 6.3 % in 2007 to -1.6 % in 2010, far below EU-27 average (2.0 % in 2010). The economy was affected by the global recession, notably with a low -6.6 % in 2009. The employment rate remained quite stable, although low, throughout the reference period, standing at 58.8 % in 2010 (compared to 64.1 % in the EU-27 on average). Romania performed well as regards the overall unemployment rate, showing only a moderate increase (below 0.5 percentage points) between 2009 and 2010, standing at 7.3 % in 2010 (against 9.7 % in the EU-27 on average). The youth unemployment rate was 22.1 % in 2010, up from 20.1 % in 2007. The long-term unemployment rate (as a percentage of all unemployed persons) decreased significantly from 50.0 % in 2007 to 34.9 % in 2010 (below the EU-27 average of 39.9 %).

The above statistical information shows that despite a slowdown in economic growth, Romania has managed to maintain unemployment at a stable level. As regards long-term unemployment, which was previously a cause of concern for the Committee and led to a conclusion of non-conformity, the situation has substantially improved.

Employment policy

The Committee asks the next report to indicate if any specific measures are available to support employment among vulnerable groups, such as the Roma population or young persons. The report states that the participation rate of long-term unemployed in active measures was 22.54 % in 2010. The Committee considers that the programmes available for long-term unemployed have yielded a positive result, as shown by the significant decline of the longterm unemployment rate. The Committee nevertheless notes from Eurostat that the general activation rate in Romania, that is, the number of persons taking part in an active measure as a percentage of the unemployed, was only 3.3 % in 2009. This was one of the lowest activation rates among the EU-27 countries that year, where the average was 28.9 %. Also according to Eurostat, public expenditure on active labour market policies in Romania amounted to 0.07 % of GDP in 2009, which was the lowest spending among EU-27 countries (where the average public spending on active labour market measures as a % of GDP that year was 0.78 %).

The Committee finds that employment policy efforts in Romania, measured both in terms of the activation rate and spending on active labour market measures, were modest during the reference period, and asks whether there are plans to implement more measures in this area.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Paragraph 3 - Free placement services

The report mentions some changes to the public employment services, namely the hiring of an additional 1,500 placement counselors to reinforce the network of employment offices. It also states that the prohibition on the operation of private profit-oriented placement agencies has

been lifted. The current report however fails to provide some of the previously requested information which is needed to assess the situation. The Committee recalls that in order to assess the effectiveness of employment services it looks at a number of performance indicators, such as the number of vacancies notified to employment services, the number of placements made by these services and the average length of time in filling vacancies. As the report contains no information on these matters, the Committee considers that there is nothing to show that employment services are operated in an efficient manner.

Moreover, the Committee notes from another source that the matching of people to jobs in Spain, notably through the public employment services, needs to be made more efficient. The same source considers that despite the recent reform which allows private for-profit firms to provide placement services, more needs to be done, and that the performance of regional public employment services should be benchmarked.

Conclusion

The Committee concludes that the situation in Spain is not in conformity with Article 1§3 of the 1961 Charter on the ground that it has not been established that free placement services operate in an efficient manner.

Article 3 - Right to safe and healthy working conditions – Conclusions 2013

Paragraph 1 - Safety and health regulations

The Committee previously examined (Conclusions 2003, 2007 and 2009) the improvement of occupational health and safety. It concluded that the situation was not in conformity with the Charter on the ground that it was not established that the occupational health and safety policy included training, information, quality assurance and research in a satisfactory manner (Conclusions 2009).

The Committee notes the existence of a system aimed at improving occupational health and safety through scientific and applied research, development and training, in which public authorities are involved.

The Committee notes that a system for consulting employers' and workers' organisations, conducive to fostering social dialogue, exists at the level of national and territorial authorities. It asks for information in the next report on the consultation of bodies with responsibility for occupational health and safety issues at company level.

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in Romania is in conformity with Article 3§1 of the Charter.

Paragraph 2 - Safety and health regulations

The Committee previously examined (Conclusions 2003, 2007 and 2009) the protection of self-employed, home and domestic workers. It concluded that the situation was not in conformity with Article 3§2 of the Charter on the ground that domestic workers were not covered by occupational health and safety regulations (Conclusions 2007 and 2009). The representative of the Government informed the Governmental Committee that extending the protection of Act No. 319/2006 and related regulations to domestic workers was being considered, but that no schedule for amendments was determined. The report does not indicate any change in the current exclusion of domestic workers from the scope of Act No. 319/2006 and related regulations.

The Committee takes note of this information. Recalling that all workers, all workplaces and all sectors of activity must be covered by occupational health and safety regulations, it concludes that the situation is not in conformity with Article 3§2 of the Charter on this point.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 3§2 of the Charter on the ground that domestic workers are not covered by occupational health and safety regulations.

Paragraph 3 - Enforcement of safety and health regulations

The Committee takes note of the information contained in the report submitted by Romania.

Occupational accidents and diseases

The Committee previously examined (Conclusions 2003, 2007 and 2009) the situation of occupational accidents and diseases. It concluded that the situation in Romania was not in conformity with Article 3§3 of the Charter on the ground that it had not been established that statistics on occupational accidents were reliable (Conclusions 2009). It asked for information on the content of Minister of Labour, Family and Social Protection Order No. 3/2007 approving the forms for registration of occupational accidents (FIAM), sanctions applicable in case of nonreporting, and its impact on the level of accident reporting; on measures taken to address exposure to occupational disease, non-reporting of cases, difficulties in identifying workers exposed, and the unwillingness to undergo medical check-ups (Conclusions 2007 and 2009).

According to EUROSTAT data, the number of occupational accidents (excluding accidents during the journey between home and the workplace) declined overall during the reference period (from 3 730 in 2008 to 2 887 in 2010), whereas the incidence rate of these accidents remained stable (from 69.41 in 2008 to 70.26 in 2010). This rate is significantly lower than the average observed in the EU-15 and in the EU-27 (from 2 269.42 in 2008 to 1 582.71 in 2010). The number of fatal accidents declined sharply (from 340 in 2008 to 201 in 2010), as did the incidence rate of these accidents (from 8.81 in 2008 to 4.61 in 2010), which nevertheless remains far above the average rate observed in the EU-15 and the EU-27 (from 2.27 in 2008 to 1.87 in 2010). The report states that occupational accidents are recorded by the State Labour Inspectorate (SLI) and gives noticeably different figures for the number of occupational accidents (5 107 in 2008 and 3 678 in 2010) and the number of fatal accidents (504 in 2008 and 272 in 2010).

The report indicates that the number of reported cases of occupational disease, which are monitored by the National Centre for Community Environment Risk Monitoring at the Bucharest Public Health Institute, decreased during the reference period (from 1 286 in 2008 to 1 065 in 2010). According to SLI annual reports for 2008 (pp. 80-86) and 2010 (pp. 97-103), occupational diseases concentrated especially in work in the manufacturing and mining industries, which lead to silicosis, musculoskeletal disorders and hearing impairments, caused by vibrations, noise and chemicals.

In reply to the Committee's question, the report states that despite conformity with EUROSTAT encodings, adoption of Minister of Labour, Family and Social Protection Order No. 3/2007 did not trigger the expected increase in occupational accident figures. Under Section 39 of Act No. 319/2006 of 14 July 2006 on safety and health at the workplace, employers who do not report are punishable by fines between 3 500 and 7 000 Romanian lei.³ The SLI supported implementation of reporting obligations with guidelines for record-keeping; encouragements to workers to report accidents; increased number of sanctions for non-reporting by employers and prompt investigation of accidents reported by workers.

In the Governmental Committee, the Representative of the Government declared that the reporting of occupational accidents was regular since Act No. 319/2006, Government Decision No. 1425/2006 approving methodological standards to implement Act No. 319/2006, and Minister of Labour, Family and Social Protection Order No. 3/2007 determined obligations and processes to report, inquire and record. The inquiry is conducted by a commission set up by the employer in light accidents, with the report sent to the territorial labour inspectorate for approval, whereas it is conducted by the territorial labour inspectorate in cases of fatal or serious (i.e. involving danger, invalidity, disappearance) accidents. To counter problems with the reporting of occupational diseases, the Expert Commission on Occupational Health had been set up by Minister of Health and Minister of Labour, Family and Social Protection Joint Order No. 1256/2008 approving membership and mandate of the Expert Commission, to examine individual complaints on cases of occupational disease; and the National Centre for Community Environment Risk Monitoring had been set up to record cases of occupational disease in accordance with the EUROSTAT reporting system.

The Committee takes note of this information. It notes that the system based on Act No. 90/1996 which it examined in Conclusions 2007 has largely been maintained under Act No. 319/2006 and relevant regulations. Recalling that satisfactory application of the Charter cannot be ensured solely by the operation of legislation if this is not effectively applied and rigorously supervised, and that the frequency of occupational accidents and their evolution are key aspects of monitoring the effective observance of the right enshrined in Article 3§3 of the Charter, it asks for an explanation in the next report of discrepancies in the number of fatal accidents given in the report (504 in 2008 and 272 in 2010) and the figure published by EUROSTAT (340 in 2008 and 201 in 2010). It also asks that the next report include statistics on fatal occupational diseases.

On the basis of both sources with statistical data, the Committee notes a persistent decrease in occupational accidents, but a level of fatal accidents which is still too high. It also notes that, because it entrusts employers with the investigation of all light occupational accidents and that the level of fines is relatively low, the accident reporting system is not sufficiently efficient in practice to meet the requirements of Article 3§3 of the Charter. The Committee therefore concludes that the situation in Romania is not in conformity with Article 3§3 of the Charter on the ground notes that measures to reduce the excessive rate of fatal accidents are insufficient.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 3§3 of the Charter on the grounds that measures to reduce the excessive rate of fatal accidents are inadequate.

Article 4 - Right to a fair remuneration – Conclusions 2014

Paragraph 1 - Decent remuneration

The report indicates a monthly national minimum wage set by Government decision No. 1225/2011 for 2012 (for a single person without dependants) at RON 700 (€157.30) gross and at RON 531 (€119.30) net of social contributions and tax deductions. For 2012, the average monthly income was estimated at RON 2 137 (€479.55) gross and at RON 1 547 (€347.64) net, meaning that the gross national minimum wage as a proportion of the gross average income was 32.80%. According to EUROSTAT data for 2012 (table "earn_nt_net"), the annual average wage of single workers without children (100% of an average worker) was €5 634.97 (€469.58 per month) gross and €4 004.03 per year (€333.67 per month) net of social contributions and tax deductions. The national minimum wage as a proportion of gross average earnings (table

"earn_mw_avgr2") was 34.20%. The Committee points out that, in order to ensure a decent standard of living within the meaning of Article 4§1 of the Charter, wages must be above the minimum threshold, which is set at 50% of the average net wage.

The Committee takes note of the efforts made to improve the pay situation in the long term. It notes, however, that the net national minimum wage is 34.32% of the net average wage, which is below than the minimum threshold, and can therefore not be regarded as a decent wage within the meaning of Article 4§1 of the Charter. It asks for information in the next report on any social transfers or benefits awarded to workers earning the national minimum wage and their families.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 4§1 of the Charter on the ground that the national minimum wage is not sufficient to ensure a decent standard of living.

Article 8 - Right of employed women to protection of maternity – Conclusions 2015

Paragraph 1 - Maternity leave

Right to maternity leave

The report indicates that, pursuant to Articles 23 and 24 of the Government Emergency Ordinance No. 158/2005 on leaves and health insurance indemnities, the length of maternity leave is 126 days, that is 63 days before birth and 63 days after birth, with 42 days of compulsory postnatal leave. The Committee asked whether the same regime applies to women employed in the public sector. As the report does not answer this question, the Committee reiterates it and holds that, should the next report fail to answer it, there will be no evidence that the situation is in conformity with the Charter on this point.

Right to maternity benefits

The Committee previously noted that maternity benefits are available to employees who have contributed to the scheme at least one month over the last twelve months and that the amount of maternity benefits granted corresponds to 85% of the average monthly wage of the worker over the last 6 months. The benefits are granted for the whole duration of the maternity leave. The Committee asked whether this also applies to women employed in the public sector, and asked for a full update to be provided in the next report. As the report does not answer these questions, the Committee reiterates them and holds that, should the next report fail to answer them, there will be no evidence that the situation is in conformity with the Charter on this point. It reserves in the meantime its position.

The Committee furthermore refers to its Statement of Interpretation on Article 8§1 (Conclusions 2015) and asks whether the minimum rate of maternity benefits corresponds at least to the poverty threshold, defined as 50% of the median equivalised income, calculated on the basis of the Eurostat at-risk-of-poverty threshold value.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Article 11 Right to protection of health – Conclusions 2013

Paragraph 1 - Removal of the causes of ill-health

Right to the highest possible standard of health

In its previous conclusion the Committee found that the situation was not in conformity with Article 11§1 on the grounds that measures to reduce infant and maternal mortality rates were inadequate (Conclusions 2009). The Committee notes from the information submitted by the Romanian representative to the Governmental Committee (Report Concerning Conclusions 2009, T-SG(2011)1 final) some of the measures taken by the Government to improve the situation, mainly a joint programme with the World Bank which included a component on "Maternal and neonatal medical assistance". The report also mentions activities undertaken by departments of obstetrics-gynecology health units, such as training of healthcare personnel in maternity and the organisation of courses in this area. However, in view of the fact that infant and maternal mortalities remain among the highest in European countries, the Committee finds that insufficient efforts have been undertaken in this field, and therefore reiterates its previous finding of non-conformity on this ground.

Right of access to health care

As regards the right to protection of health of transgender persons the Committee received submissions from the International Lesbian and Gay Association (European Region) (ILGA) stating that "in Romania the practice requires transgender people to undergo sterilisation as a condition of legal gender recognition". Moreover, it claims that "the authorities fail to provide adequate medical facilities for gender reassignment treatment (or the alternative of such treatment abroad), and to ensure that medical insurance covers, or contributes to the coverage of such medically necessary treatment, on a non-discriminatory basis". In this respect, the Committee refers to its question on this matter in the General Introduction.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 11§1 of the Charter on the ground that the measures taken to reduce infant and maternal mortality rates have been insufficient.

Paragraph 2 - Advisory and educational facilities

In its previous conclusion, the Committee noted that counselling and screening for women and children were free, but requested further information on the types of screening and counselling that were carried out (Conclusions 2009). As the report provides no information, the Committee asks again for a description of the services available, the frequency of such preventive check-ups and the proportion of women and children covered. The Committee underlines the importance of receiving information on this topic given the prevailing high rate of infant and maternal mortality (see conclusion under Article 11§1). In the meantime, it considers that it has not been established that counselling and screening for pregnant women and children are frequent enough or that the proportion of mother and children covered is sufficient. The Committee recalls that free medical checks must be carried out through the period of schooling. The report fails to provide information on this matter. The Committee therefore asks that information be included in the next report, notably on the frequency of school medical examinations, their objectives, the proportion of pupils concerned and the level of staffing. The report also fails to provide, for the second time, any relevant information on counselling and screening for the population at large.

The Committee recalls that pursuant to this provision there should be screening, preferably systematic, for the diseases which constitute the principal causes of death. Preventive screening

must play an effective role in improving the population's state of health. The Committee therefore asks again what mass screening programmes are available in the country. In the meantime, it considers that it has not been established that prevention through screening is used as a contribution to the health of the population.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 11§2 of the Charter on the grounds that it has not been established that:

- counselling and screening for pregnant women and children are frequent enough or that the proportion of mother and children covered is sufficient;
- prevention through screening is used as a contribution to the health of the population.

Paragraph 2 - Advisory and educational facilities – Conclusions 2015

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2014 on conclusions of non-conformity for repeated lack of information in Conclusions 2013.

The Committee takes note of the information submitted by Romania in response to the conclusion that it had not been established firstly that counselling and screening for pregnant women and children were frequent enough or that the proportion of mother and children covered was sufficient and secondly that prevention through screening was used as a contribution to the health of the population.

The Committee recalls that there must be free and regular consultation and screening for pregnant women and children throughout the country. Moreover, there should be screening, preferably systematic, for all the diseases that constitute the principal causes of death (Conclusions 2005, Republic of Moldova). The Committee has ruled that "where it has proved to be an effective means of prevention, screening must be used to the full" (Conclusions XV-2 (2001), Belgium).

The Committee notes the information on maternal and infant mortality and their causes. However, the report does not contain the requested information on the frequency and coverage of counselling and screening, including preventive medical check-ups, for pregnant women and children as well as on what mass screening programmes are available to the population at large and it therefore reiterates its conclusion of non-conformity.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 11§2 of the Charter on the grounds that it has not been established that

- counselling and screening for pregnant women and children are frequent enough or that the proportion of mother and children covered is sufficient;
- prevention through screening is used as a contribution to the health of the population.

Paragraph 3 - Prevention of diseases and accidents

The Committee wishes to receive information on the levels of air pollution, contamination of drinking water and food intoxication during the reference period, namely whether trends in such levels increased or decreased.

The Committee also asks the next report to provide trends or statistics in respect of the consumption of alcohol, tobacco and drugs.

The Committee notes the adoption of a national programme for monitoring and controlling communicable diseases (namely, HIV infection, tuberculosis and sexually transmitted diseases).

It asks if the measures implemented under such a programme have had a positive impact on the incidence of these diseases.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Romania is in conformity with Article 11§3 of the Charter.

Article 12 Right to social security – Conclusions 2013

Paragraph 1 - Existence of a social security system

Risks covered, financing of benefits and personal coverage

As regards unemployment benefit, the Committee notes from the report that the share of the unemployed not receiving unemployment benefits stood at 59,75% in 2011. The Committee understands that only 40% of all unemployed persons have received unemployment benefit in 2011. It asks what were the main reasons for which the majority of unemployed persons did not receive the benefit.

In order to be able to assess the effective personal coverage, the Committee asks the next report to provide figures, for the period of reference, for every branch of social security. For medical care, the report should provide the information on the percentage of persons insured out of the entire population. For pension, sickness, maternity and unemployment benefits (income replacement benefits), information should be provided on the percentage of persons insured out of the total active population. The Committee holds that if this information is not provided in the next report, the

Adequacy of the benefits

The Committee notes from Eurostat that in 2011 50% of median equivalised income amounted to € 88.

Unemployment benefit

As regards unemployment benefit (unemployment indemnity), the Committee notes from MISSOC that the amount of benefit is a function of person's average income, length of contribution period and the Reference Social Indicator. The latter (indicator social de referinta) stood at RON 500 (€112) in 2011.

The Committee further notes from the report that the reference social indicator is set by the Government decision. Persons having contributed to the unemployment insurance for less than 3 years receive 75% of the reference social indicator. The Committee notes such persons received € 84 in 2011 in unemployment benefit. The report also refers to persons who are 'treated as unemployed' or 'assimilated to unemployed' and states that they receive 50% of the reference social indicator (€ 56) in unemployment benefit. According to the report, this category of workers covers persons, having accumulated a minimum contribution period of 12 months. Such persons will receive unemployment benefit if they are registered at employment agencies, have no income or have income from legal activities but lower than the reference social indicator in force and do not qualify for retirement.

The Committee thus observes that the minimum level of unemployment benefit paid to persons 'treated as unemployed' amounts to € 56 which is well below the poverty threshold and is therefore, manifestly inadequate.

Sickness benefit

The Committee notes that the report fails to provide information on the minimum level of sickness benefit. Therefore, the Committee holds that it has not been established that the level is adequate.

Old-age benefit

The amount of social allowance for pensioners was set at RON 350 in 2009, 2010 and 2011. The Committee also notes from MISSOC that the Social Indemnity for Pensioners (minimum pension) amounted to RON 350 (€79) in 2011. The Committee notes that this level falls between 40% and 50% of Eurostat median equivalised income. The Committee asks whether pensioners in receipt of the minimum pension are entitled to other benefits. In the meantime the Committee reserves its position on this issue. The Committee further notes from the report that in January 2011, new law on pensions entered into force which aimed to solve the major problems facing the public pension system, especially an alarming increase in the number of disability and early retirement. Regarding this reform, the Committee refers to its conclusion under Article 12§3.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 12§1 of the Charter on the grounds that:

- the minimum level of unemployment benefit is manifestly inadequate;
- it has not been established that the legislation provides an effective guarantee of protection against unemployment risk;
- it has not been established that the minimum level of sickness benefit is adequate.

Paragraph 1 - Existence of a social security system – Conclusions 2015

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2014 on conclusions of non-conformity for repeated lack of information in Conclusions 2013.

The Committee takes note of the information submitted by Romania in response to the conclusion that it had not been established that legislation provides an effective guarantee of protection against unemployment risk by providing for a reasonable initial period during which an unemployed person may refuse a job or a training offer not matching his previous skills and that the minimum level of sickness benefit was adequate.

On the first ground of non-conformity, the Committee recalls that there must be a reasonable initial period during which an unemployed person may refuse a job or a training offer not matching his previous skills without losing his unemployment benefits (Conclusions XVIII-1 (2006), Germany).

The report states that according to Section 42 of Law No. 76/2002 on the unemployment insurance system and employment stimulation, persons who upon applying for unemployment benefit refuse a job suitable to his/her training or education or refuse to participate in employment stimulation and vocational training services provided by the agencies for employment cannot (continue to) receive unemployment benefit. Under Section 44 of the above law, the payment of the unemployment benefit ceases upon unjustified refusal to take up offered employment suitable to the person's training or education or upon unjustified refusal to participate in employment stimulation or vocational training services, or upon discontinuing participation in such services for reasons attributable to the person.

Moreover, according to information provided by the Government to the Governmental Committee (Governmental Committee, Report concerning Conclusions 2013) the applicable legislation does not provide for a specific initial period during which a person in receipt of unemployment benefits may refuse an unsuitable job offer without losing the benefits.

The Committee understands that in principle offered employment or training may be refused if the refusal is duly justified. It asks that the next report confirm this understanding and indicate what are the circumstances which could justify a refusal, including information on any actual cases where offered employment or training has been refused without loss of benefits. Meanwhile, it reserves its position in this respect.

As regards the second ground of non-conformity concerning the minimum level of sickness benefit, the Committee recalls that under Article 12§1 benefits provided within the different branches of social security should be adequate and in particular income-substituting benefits should not be so low as to result in the beneficiaries falling into poverty. Moreover, the level of benefits should be such as to stand in reasonable proportion to the previous income and should not fall below the poverty threshold defined as 50% of the median equivalised income, as calculated on the basis of the Eurostat at-risk-of-poverty threshold value (Finnish Society of Social Rights v. Finland, Complaint No. 88/2012, decision on the merits of 9 September 2014, §§59-63).

The report provides no information in this respect. The Committee notes the information on the legal framework for sickness benefit which was provided by the Government to the Governmental Committee (Governmental Committee, Report concerning Conclusions 2013), and which confirms the information previously noted by the Committee, namely that sickness benefit is paid to the insured persons by the employer from the first day until the 5th day of temporary work incapacity. It amounts to 75% of the average insured gross earnings over the last 6 months. The amount is increased to 100% of the average insured earnings over the last 6 months if the sickness is caused by: tuberculosis, AIDS, any type of cancer, group A infectious and contagious diseases and medical and surgical emergencies. However, in the absence of information on minimum levels of sickness benefit actually paid (to a full-time employee calculated on a monthly basis), the Committee reiterates its finding of non-conformity.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 12§1 of the Charter on the ground that it has not been established that the minimum level of sickness benefit is adequate.

Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security

The Committee notes that Romania is bound by ILO Convention No. 102 since 15 October 2009, having accepted parts II, III, V, VII and VIII. It however notes that the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) decided to wait for information on most of the accepted parts of the Convention No. 102 accepted by Romania before assessing the situation (CEACR: Individual direct request concerning Social Security – Minimum Standards – Convention, 1952, No. 102, adopted in 2012 and published at the 102th session of the International Labour Conference, 2013).

The Committee notes, with regard to the personal scope and the level of benefits, that it finds in its conclusion under Article 12§1 that the situation is not in conformity on the grounds that the minimum level of unemployment benefit is manifestly inadequate, that it has not been established that the legislation provides an effective guarantee of protection against

unemployment risk and that it has not been established that the minimum level of sickness benefit is adequate.

In addition, it asks for figures for every branch of social security in order to be able to assess the effective personal coverage. The Committee also notes that it deferred its conclusion under Article 12§3. It also refers to its conclusion on Article 16 as concerns family benefits (Conclusions 2011). It notes that it reserved its position on this point, pending receipt of the requested information. In addition, Romania has ratified only one convention of the International Labour Organisation in the field of social security, in addition to Convention No. 102, namely Convention No. 168 (Employment Promotion and Protection against Unemployment, 1988).

The Committee requests that the next report provide detailed information on each of the branches of social security so as to enable it to determine whether Romania maintains a social security system at a satisfactory level.

Conclusion

Pending receipt of the requested information, the Committee defers its conclusion.

Paragraph 3 - Development of the social security system

The new legal framework was developed aiming at ensuring the sustainability of the pension system in the medium and long term, in the context of ageing of the population, economic crisis and the decline in the number of taxpayers. The unified pension system is based on the principles of uniqueness, contributiveness, equality, distribution and social solidarity. It aims at expanding the scope of compulsory insurance by integrating the persons belonging to specific systems, improving the financial sustainability of the pension system, ensuring fair treatment of insured persons, discouraging early retirements and increasing the retirement age.

A series of elements were introduced in the public pension system, such as raising the retirement age for certain staff, increasing the number of contributors to the unified public pension system to include those whose income derives solely from liberal professions and discouraging early partial retirements and abusive invalidity retirement, medically unjustified.

The Committee takes note of the results of application of this new legislative framework, namely: a decrease in the total number of pensioners as well as those registering for partial early retirement and those enrolled in disability pension schemes.

The Committee considers that the objective set by the reform is not contrary to the Charter as long as it has not endangered the existence of the pensions branch of the social security system and it has served the aim to consolidate public finances, in order to prevent deficits and debt interest from increasing, as one way of safeguarding the social security system (Statement of Interpretation, Conclusions XIV-1). Moreover, there is no evidence that the cumulative effect of the amendments implemented has had a disproportionate effect on the most vulnerable groups of population.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Article 13 - Right to social and medical assistance – Conclusions 2013

Paragraph 1 - Adequate assistance for every person in need

Types of benefits and eligibility criteria

The Committee has previously noted that minimum income benefits could be suspended in case of failure to perform community work and concluded that it was not established that this might

not entirely deprive a person without resources of his/her means of subsistence. The information provided also indicates that amendments are being considered aimed at identifying other forms of sanction to the person refusing to perform community work, so as not to deprive him/her of his/her means of subsistence. The Committee takes note of this information and asks the next report to provide updated information in this respect, as well as on any available data concerning the cases where benefits have been suspended (scale and frequency of penalties) or where they have not been suspended despite the failure to perform community work (criteria used to assess the reasons) and on the available remedies. It furthermore notes that certain benefits, such as heating allowances, are not conditional on performing community work. It notes however that different amounts are granted to recipients of social aid and asks whether the suspension of the guaranteed minimum income does not affect the eligibility to the benefits granted to beneficiaries of social aid. Pending receipt of information, it reserves its position on this issue.

Given that Romania has not accepted Article 23 of the Charter (the right of elderly people to social protection), the Committee assesses the level of non-contributory pensions paid to a single elderly person without resources under this provision. The Committee notes that the report does not provide information in this respect. It understands that the social aid available to individuals and families in need also applies to elderly people and asks the next report to confirm this.

Level of benefits

To assess the situation during the reference period, the Committee takes account of the following information:

- Basic benefit: according to MISSOC and the information provided to the Governmental Committee, the guaranteed minimum income was RON 125 (€29) per month for a single person and RON 225 (€53) for a family of two persons. The amount of social aid is calculated as a difference between the guaranteed minimum income and a person's net income and it's increased by 15% if at least one member of the family is working.
- Additional benefits: according to the report and MISSOC allowances for heating of a dwelling are granted to the beneficiaries of social aid. The information provided to the Governmental Committee indicates that the costs of thermal energy for central heating are 100% reimbursed, costs of gas are reimbursed up to RON 262 (€61) per month if the monthly net income per family member is up to RON 155 (€36) (according to MISSOC, the reimbursement is up to 90% of the heating invoice, with a 10% increase for a single person and 100% can be granted to recipients of social aid) and costs of heating by wood, coal and oil are reimbursed up to RON 58 (€14) 34 for recipients (single persons or families) entitled to Social Aid. The report furthermore indicates that children and students from families entitled to social aid are also entitled to scholarships for compulsory education but also for pre-university and university education. In conformity with the Law No. 116/2002, the local councils are also obliged to ensure access of socially excluded single persons and families to public services of strict necessity, such as water, electrical energy, heating etc. The report to the Governmental Committee furthermore indicates that, under Law No. 208/1997, beneficiaries of social aid are entitled to free social services in the welfare canteens, providing free meals twice a day (people who have temporarily no income can also benefit by these services 90 days a year).
- Medical assistance: according to MISSOC, the report and the information provided to the Governmental Committee, under Law No. 116/2002 and Law No. 95/2006, the beneficiaries of social assistance are covered by the health care scheme and the contribution for sickness and maternity benefits is paid by the National Agency for Social Benefits. In 2010, 482 711 recipients of social aid were registered to social health insurance, of which 34.2% (165 293

persons) benefited from medical assistance. The Committee notes from the information provided to the Governmental Committee that beneficiaries of social aid are entitled to emergency care as well as special care. It recalls in this respect that under Article 13§1 everyone who lacks adequate resources must be able to obtain medical care free of charge in the event of sickness as necessitated by his/her condition and reiterates its question as to whether a person without resources requiring treatment for a sickness, not necessarily of an emergency type, receives adequate health care. In this connection, it notes from another source (FEANTSA country fiche, 2012) that homeless people are reported to face considerable barriers to healthcare as, according to Law No. 95/2006, uninsured persons can receive a maximum of 72 hours medical care and the unemployed and those not receiving state benefits must pay €8 per month for health insurance cover; the same applies for mental health care. The Committee asks the next report to comment on this and, in the meanwhile, does not find it established that people without resources are entitled to an adequate level of medical care.

- Poverty threshold (defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value): it was estimated at €88 in 2011.

The Committee notes that the guaranteed minimum income, which corresponds barely to 16% of the median equivalised income, is manifestly inadequate. It notes that a number of additional benefits are available in cash or kind, covering in particular heating, education and food. While considering that these additional benefits are certainly relevant, it notes that the information provided does not allow to deduce to what extent they complement the basic benefit and, therefore, to establish that the level of social assistance is adequate. In addition, it does not find it established that people without resources are entitled to an adequate level of medical care.

Right of appeal and legal aid

The Committee asks the next report to clarify whether the administrative courts can be seized without first seizing the Social Mediation Commission or even in case the latter rejects the request for mediation and whether they have jurisdiction to rule on points of law as well as on the merits of the case. In the meanwhile, it reserves its position on this issue.

Personal scope

The Committee noted in its previous conclusion (Conclusions 2009) that all persons permanently or temporarily resident in Romania are eligible for social and medical assistance. It asks the next report to provide further details in this respect and in particular to precise whether non-EU nationals residing in Romania and lacking resources are also entitled to social and medical assistance and whether any length of prior staying is required for foreign residents in order to benefit from social and medical assistance.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 13§1 of the Charter on the ground that it has not been established that the level of social and medical assistance is adequate.

Paragraph 1 - Adequate assistance for every person in need – Conclusions 2015

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2014 on conclusions of non-conformity for repeated lack of information in Conclusions 2013.

The Committee takes note of the information submitted by Romania in response to the conclusion that it had not been established that the level of social and medical assistance was adequate.

The Committee recalls that, under Article 13§1, the level of social assistance must be such as to make it possible to live a decent life and to cover the individual's basic needs. In order to assess the level of assistance, the Committee takes into account basic benefits, additional benefits and the poverty threshold in the country, which is set at 50% of the median equivalised disposable income and calculated on the basis of the Eurostat at-risk-of-poverty threshold (*Finnish Society of Social Rights v. Finland*, Complaint No. 88/2012, decision on the merits of 9 September 2014, §112). The Committee further recalls that, given that Romania has not accepted Article 23 of the Charter (the right of elderly persons to social protection), the Committee assesses the level of non-contributory pension paid to a single person without resources under Article 13§1 (Conclusions 2013, Italy).

The report states that families and single persons with net monthly incomes below the guaranteed minimum income and at least one family member earning salary revenues are entitled to a 15% increase in the amount of family social support. Furthermore, all recipients of the guaranteed minimum income are entitled to allowances covering between 10% and 90% of home heating costs (social protection in winter). However, the report does not indicate the total amounts of these and any other supplementary benefits that may be received by beneficiaries of the guaranteed minimum income.

From MISSOC the Committee notes that the guaranteed minimum income as of 1 January 2015 was RON 141.5 (32.02€) per month for a single person, amounting to 18.5% of median equivalised income. The threshold of 50% of median equivalised income per month corresponded to € 86 in 2013 (most recent value). While noting the existence of different supplementary benefits, the Committee considers this level of social assistance to be manifestly inadequate.

As regards the elderly, the report states that a Social Allowance for Pensioners (*indemnizație socială pentru pensionari*) is payable to retired persons if the amount of the benefit received is below the minimum pension. As of 1 January 2015 this allowance amounted to up to RON 400 (€ 89) per month (according to MISSOC). However, the report also states that elderly persons who do not fulfil the conditions for entitlement to old-age pension receive social assistance. As the level of social assistance is manifestly inadequate (see above) the Committee considers, for the same reasons, that the level of social assistance for elderly persons without resources is not in conformity with the Charter.

With respect to medical assistance, the Committee recalls that the right to medical assistance should not be confined to emergency situations (Conclusions 2009, Armenia), and that a system covering expenses for a limited time or not including primary or specialised outpatient medical care does not sufficiently ensure health care for poor or socially vulnerable persons (*European Roma Rights Centre (ERRC) v. Bulgaria*, complaint No. 46/2007, Decision on the merits of 3 December 2008, §44).

The report states that under Section 210 of Law No. 95/2006 uninsured persons are only entitled to a minimum package of medical services such as care for medical emergencies and diseases with endemic-epidemic potential. Furthermore, the Committee previously noted from another source (FEANTSA country fiche 2012, see Conclusions 2013) that uninsured persons can only receive a maximum of 72 hours of medical care. In view of the Charter's requirement as quoted above, the Committee considers that the situation is not in conformity with the Charter as medical assistance under Article 13§1 should not be limited to a minimum package in emergencies.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 13§1 of the Charter on the grounds that:

- the level of social assistance is manifestly inadequate, including for elderly persons without resources;
- uninsured persons are not entitled to adequate medical assistance.

Paragraph 2 - Non-discrimination in the exercise of social and political rights

The Committee had previously noted (Conclusions 2006) that Article 16 of the Constitution stipulates that: "Citizens are equal before the law and public authorities, without any privilege or discrimination" and that Ordinance No. 137/2000 prevents and penalises all forms of discrimination in the exercise inter alia of political rights (Article 1§2.c) as well as of economical, cultural and social rights (Article 1§2.e). According to Article 2§1 of the ordinance, the term "discrimination" encompasses any difference of treatment, exclusion, restriction or preference, based in particular on social status or membership of a disadvantaged group of the population. Furthermore, the Committee notes from the additional information provided that the values and general principles of the national social assistance system include (Article 5 of Law No. 292/2011 on social assistance) non discrimination, also based on social grounds, equality, participation as well as confidentiality of information relating to the beneficiaries of social assistance.

Conclusion

The Committee concludes that the situation in Romania is in conformity with Article 13§2 of the Charter.

Paragraph 3 - Prevention, abolition or alleviation of need

The Committee recalls that Article 13§3 specifically concerns services offering advice and personal assistance to persons without adequate resources or at risk of becoming so and requires the states to guarantee that such persons are offered advice and assistance to make them fully aware of their rights to social and medical assistance and of the ways to exercise these rights. In this context, the Committee had previously asked whether primary services are provided with sufficient means to give appropriate assistance as necessary, what is the total spending on these services and whether access is free of charge. Considering the fact that the information provided does not indicate to what extent people without resources or at risk of becoming so have effectively access to services offering advice and personal assistance and the fact that the resources allocated to these services are admittedly insufficient to meet the needs, it considers that the situation is not in conformity with Article 13§3 of the Charter

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 13§3 of the Charter on the ground that it has not been established that people without resources or at risk of becoming so have effective access to adequate services offering advice and personal assistance to prevent, remove or to alleviate personal or family want.

Paragraph 3 - Prevention, abolition or alleviation of need – Conclusions 2015

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2014 on conclusions of non-conformity for repeated lack of information in Conclusions 2013.

The Committee takes note of the information submitted by Romania in response to the conclusion that it had not been established that persons without resources or at risk of becoming so have effective access to adequate services offering advice and personal assistance to prevent, remove or to alleviate personal or family want.

The Committee recalls that Article 13§3 specifically concerns services offering advice and personal assistance to persons without adequate resources or at risk of becoming so and requires the states to guarantee that such persons are offered advice and assistance to make them fully aware of their rights to social and medical assistance and of the ways to exercise these rights. In this context, the Committee had previously specifically asked whether primary services are provided with sufficient means to give appropriate assistance as necessary, what was the total spending on these services and whether access to them was free of charge.

The report explains in detail the specific measures implemented under Law No. 116/2002 for preventing and fighting social exclusion of young people aged between 16 and 25, which include professional counselling, mediation and employment support (contract of solidarity). In this regard, the report states that, in 2010, 1,005 young people from disadvantaged groups received mediation and professional counselling, 943 solidarity contracts were concluded and 392 “insertion employers” were identified.

As regards the amounts spent for assistance measures aimed at fighting social exclusion in general, the report indicates that, in 2010, the local councils facilitated the access to housing to 36% of the socially excluded single persons (5,751 individuals) and 35.1% of the socially excluded families (4,379 families) for a total budget of RON 34,324,233 (€8,130,550), representing 43% of the amounts needed. 37,315 single persons and 32,108 excluded families benefited of access to strict necessity public services, for a budget of RON 23,638,628 (€5,599,400). The report indicates that although the allocated amounts represented 67.5% of the amounts needed, having regard to the number of beneficiaries, it nevertheless ensured the access of 92.6% of the socially excluded individuals and 82.8% of the excluded families. During the same period, 38,471 individuals and 34,817 socially excluded families have benefited of other measures taken by local councils for preventing and fighting social exclusion, for a cost of RON 32,817,386 (€7,773,610). In total, in 2010, the amount spent for these measures was RON 90,780,247 (€21,503,600). According to the report this amount, corresponded to only to 59.8% of the estimated amounts needed.

The Committee takes note of this information. Nevertheless, considering the fact that the information provided does not indicate to what extent people without resources or at risk of becoming so effectively have access to services offering advice and personal assistance and the fact that the resources allocated to these services are by the Government’s own admission insufficient to meet the needs, it considers that the situation is not in conformity with Article 13§3 of the Charter.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 13§3 of the Charter on the ground that persons without resources or at risk of becoming so do not have effective access to adequate services offering advice and personal assistance to prevent, remove or to alleviate personal or family want.

Article 15 - Right of persons with disabilities to independence, social integration and participation in the life of the community – Conclusions 2012

Paragraph 1 - Education and training for persons with disabilities

Anti-discrimination legislation

Victims of discrimination or NGOs can file complaints with the NCCD (National Council on Combating Discrimination) or with the courts. The decision of the NCCD is an administrative sanction (fine or warning) which can be appealed before the courts of law under Administrative Law provisions. In the absence of a mechanism monitoring compliance with NCCD decisions, the impact of its decisions is however unknown. The Committee requests the next report to provide information on the measures taken to ensure effective remedies against alleged discrimination in education and training on grounds of disability (including examples of relevant case law and its follow up).

Vocational training

The report refers to training programmes organised by the national employment agency and indicates that they were attended by 98 persons with disabilities in 2010 (79 in 2009, 94 in 2008 and 106 in 2007). The report also mentions a range of different measures available directly to disabled people or their employers to promote training aimed at developing the professional capacities of persons with disabilities. It is not clear, however, whether special vocational training exists for children and adults with disabilities or not. The Committee requests the next report to provide more details in this respect and, if applicable, to indicate the number of people with disabilities attending mainstream or special vocational training.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Paragraph 2 - Employment of persons with disabilities

Employment of persons with disabilities

A research commissioned by the European Parliament in 2010 shows that the employment rate of disabled people is on average some 31% lower than that of non-disabled people.

Anti-discrimination legislation

The Committee requests the next report to provide information on the measures taken to ensure effective remedies against alleged discrimination in employment on grounds of disability (including examples of relevant case law and its follow up), as well as on how reasonable accommodation is implemented in practice and whether this has prompted an increase in the employment of persons with disabilities in the open labour market. The Committee points out that, should the next report fail to provide the requested information, nothing will prove that the situation in Romania is in conformity with Article 15§2 of the Social Charter

Measures to encourage the employment of persons with disabilities

The Committee reiterates its question on the impact of the National Strategy and other measures to promote employment of disabled people. It also asks information on the rate of transfer from sheltered to ordinary employment and on the role of trade unions in sheltered employment.

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in Romania is in conformity with Article 15§2 of the Charter.

Article 16 - Right of the family to social, legal and economic protection – Conclusions 2015

Social protection of families

Housing for families

The Committee notes from the report that the Dwelling Law No 114/1996, republished, provides in its Section 43 that social dwellings are distributed by the local public authorities that manage them based upon the yearly established criteria. The categories of persons who may benefit from them are, among others, persons and families evicted or who are to be evicted from their dwellings, the youth who are up to 35 years old, persons with disabilities, pensioners. The Committee wishes to be informed about the implementation of the Dwelling Law. In particular, the Committee wishes to know the total number of actual beneficiaries of social housing and the total number of eligible persons.

In its previous conclusion the Committee found that the situation was not in conformity with the Charter as the living conditions of Roma families in housing were not adequate.

The Committee notes that the report does not provide any information on this issue.

Childcare facilities

In its previous conclusion the Committee asked the next report to provide information as to how the Government ensured that affordable, good quality children facilities were available, in particular, in terms of number of children under the age of six in childcare, staff qualifications and suitability of the premises and the size of the financial contribution parents were asked to make. The Committee notes that the report does not provide this information. Therefore, it considers that it has not been established that affordable and good quality childcare is ensured for families.

Economic protection of families

Family benefits

The Committee notes from MISSOC that the State Allowance for children, and Family Support Allowance are financed by the State and paid universally to all children who are resident or domiciled in Romania.

The Committee notes that the State Allowance for children stood at € 44.4 for children up to 2 years of age and € 9.3 for children between 2-18 years of age.

The Committee also notes that the Family Support Allowance is paid to families with a monthly average net income per family member up to € 44 (the Reference Social Indicator) in the amount of € 8.8 for the first child, € 17 for the second child and € 26 for the third child.

The Committee notes from Eurostat that the median equivalised income stood at € 172 in 2013. The State Allowance for children between 2-18 years old represented 5.4% of the median equivalised income. In addition, families whose net income per family member is less than the amount of the Reference Social Indicator, are entitled to Family Support Allowance.

The Committee considers that the situation is in conformity with the Charter on this point.

Vulnerable families

The Committee requests that the next report provide information on how the State ensures the protection of vulnerable families, notably, single-parent families and Roma families, in accordance with the principle of equality of treatment. The Committee notes that if this

information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter on this point.

Equal treatment of foreign nationals and stateless persons with regard to family benefits

According to the report, the Social Assistance Law No. 292/2011 provides that all foreign nationals and stateless persons who have their domicile or residence in Romania have the right to social assistance under the same conditions as Romanian citizens. The Committee notes that both State Allowance for children as well as Family Support Allowance are included in social assistance scheme and therefore are also provided to all eligible persons domiciled or resident in Romania.

The Committee asks the next report to indicate whether refugees are treated equally with regard to family benefits.

Conclusion

The Committee concludes that the situation in Romania is not in conformity with Article 16 of the Charter on the grounds that:

- the right to adequate housing is not guaranteed for Roma families;
- it has not been established that there are adequate procedural safeguards against unlawful eviction for families;
- it has not been established that affordable and good quality childcare is ensured for families;
- it has not been established that adequate family counselling services are available.

European Code of Social Security

Resolution CM/ResCSS(2015)15 on the application of the European Code of Social Security by Romania

(Period from 1 July 2013 to 30 June 2014)

(Adopted by the Committee of Ministers on 10 September 2015 at the 1234th meeting of the Ministers' Deputies)

[Link to adopted by the Committee of Ministers resolutions](#)

The Committee of Ministers notes:

I. concerning Part II (Medical care), Article 10(1) of the Code, in conjunction with Article 68, Reduction of medical care, that under the terms of section 210(1)(e) of Law No. 95/2006 on health reform, when insured persons cannot provide proof of the payment of contributions, their medical care benefits are reduced to a minimum package limited to emergency aid. In accordance with sections 215 and 258 of the said Law, the obligation to calculate, withhold and remit the health insurance contributions of both the employer and the employee rests with the employer. Under the terms of decision No. 617/2007 of the President of the National Health Insurance Fund, workers may prove the payment of contributions by submitting the certificate issued by their employers. The report indicates that, at the end of 2013, 2,419,346 persons could not provide proof of payment of their contributions to the National Health Insurance Fund (CNAS) and therefore did not benefit from the types of medical care guaranteed by Article 10(1) of the Code. This figure constitutes a sharp increase in relation to the information provided by the government in its previous report, which indicated that 1,775,717 persons were in that situation. The Committee of Ministers understands that, in accordance with these provisions of the Law on health insurance, the entitlement of workers to full medical care depends on whether or not their employer fulfils in good faith the obligation to transfer the health insurance contributions to the CNAS and issues an appropriate certificate to that effect. In view of the substantial increase in the number of persons who are refused health care as it is impossible for them to prove that the contributions have been paid by their employer, the Committee of Ministers recalls once again that the Code does not allow the provision of benefits to the persons protected to be conditional on the financial situation or the goodwill of their employers. Moreover, Article 68 of the Code does not allow the suspension of benefits in the event that protected persons cannot provide proof of the payment of contributions. The obligation to ensure the full collection of contributions, to keep records of the contributions paid and to recover outstanding contributions from employers lies with the institutions administering the insurance scheme, which falls under the general responsibility of the State for the proper management of the system (Article 71(2) of the Code);

II. concerning Persons covered, under Article 15, that the report no longer mentions public employees as being included in the persons entitled to health benefits;

III. concerning Part V (Old-age benefit), Article 27(b) of the Code, Persons covered, that the report refers to some 4,587,073 persons covered under the old-age insurance scheme, which is a much lower figure than the 5,434,762 insured persons referred to in the 2013 report, even

though it continues to give effect to the minimum number required by the Code, which is set at 20 per cent of all residents;

IV. concerning the correction index, the report indicates that, in accordance with section 170 of Law No. 263/2010 on the single pension system, a correction index is applied when determining the average score for each annuity. Nevertheless, further to ruling No. 437 of the Constitutional Court of 2013, certain transitional provisions of Ordinance G.E.O. No. 1/2013 implementing this provision have been found unconstitutional, which has the effect of allowing the application of the new correction index established by this Ordinance solely for insured persons whose entitlement to a pension had been granted after its entry into force;

V. concerning Part VII (Family benefit), Article 44, in conjunction with Article 66, Total value of benefits provided:

a. the report indicates once again that, in view of the non-contributory system of family benefits in Romania, the total value of family benefits is related to the gross national monthly minimum wage or, for 2013, 800 Romanian new leus (RON). The Committee of Ministers reiterates that this method of calculating the total value of family benefits does not correspond to that set out in Article 44 of the Code, which does not differentiate between contributory and non-contributory family benefit schemes and in both cases requires the system to provide the persons protected with the total value of family benefits representing 1.5 per cent of the wage of the ordinary adult male labourer determined in accordance with Article 66 of the Code, multiplied by the total number of children of all residents. The Committee of Ministers notes in this respect that, according to the information of SES-Eurostat (2010), the wage of the ordinary labourer in manufacturing, determined in accordance with Article 66 of the Code was RON1,160 (2010), is substantially above the minimum wage in 2013 on which the government based its calculations under Part VII of the Code;

b. the report also indicates that the total value of family benefits provided during the first half of 2014 was RON1,214,450,966, or almost one half lower than the figure provided in the previous report for the first half of 2013;

VI. concerning Part VIII (Maternity benefit), the government indicates in its second report that pregnant women have access to basic health care under the same conditions as all other persons covered by social insurance. It adds that, irrespective of whether or not they are covered by health insurance, women are entitled to receive prenatal, confinement and postnatal care in the context of the minimum care package under the health insurance scheme;

VII. concerning Part XI (Standards to be complied with by periodical payments), Article 65, Replacement rate of old-age benefit, that according to the report under Article 28 of the Code (Part V), the reference wage determined in accordance with Article 65(6)(c) was RON2,778.75 calculated on the basis of the average gross wage of RON2,223 used as a basis for the social insurance budget of the State in 2013, in accordance with section 17 of Law No. 294/2011. The Committee of Ministers notes that the replacement rate of the old-age pension provided for a standard beneficiary after 30 years of insurance, calculated on the basis of this latter reference wage, in 2013 only attained 30.24 per cent (RON840.55), which is well below the rate of 40 per cent required by the Code, and lower than the 31.46 per cent achieved in 2012. The Committee of Ministers notes that if the standard beneficiary had been selected in accordance with Article 65(6)(b) in the division and the major group employing the largest number of protected male

persons in the contingency of economic activities, which is manufacturing, the reference wage, according to the available SES-Eurostat data (2010), would be RON1,737;

VIII. concerning social security and poverty reduction, that the proportion of the population at risk of relative poverty (with less than 60 per cent of the equivalised median income), although slightly lower in 2013 than in 2012, remains significant as it covers 22.4 per cent of the population, and 32.1 per cent of those under 18 years of age. The rate of severe material deprivation is three times higher than the European average, with 28.5 per cent of the population in this situation. Despite a relatively high average wage, the income for the first five deciles of the population did not exceed the minimum wage in 2012. The number of workers on low wages amounted to 25.6 per cent of total employment in 2012, and 18 per cent of the active population was under the relative poverty threshold, which is twice as high as the average for the European Union. Furthermore, active persons accounted for 46 per cent of the population in a situation of relative poverty. The average income of households composed of two adults and two children did not enable 27.2 per cent of them to live above the relative poverty threshold, with this rate exceeding 59.8 per cent for households composed of two adults and three children. Single-parent families with a single child are also in a particularly difficult situation, as 39.8 per cent of them live under the relative poverty threshold. This worrying situation has consequences on the level of social security benefits, which are calculated on the basis of the income of workers from employment. Accordingly, the pensions of the first five income deciles (calculated at the theoretical rate of 40 per cent required by the Code) are barely sufficient to attain the severe poverty threshold (40 per cent of the equivalised median income) and should be replaced by the social pension determined so as to enable survival above the severe poverty threshold, but still below the relative poverty threshold. While noting the existence of measures such as the social pension intended to prevent very low replacement rates, it is observed that the objectives set out in the Code cannot be considered as being achieved when the level of benefits provided by the social security system to active persons who have contributed to the social security scheme does not guarantee a living standard above the poverty threshold; Reserves its finding on the application of the accepted Parts of the Code in law and practice in Romania, subject to receiving substantive replies to the questions raised below and calculations demonstrating on the basis of the revised reference wage that social security benefits attain the level prescribed by the Code and are able to maintain the great majority of the persons protected above the poverty threshold;

Decides to invite the Government of Romania:

I. concerning Part II (Medical care), Article 10(1) of the Code, in conjunction with Article 68, Reduction of medical care, in the light of the absence of a reply on this point, to take the necessary measures to ensure that the National Health Insurance Fund (CNAS) is able to avoid reducing medical care benefit to the minimum package, to verify the record of contributions of the person concerned in the event that the employer has refused to issue an appropriate certificate and to recover the outstanding contributions in cases where employers have failed to pay them, for whatever reason;

II. concerning Persons covered, Article 15 of the Code, to indicate in its next report the reasons for the above-mentioned exclusion and any change in the scheme applicable to public employees in relation to health benefits;

III. concerning Part V (Old-age benefit), Article 27(b) of the Code, Persons covered, to explain, in its next report, the above-mentioned significant fall in the number of persons covered by the old-age insurance scheme;

IV. concerning the correction index, to indicate in its next report the effect of the application of the new correction index on the amounts of pensions provided after 2013 by comparing them with the amounts of the pensions provided before that date, with an indication of the reasons for the fall in the correction index;

V. concerning Part VII (Family benefit), Article 44, in conjunction with Article 66, Total value of benefits provided, in order to establish conformity with Article 44 of the Code:

a. to provide in its next report the calculations of the total value of family benefits based on the reference wage of the ordinary adult male labourer for 2014, using the methodology set out in Article 66 of the Code. The government is asked to refer to the above-mentioned "Technical note" which has been transmitted to the government;

b. to provide explanations, in its next report, on the reasons for the above-mentioned substantial decrease in the volume of family benefits for the same number of children as indicated in the previous report (4,298,099 children);

VI. concerning Part VIII (Maternity benefit), with reference to its comments under Part II relating to the reduction of medical care in cases where the person protected cannot provide proof of the payment of the social contributions, to indicate in its next report whether, in such cases, medical care related to maternity may also be reduced;

VII. concerning Part XI (Standards to be complied with by periodical payments), Article 65, Replacement rate of old-age benefit, to recalculate in its next detailed report the rate of the old-age pension provided to the standard beneficiary whose earnings are determined with reference to Article 65(6)(b) of the Code, using the explanations provided in the above-mentioned "Technical note", which explains and calculates for Romania all the options permitted by the Code for the determination of the reference wage for the same period (2010) for which complete Eurostat data are available. The government is requested to update the statistics used in the "Technical note" with an indication of the precise source of the data provided for future reference;

VIII. concerning social security and poverty reduction, to provide detailed statistical data with its next report on the dynamic and structure of poverty in the country and on the manner in which it intends to ensure that the social security system is capable of providing pensions which allow beneficiaries to live above the poverty thresholds in conditions of health and decency. The government is asked to report the measures taken for the categories of the population and the households that are most affected by poverty, with an indication of the role assigned to the minimum guaranteed levels of income and social benefits. In so doing, the government may wish to refer to the figures in the above-mentioned "Technical note", with a view to updating and completing them with any element that it considers necessary.

CEACR 2015 Conclusions on the application of the European Code of Social Security and its Protocol by Romania

As a result of its examination based on the information from various sources compiled in the ILO technical note, the Committee reserves its conclusion on the application of the accepted Parts of the Code in law and practice in Romania, pending receipt of calculations demonstrating on the basis of the revised reference wage that social security benefits attain the level prescribed by the Code and are able to maintain the majority of the persons protected above the poverty threshold.

Part II (Medical care), Article 10(1) of the Code, in conjunction with Article 68, reduction of medical care. Part VIII (Maternity benefits), Article 49. The Committee understands that, in accordance with the Law on health insurance, the entitlement of workers to full medical care depends on whether or not their employer fulfils in good faith the obligation to transfer the health insurance contributions to the National Health Insurance Fund (CNAS) and issues an appropriate certificate to that effect. The Committee notes the substantial increase in the number of persons who are refused health care as it is impossible for them to prove that the contributions have been paid by their employer, and recalls that the Code does not allow the provision of benefits to the persons protected to be conditional on the financial situation or the goodwill of their employers. ***The Committee requests the Government to ensure that the CNAS will stop reducing medical care benefit to the minimum package, in the event of the employer refusing to issue an appropriate certificate, but will instead verify the record of contributions of the person concerned and recover the outstanding contributions in cases where employers have failed to pay them.***

Part V (Old-age benefit), Article 27(b) of the Code. Persons covered. ***The Government is requested to explain the significant fall in the number of persons covered by the old-age insurance scheme from 2013 to 2014.***

Correction index. ***Please indicate the effect of the application of the new correction index established by Ordinance G.E.O. No. 1/2013 on the amounts of pensions provided after 2013 by comparing them with the amounts of the pensions provided before that date.***

Part VII (Family benefit), Article 44, in conjunction with Article 66. Total value of benefits provided. ***In order to establish conformity with Article 44 of the Code, the Government should provide in its next report the calculations of the total value of family benefits based on the reference wage of the ordinary adult male labourer for 2015, using the methodology set out in Article 66 of the Code and explained in the ILO technical note, which is appended to these conclusions. Please explain the reasons for the substantial decrease between 2013 and 2014 in the volume of family benefits.***

Part XI (Standards to be complied with by periodical payments), Article 65. Replacement rate of old-age benefit. ***The Committee requests the Government to recalculate the rate of the old-age pension provided to the standard beneficiary whose earnings are determined with reference to Article 65(6)(b) of the Code, using the explanations provided in the ILO technical note.***

Adequacy of social security benefits. ***The Committee requests the Government to provide detailed statistical data showing that the social security system is capable of providing benefits which allow beneficiaries to live above the poverty thresholds in conditions of***

health and decency. Please report the measures taken for the categories of the population and the households that are most affected by poverty, with an indication of the role assigned to the minimum guaranteed levels of income and social benefits. In view of the variety of ways in which social security and statutory social assistance are used to prevent or reduce poverty and the complexity of indicators used to assess the adequacy of benefits, the Committee requested the ILO to summarize the relevant information in the country technical notes attached to its conclusions. **The Committee invites the Government to update and supplement the statistical information in the 2015 technical note in its next detailed report, which shall also include for the same time basis (see Article 65(4) of the Code) updated statistics on social security coverage, amount of the reference wage and calculations of the replacement rate of benefits.** The Committee will examine the question of the adequacy of social security benefits under the accepted Parts of the Code on the basis of this comprehensive information.

Article 74. Next detailed report on the Code. (See above under Chapter III)

3. ILO Conventions

Social Security (Minimum Standards) Convention, 1952 (No. 102) - Romania (*Ratification: 2009*)

Direct Request (CEACR) - adopted 2012, published 102nd ILC session (2013) - due in 2016

[Link to pending comments by the ILO supervisory bodies, NORMLEX](#)

The Committee notes the first reports on the application of the Convention and of the European Code of Social Security and would like to receive additional information on the following points.

Part II (Medical care). Persons protected. According to the Government, health insurance in Romania is mandatory and operates as a universal, equitable and non-discriminatory system. The report indicates however that 1,775,717 persons could not provide proof of health insurance coverage and did not benefit from the types of medical care guaranteed by *Article 10(1) of the Convention*. ***In view of the high number of persons who escape mandatory coverage, the Committee would like the Government to explain the reasons leading to this situation, the categories of persons concerned, and the measures taken to extend full medical coverage to the whole of the population.***

Reduction of medical care. *Article 10(1) of the Convention in conjunction with Article 69.* According to section 210(1)(e) of Act No. 95/2006 on Health Reform, when insured persons cannot make proof of the payment of contributions their medical care benefits are reduced to a minimum package limited to emergency aid, care in potentially epidemic diseases and in case of pregnancy, child birth and family planning. The Committee recalls that *Article 69* of the Convention does not mention the lack of proof of payment of contributions as a permitted ground for the suspension of benefits. ***Noting that health insurance contributions in Romania are paid to the National Health Insurance Fund (CNAS) by employees (5.5 per cent) and their employers (5.2 per cent), the Committee would like the Government to clarify who is responsible for transferring these payments to the CNAS and how insured employees obtain proof of the payment of the insurance contributions on their behalf by their employers.***

Part III (Sickness benefit). Article 18. According to sections 13 and 14 of the Emergency Ordinance No. 158/2005 on leave and social health insurance benefits, sickness benefit is granted for an initial period of 90 days (approximately 13 weeks) and may be extended for a full duration of 26 weeks (183 days) subject to the approval by a social security medical expert. ***The Committee asks the Government to explain the procedure regulating such extension of sickness benefit.***

Part VII (Family benefits). Article 44 in conjunction with Article 66. Statistical information regarding the total value of benefits granted. According to the report, the total number of children of all persons protected reported under Part VII amounted to 3,892,407, while the records of the CNAS reported under Part II contained 4,220,018 children. The Committee further notes that the report calculates the total value of family benefits on the basis of the national gross monthly minimum wage, which would be lower than the reference wage of a person deemed typical of unskilled labour determined under *Article 66* of the Convention. ***In view of these incompatibilities, the Committee invites the Government to review in its next report the statistical data and the calculation made under Article 44 of the Convention.***

Part VIII (Maternity benefit). Article 49. Cost sharing. Sections 210 and 213 of Act No. 95/2006 on Health Reform provide for cost sharing of medical care offered under the basic package of services in accordance with the framework agreements. With respect to medical care in case of pregnancy and child birth and their consequences, women are not required to participate in the cost of medical care when they are covered by health insurance and when the medical services provided are those reimbursed by the CNAS. ***The Committee would like to know whether all types of medical services mentioned in Article 49 are covered by the framework agreements and are fully reimbursed by the CNAS. Please also explain the structure and parties to such framework agreements.*** Furthermore, according to sections 213 and 223 of Act No. 95/2006, the monitoring and progress of pregnancy and post-natal care are provided regardless of the insurance status of women; pregnant women and those who have recently given birth who have no income, or income below the minimum wage, are exempt from paying insurance contributions. ***The Committee would be grateful if the Government would confirm these statements and clarify the circumstances in which uninsured women could be required to participate in the cost of medical care related to prenatal, childbirth and post-natal care.***

Part XI (Standards to be complied with by periodical payments). Article 65. Replacement rate of the sickness, old age and maternity benefits. The report on the Convention indicates under Part III that the monthly earnings of the person deemed typical of skilled labour in 2010 were 1,724 Romanian New Leu (RON), while under Part V the monthly salary of a skilled manual labourer employed in the major group of economic activities attained only RON1,531, which was the amount of the national monthly average wage. In contrast, the report on the application of the European Code of Social Security determined the reference wage under Part V at the level of RON1,931 as the wage of a person whose earnings were equal to 125 per cent of the average earnings of all persons protected, i.e. RON1,531. However, according to the National Institute of Statistics, the national monthly average wage in 2010 was RON1,910 and not RON1,531. ***In view of these incompatibilities, the Committee asks the Government to clarify how the skilled manual male employee is selected, what is his reference wage, and what national monthly average wage should be used in the formula for the calculation of old-age pension. Please make the calculations requested by the report form on the basis of the updated statistics.***

Review of the rates of long-term benefits. Noting that old-age pensions and the minimum pension value appear to be reviewed annually through a legislative process in line with the inflation rate and the real growth of earnings, the Committee would like the Government to indicate in its next report the relevant legal provisions and to provide statistical information requested in Title VI of Article 65 for the period since 2010.

Article 70. Right of Appeal. The Government is invited to indicate whether the complaint and appeal procedures mentioned in the report on the European Code of Social Security relate to all ratified Parts of the Convention and to explain the rules for lodging claims before the competent public bodies at all levels.

Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168) - Romania (*Ratification: 1992*)

Direct Request (CEACR) - adopted 2011, published 101st ILC session (2012) – due in 2016

[*Link to pending comments by the ILO supervisory bodies, NORMLEX*](#)

In its comments on the application of the Convention, which the Office received on 1 September 2010, the Block of National Trade Unions states that, in Romania, the public sector is in the process of laying off more than 80,000 workers and, in circumstances where unemployment is on the rise and job offers are declining, it is difficult to speak about workers' protection against unemployment. In its reply to these observations, dated 15 January 2010, the Ministry of Labour, Family and Social Protection of Employment states that unemployed persons shall still be entitled to unemployment benefits even if these benefits have been reduced by 15 per cent since July 2010 because of the unfavourable economic environment. No additional conditions have been introduced to Act No. 76/2002 of 16 January 2002 on the unemployment insurance scheme and employment promotion in order to be eligible for benefits. A number of measures have been taken with a view to reducing the effects of the economic crisis on the labour market, preventing the laying off of an important number of persons and supporting job creation, such as the exemption from payment of income tax and social contributions on benefits granted to employees during temporary suspension of activities for maximum 90 days (Government Emergency Ordinance No. 4/2010 on social protection measures) and a partial reduction of the labour costs for employers of unemployed persons (Government Emergency Ordinance No. 13/2010 regulating certain measures to stimulate job creation and the reduction of unemployment). The Ministry also refers to the capacity of the members representing the social partners in the Governing Body of the National Employment Agency. ***Noting that Act 118 of 29 June 2010, which reduced employment benefits by 15 per cent, was applicable until 31 December 2010, the Committee invites the Government to keep it informed on the further legislative developments with respect to protection against unemployment.***

Article 10(3) of the Convention. Benefits for part-time workers who seek full time work. The Government states that according to section 107(1) of the Labour Code, the employer should take into account, as far as possible, the requests made by part-time workers who wish to work fulltime and is bound to inform them without delay about the available full time positions. However, the legal framework on the protection against unemployment does not foresee the payment of unemployment benefits to persons working part-time and looking for a job with a normal duration. In this connection, the Committee would like to draw the Government's attention to the fact that *Article 10(3)* aims at a fair compensation for the loss of earnings for part-time workers who are seeking full time work so as not to discourage unemployed workers to take up part-time work as a means in assisting them to return to full-time work.

Article 17. Qualifying period. On the basis of the available information, the Committee understands that the Government has modified the eligibility conditions for unemployment benefits under section 34(1) of Law No. 76/2002 which requires 12 months of contributions during the last 24 months preceding the application for unemployment benefits; a minimum of 12 months of contributions is also required in between two successive applications for unemployment benefits. ***The Committee requests the Government to confirm this information and provide the applicable legislative provisions. It also requests the***

Government to indicate whether special rules have been adopted for seasonal workers in conformity with Article 17(2) of the Convention, and, if so, what are these rules.

Article 27(2). Complaints and appeals procedures. The Committee notes the detailed information on the complaints and appeals procedures. ***It would be grateful if the Government would indicate whether national law and practice enable claimants to be represented or assisted during appeals procedures by the persons mentioned in Article 27(2) of the Convention.***

Maternity Protection Convention, 2000 (No. 183) - Romania (Ratification: 2002)

Observation (CEACR) - adopted 2013, published 103rd ILC session (2014) - due in 2018

[Link to pending comments by the ILO supervisory bodies. NORMLEX](#)

Article 2 (atypical forms of dependent work) read in conjunction with Article 6(2) of the Convention (benefits securing a suitable standard of living). The Committee notes that, according to information available from Eurostat, in 2011, Romania has one of the highest rates of persons at risk of poverty or social exclusion in the European Union – 40 per cent of the population, with a relatively high proportion of employed persons at risk of poverty (18.9 per cent). According to Eurostat, among part-time workers, the in-work at-risk-of-poverty rate was 61 per cent in 2012. In this situation, the Committee welcomes the fact that the minimum threshold of maternity benefit reported by the Government (600 Romanian new lei (RON) per month) exceeds the at-risk-of-poverty threshold established by Eurostat at 60 per cent of median equivalized income, that is to say, RON448 per month. The Committee notes also the medical benefits package granted to women earning income lower than the national minimum gross wage. ***Taking into account that maternity benefit represents 85 per cent of the previously insured earnings, which in certain cases may be lower than the national minimum wage, the Committee would like the Government to specify whether all employed women have the right to receive maternity benefit at the guaranteed minimum level and, if not, what additional forms of protection were provided to ensure that the amount of cash maternity benefit remains at a level allowing maintenance of the mother and child with a suitable standard of living, especially as regards women employed in atypical forms of dependent work, including part-time, temporary and domestic women workers.***

Article 4(1). Minimum qualifying period for entitlement to maternity leave. Recalling that the Convention does not authorize the right to maternity leave to be made subject to the completion of a qualifying period, the Committee again asks the Government to explain whether a woman who has not been affiliated to the social security system for a minimum of one month would still be granted the right to maternity leave, regardless of whether she qualifies for cash maternity benefits during the duration of such leave.

Article 6(5)(6). Social assistance. Please indicate the maximum amount of benefits paid out of social assistance funds under the Emergency Government Ordinance No. 158/2005 to women who do not qualify for contributory cash maternity benefit.

EU Country-Specific Recommendations: 2015

(the numeration of comments is kept in accordance to the original)

The European Union has set up a yearly cycle of economic policy coordination called the European Semester in 2010. Under the European Semester, the European Commission was given a mandate by Member States to check whether they take action on reform commitments they have made at EU level. The European Semester starts when the Commission adopts its Annual Growth Survey which sets out EU priorities to boost job creation and growth for the next year.

Each year, the Commission undertakes a detailed analysis of EU Member States' plans of budgetary, macroeconomic and structural reforms and provides them with the country-specific recommendations basing its decision on the submitted by each country National Reform Programme and Stability Programme. These recommendations provide tailor-made policy advice to Member States in areas deemed as priorities for the next 12-18 months. The European Council endorses the recommendations after the discussion.

Where recommendations are not acted on within the given time-frame, policy warnings can be issued. There is also the option of enforcement through incentives and sanctions in the case of excessive macroeconomic and budgetary imbalances.

Council Recommendation of 14 July 2015 on the 2015 National Reform Programme of Romania and delivering a Council opinion on the 2015 Convergence Programme of Romania (2015/C 272/01), (18.08.2015, C 272/1, *Official Journal of the European Union*).

[Official Website of the European Commission](#)

(11) Romania's fiscal framework is broadly sound but not effectively applied. The medium- and long-term demographic trends and low level of development of the labour market may jeopardise the long-term sustainability of the pension system. The pension reform launched in 2010 has already brought some improvements, but the law equalising the statutory retirement age for men and women as of 2035, proposed by the Government in December 2013, has not yet been adopted by the lower chamber of Parliament.

(12) The recent cut in employers' social security contributions has reduced the labour tax wedge, but in an untargeted way. The tax wedge for lower income earners remains high (40 %) relative to other European countries. Tax fraud and tax avoidance remain a major challenge and eat into tax revenue. The first steps have been taken in what is set to be an ongoing reorganisation of the Romanian tax administration. A pilot compliance project targeting undeclared labour, under-declared wages and tax evasion was implemented in two regions in 2014, and is to be rolled out further in 2015. The level of environmental taxation was increased in 2014, bringing it close to the EU average.

(13) While some improvements were seen in 2014, employment and activity rates continue to be especially low among women, young people, older workers and Roma. Active labour market policies have been revised, but the overall participation in and financing for active labour market measures remain low, particularly for vocational training, schemes leading to the recognition of prior learning, mobility incentives, and measures targeting the long-term

unemployed. Romania has taken steps to address youth unemployment, in particular through the Youth Guarantee, but there have been delays in implementation. No progress has been made in setting transparent guidelines for setting the minimum wage. In order to allow for personalised services and more coherent delivery across target groups, the Public Employment Service would need increased capacity, in particular in terms of staffing, and an integrated delivery framework for measures co-financed through European Structural and Investment funds.

(15) The Romanian healthcare system is characterised by poor results of treatment, poor financial and geographical accessibility, low funding and inefficient use of resources. There is high reliance on in-patient services and the system suffers from the extensive inefficient hospital network, the weak and fragmented referral networks, and the low proportion of spending directed to primary healthcare. In addition, the widespread use of informal payments in the public healthcare system further reduces the accessibility, efficiency and quality of the system. Various measures and healthcare reforms that have been introduced have narrowed the funding gap and improved the standard and efficiency of services. The National Health Strategy 2014-2020, which sets the strategic base for health sector reforms, was approved in December 2014 and is now to be implemented. The Ministry of Health and the National Health Insurance House are considering various measures to improve the system for financing healthcare.

(16) Reducing poverty and social exclusion remains a major challenge for Romania. Although decreasing, the rate of people at risk of poverty or social exclusion remains high at 40 % in 2013, far above the EU average. The effectiveness of social transfers (excluding pensions) in reducing poverty appears limited, and is particularly low in the case of children. Social transfers are not adequately linked to activation measures. The implementation of the 2011 social assistance reform is still behind schedule. The strategy for social inclusion and combating poverty and the associated action plans were approved on 27 May 2015. Limited progress was made in introducing the minimum insertion income, which would simplify social assistance by combining three existing social transfers, and would also strengthen the link with activation measures. A social economy law designed to regulate the field of social economy and improve labour participation of vulnerable population was adopted by the Government in 2013, but is still under debate in the Parliament. Few effective measures were taken to integrate the Roma population. A revised strategy for the integration of Roma was, however, adopted with some delay in January 2015, but implementation is behind schedule.

HEREBY RECOMMENDS that Romania take action in 2015 and 2016 to:

2. Limit the deviation from the medium-term budgetary objective in 2015 to a maximum of 0,25 % of GDP as specified under the 2013-15 balance-of-payments programme and return to the medium-term budgetary objective in 2016. Implement the comprehensive tax compliance strategy, strengthen verification control systems in order to tackle undeclared work, and push ahead with the equalisation of the pensionable age for men and women.

3. Strengthen the provision of labour market measures, in particular for unregistered young people and the long-term unemployed. Ensure that the national employment agency is adequately staffed. Establish, in consultation with the social partners and in accordance with national practices, clear guidelines for setting the minimum wage transparently. Introduce the minimum insertion income. Increase the provision and quality of early childhood education and care, in particular for Roma. Take action to implement the national strategy to reduce early school leaving. Pursue the national health strategy 2014-2020 to remedy issues of poor accessibility, low funding and inefficient resources.