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Governing Body

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Institutional Section

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Report of the Director-General

Second Supplementary Report: Report of the Committee set up to examine the representation alleging non-observance by Romania of the Social Security (Minimum Standards) Convention, 1952 (No. 102)

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▶ I. Introduction

1. In a communication received on 28 July 2022, the National Trade Union Confederation – Cartel Alfa (NTUC – Cartel Alfa) made a representation to the International Labour Office under article 24 of the ILO Constitution alleging non-observance by the Government of Romania of the Social Security (Minimum Standards) Convention, 1952 (No. 102), which was ratified by Romania on 15 October 2009. The Convention remains in force in the country, which has accepted its Parts II (Medical care), III (Sickness benefit), V (Old-age benefit), VII (Family benefit) and VIII (Maternity benefit). The NTUC – Cartel Alfa also submitted additional information regarding the representation in a communication received by the Office on 5 February 2025.

2. The following provisions of the ILO Constitution relate to the submission of representations:

> Article 24
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> *Representations of non-observance of Conventions*
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> In the event of any representation being made to the International Labour Office by an industrial association of employers or of workers that any of the Members has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party, the Governing Body may communicate this representation to the government against which it is made, and may invite that government to make such statement on the subject as it may think fit.
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> Article 25
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> *Publication of representation*
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> If no statement is received within a reasonable time from the government in question, or if the statement when received is not deemed to be satisfactory by the Governing Body, the latter shall have the right to publish the representation and the statement, if any, made in reply to it.

3. In accordance with article 1 of the Standing Orders concerning the procedure for the examination of representations under articles 24 and 25 of the ILO Constitution, the Director-General acknowledged receipt of the representation, informed the Government of Romania thereof, and brought the representation before the Officers of the Governing Body.

4. At its 346th Session (October–November 2022), the Governing Body decided that the representation was receivable and set up a tripartite committee to examine it. The Committee is composed of Ms Joanna Żeber (Government member, Poland), Mr Niklas Beckman (Employer member, Sweden) and Mr Plamen Dimitrov (Worker member, Bulgaria).

5. The Government of Romania sent its observations on the representation in a communication received by the Office on 22 February 2023.

6. The NTUC – Cartel Alfa sent the representation through the model electronic form for the submission of a representation under article 24 of the ILO Constitution. In its submission, the NTUC – Cartel Alfa expressed support for dialogue to resolve the issue, while conveying doubts as to whether voluntary conciliation would lead to a satisfactory outcome. In its observations on the representation, the Government of Romania did not indicate whether it was willing to engage in voluntary conciliation.

7. The Committee met on 22 April and 2 June 2025 to examine the representation and to adopt its report.

▶ II. Draft decision

8. In the light of the conclusions set out in paragraphs 20 to 31 of the report of the Committee contained in document GB.354/INS/9/2 with regard to the matters raised in the representation, the Governing Body decided to:

(a) approve the report of the Committee and, in particular, the conclusions in paragraphs 29 to 31;

(b) request the Government of Romania to provide the Committee of Experts on the Application of Conventions and Recommendations with information on the matters addressed in the report and the Committee's conclusions in 2026;

(c) make the report public and close the procedure initiated by the representation.

▶ III. Examination of the representation

A. The complainant's allegations

9. The NTUC – Cartel Alfa alleges non-observance by the Government of Romania of Convention No. 102, particularly its Article 71.

10. The NTUC – Cartel Alfa alleges that the Government Emergency Ordinance No. 79/2017, amending and supplementing Act No. 227/2015 regarding the Fiscal Code (GEO No. 79/2017), has shifted the responsibility for social contributions almost entirely onto employees, in violation of Article 71(2) of the Convention. In particular, as of 1 January 2018, the social contribution rate borne by employees rose from 5.5 per cent to 10 per cent of the gross salary for health insurance and from 10.5 per cent to 25 per cent for pension insurance. Meanwhile, according to the NTUC – Cartel Alfa, employers contribute only 2.25 per cent of the gross salary for labour insurance, which is further divided as follows: 15 per cent to the Guarantee Fund for salary claims, 20 per cent to unemployment insurance, 5 per cent to insurance for work-related accidents and occupational diseases, 40 per cent to the Single National Health Insurance Fund for sick leave, and 20 per cent to the State Budget.

11. The NTUC – Cartel Alfa provides statistical data alleging that, prior to the adoption of GEO No. 79/2017, in 2017, employees bore the cost of 28.37 per cent of the total expenses related to medical care, sickness, old-age and maternity benefits provided under Parts II, III, V and VIII of the Convention. Following the changes in social contribution rates introduced by GEO No. 79/2017, this share rose to 83.36 per cent in 2018, 85.13 per cent in 2019, 80.09 per cent in 2022 and 81.5 per cent in 2023. According to the NTUC – Cartel Alfa, the increased fiscal burden on employees has the following important consequences: the undermining of the principle of social solidarity, the encouragement of undeclared and partially declared work, the amplification of extremist attitudes, and the erosion of trust in work relations.

12. It is also alleged that, contrary to Article 71(3) of the Convention, the changes in social contribution rates introduced by GEO No. 79/2017 have not been based on the necessary actuarial studies and financial equilibrium calculations, as well as social dialogue.

13. The NTUC – Cartel Alfa refers to the negative opinions expressed by the Economic and Social Council and the Fiscal Council of Romania regarding the draft GEO No. 79/2017 prior to its adoption. The NTUC – Cartel Alfa also refers to the statement issued by the Council of Foreign

Investors against the measures to shift the responsibility for social contributions onto employees. It indicates that a petition, signed by all representative national trade union confederations, was registered with the ombudsperson on 15 November 2017, requesting a referral of GEO No. 79/2017 to the Constitutional Court. Furthermore, the NTUC – Cartel Alfa submitted a complaint regarding GEO No. 79/2017 to the Government on 27 November 2017 and a letter to the Attorney General requesting that the Court of Appeal partially suspend the application of GEO No. 79/2017 on 28 November 2017. The NTUC – Cartel Alfa finally indicates that no outcome was obtained as a result of the aforementioned actions.

B. The Government's reply

14. In its reply dated 22 February 2023, the Government states that employers continue to contribute to the social insurance system. In particular, under GEO No. 79/2017, employers are required to pay an additional contribution towards pension insurance of 4 per cent for work performed under difficult conditions and 8 per cent for work performed under special conditions. Employers are also responsible for a 2.25 per cent contribution towards labour insurance.

15. It is further indicated that the changes in social contribution rates did not result in a reduction in employees' revenues due to adjustments made to the personal deduction system. Pursuant to GEO No. 79/2017, both the income threshold for granting personal deductions and the value of the deductions themselves were increased. Additionally, the Government notes a significant increase in the gross minimum wage, which rose from 29 per cent of the gross average wage to approximately 45.7 per cent in 2018.

16. The Government also notes that, in 2015, Romania had an implicit fiscal rate [1] of 31.2 per cent, ranking as the seventh lowest among European Union (EU) Member States. Additionally, the share of personal income tax in labour costs was 11.4 per cent, placing Romania 11th among EU countries in this regard. It is also indicated that, in 2016, the share of social contributions paid by employees as a proportion of total labour costs stood at 9.3 per cent, ranking Romania as the 14th lowest in the EU.

17. The Government refers to various non-contributory social and family allowances available in Romania, funded by the public and/or local budgets. These allowances include, among others, social benefits for populations at risk of poverty; community-based social benefits to overcome temporary difficult situations; emergency aid for situations caused by natural disasters, fires, or accidents; social scholarships and financial aid to facilitate access to education; aid in kind, such as food and educational supplies, for youth and children from disadvantaged families; aid provided to refugees; and a range of social assistance benefits provided to persons with special needs. Additionally, the Government refers to support programmes like "First Home" and "First Car," which offer loans at low interest rates. There are also measures to exempt individuals earning less than 60 per cent of the average gross wage from fees related to basic bank operations with cards or accounts.

18. It is stated that various budgetary expenses, along with personal deductions and tax incentives, are to be considered as indirect social benefits. These indirect social benefits, according to the Government, increase employees' resources to cover their social needs. It is

[1] Defined by the Government as the ratio between all taxes and contributions applied to the income from employed labour and the total compensation of employees, respectively the sum of all taxes on the personal income and social contributions levied on employed labour income from employees and employers, divided by the total compensation of employees working in the economic territory (according to National accounts).

further indicated that, under Article 1(2) of the Convention, the term "benefits" also means "indirect benefit consisting of a reimbursement of the expenses borne by the person concerned". The Government finally considers that income derived from social benefits constitutes an important share in the total income of a household.

19. The Government provides data showing that, in 2018, total social benefits, including both direct benefits [2] and indirect benefits [3] amounted to 138,100,000 Romanian lei. In that year, the total amount of contributions paid by employees was 69,000,000 Romanian lei.

IV. The Committee's conclusions

20. The Committee's findings are based on its review of the allegations presented by the NTUC – Cartel Alfa and the observations submitted by the Government of Romania in these proceedings.

21. The Committee notes that the NTUC – Cartel Alfa alleges that:

(a) GEO No. 79/2017 shifted the requirement to pay social contributions to employees at 10 per cent for health insurance and 25 per cent for pension insurance. As a result, according to the NTUC – Cartel Alfa, employees bore 83.36 per cent of the total expenses allocated for medical care, sickness benefits, old-age benefits and maternity benefits provided under Parts II, III, V and VIII of the Convention in 2018, 85.13 per cent in 2019, 80.09 per cent in 2022 and 81.5 per cent in 2023; and

(b) the changes in social contribution rates introduced by GEO No. 79/2017 have not been based on the necessary actuarial studies and financial equilibrium calculations, as well as social dialogue.

22. The Committee observes that the allegations relate to the content of Article 71(2) and (3) of the Convention, which provides that:

> 2. The total of the insurance contributions borne by the employees protected shall not exceed 50 per cent of the total of the financial resources allocated to the protection of employees and their wives and children. For the purpose of ascertaining whether this condition is fulfilled, all the benefits provided by the Member in compliance with this Convention, except family benefit and, if provided by a special branch, employment injury benefit, may be taken together.
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> 3. The Member shall accept general responsibility for the due provision of the benefits provided in compliance with this Convention, and shall take all measures required for this purpose; it shall ensure, where appropriate, that the necessary actuarial studies and calculations concerning financial equilibrium are made periodically and, in any event, prior to any change in benefits, the rate of insurance contributions, or the taxes allocated to covering the contingencies in question.

23. The Committee notes the Government's indication that:

(a) employers contribute at a rate of 4 per cent for work performed under difficult conditions and 8 per cent for work performed under special conditions, for pension insurance;

[2] Such as employment and support allowances, medicines (claw-back tax), social benefits excluding family-related ones, and other benefit-related expenses.

[3] Such as holiday vouchers, food allowances, state aid schemes, among others.

(b) in addition, employers contribute 2.25 per cent for labour insurance, which funds unemployment benefits, benefits in relation to medical leave, work-related accidents and occupational disease benefits and salary payments provided by the Guarantee Fund;

(c) a range of social and family allowances and programmes are provided, funded through public and/or local budgets (including, various social benefits for populations at risk of poverty or in temporary difficult situations, emergency aid, educational support, and support for refugees and persons with special needs); and

(d) tax and fiscal measures were implemented to maintain employees' income (including raising the income threshold for personal deductions, increasing their value, and raising the gross minimum wage).

24. The Committee observes that the Government has not provided specific information as regards the actuarial studies and calculations made prior to the changes in the rates of social contributions introduced by GEO No. 79/2017.

25. The Committee recalls that for the purpose of determining the share of insurance contributions borne by the employees in the total of the financial resources allocated to the protection of employees and their wives and children under Article 71(2) of the Convention, only benefits provided by the Member State to apply the relevant Parts of the Convention shall be taken into account. In this respect, the Committee recalls that such benefits shall meet the requirements of the corresponding parts of the Convention as to the type of social contingency covered, qualifying conditions, payment duration, personal coverage, level and duration of benefits. Furthermore, financial resources allocated for family benefits and employment injury benefits, provided by a special branch, shall not considered in the calculations.

26. The Committee observes that Romania has accepted Parts II (Medical care), III (Sickness benefit), V (Old-age benefit), VII (Family benefit) and VIII (Maternity benefit) of the Convention. The Committee, therefore, recalls that only financial resources allocated for medical care, sickness benefits, old-age benefits and maternity benefits provided by Romania to apply the relevant Parts of the Convention shall be included in the calculations. Consequently, any benefits falling outside the scope of Parts II, III, V and VIII of the Convention shall be excluded.

27. The Committee observes that the data provided by the NTUC – Cartel Alfa demonstrates that the share of the contribution borne by employees exceeds 50 per cent of the total of the financial resources allocated to the protection of employees and their wives and children (83.36 per cent in 2018; 85.13 per cent in 2019; 80.09 per cent in 2022; and 81.5 per cent in 2023). The Committee further observes that this data refers solely to Parts II, III, V and VIII of the Convention.

28. The Committee notes that the data on financing of benefits provided by the Government does not specify whether social benefits correspond to the specific parts of the Convention. Furthermore, some social benefits, such as holiday vouchers, food allowances or investment-related expenses, clearly fall outside the scope of the accepted Parts II, III, V and VIII of the Convention.

29. Taking note of all of the information it has received, the Committee observes that, in Romania, the total of the insurance contributions borne by the employees protected exceeds 50 per cent of the total of the financial resources allocated for benefits provided under accepted Parts II, III, V and VIII of the Convention. ***The Committee, therefore, requests the Government to ensure that the total of the insurance contributions borne by the employees protected does not exceed 50 per cent of the total of the financial resources allocated to the protection of***

employees and their wives and children, in accordance with the requirements of Article 71(2) of the Convention.

30. ***The Committee recalls the importance of the provisions in Article 71(3) of the Convention and trusts that the Government will ensure that the necessary actuarial studies and calculations concerning financial equilibrium are made prior to any change in benefits, the rate of insurance contributions or the taxes allocated to covering the contingencies in question.***

31. ***Finally, the Committee encourages the parties to engage in social dialogue with a view to exploring and identifying appropriate solutions regarding the financing of social security benefits. The Committee further reminds the Government of the possibility to avail itself of the technical assistance of the Office***.

V. The Committee's recommendations

32. **In the light of the conclusions set out in paragraphs 20 to 31 above with regard to the matters raised in the representation, the Committee recommends that the Governing Body:**

(a) **approve the present report and, in particular, the conclusions in paragraphs 29 to 31;**

(b) **request the Government to provide the Committee of Experts on the Application of Conventions and Recommendations with information on the matters addressed in the report and the Committee's conclusions in 2026; and**

(c) **publish the present report and close the procedure initiated by the representation.**

Geneva, 2 June 2025

(Signed) Ms Joanna Żeber
Government member

Mr Niklas Beckman
Employer member

Mr Plamen Dimitrov
Worker member