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2021/0087 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

amending Implementing Decision (EU) 2020/1350 granting temporary support pursuant to Regulation (EU) 2020/672 to the Republic of Lithuania to mitigate unemployment risks in the emergency following the COVID-19 outbreak

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Council Regulation (EU) 2020/672 ("SURE Regulation") lays down the legal framework for providing Union financial assistance to Member States, which are experiencing, or are seriously threatened with, a severe economic disturbance caused by the COVID-19 outbreak. Support under SURE serves for the financing, primarily, of short-time work schemes or similar measures aimed at protecting employees and the self- employed and thus reducing the incidence of unemployment and loss of income, as well as for the financing, as an ancillary, of some health-related measures, in particular in the workplace.

On 25 September 2020 the Council granted financial assistance to Lithuania with a view to complementing its national efforts to address the impact of the COVID-19 outbreak and respond to the socioeconomic consequences of the outbreak for workers and the self-employed.

On 11 March 2021, Lithuania submitted a new request for Union financial assistance under the SURE Regulation.

In accordance with Article 6(2) of the SURE Regulation, the Commission has consulted the Lithuanian authorities to verify the sudden and severe increase in actual and planned expenditure directly related to Lithuania's labour market measures and caused by the COVID-19 pandemic. In particular, the increased expenditure for which additional financial assistance is being requested pertains to existing measures referred to in Council Implementing Decision (EU) 2020/1350:

(a) a scheme to pay subsidies to employers to cover estimated wages for each employed person facing time without work. Before 1 January 2021, the employer could choose between subsidies to cover 70% of the salary, up to a maximum of 1.5 times the minimum wage, or 90% of the salary (100% in the case of employees aged 60 and above), up to a maximum of the minimum wage. From 1 January 2021, the employer can receive subsidies to cover 100% of the salary, up to a maximum of 1.5 times the minimum wage. Employers that have participated in the scheme must retain at least 50% of their employees for at least three months after the pay subsidy ends;

(b) a scheme to pay subsidies for employees returning from time without work, for up to six months following their return to work. Subject to a cap of the minimum wage or two times the minimum wage, depending on the economic activity carried out by the employer, the amount of the subsidies paid in the first and second months following return could be as high as 100% of an employee's salary, in the third and fourth months, 50%, and in the fifth and sixth months, 30%. Those subsidies can be considered to be a similar measure to short-time work schemes, as referred to in Regulation (EU) 2020/672, as they aim to provide income support to employees and help maintain existing employment relationships;

(c) benefits for the self-employed, including the self-employed engaged in agricultural activity with an agricultural holding or farm of no less than four economic size units. In 2020, the benefit amounted to EUR 257 and was paid during the period of the quarantine and state emergency and the following two months. In 2021, the benefit amounts to EUR 260 and is paid during the period of the quarantine and state emergency and one month after. The benefits for the self-employed can be considered to be a similar measure to short-time work schemes, as referred to in Regulation (EU) 2020/672, as they aim to protect the self-employed or similar categories of workers from a reduction in or loss of income;

Lithuania provided the Commission with the relevant information.

Taking into account the available evidence, the Commission proposes to the Council to adopt an Implementing Decision to grant financial assistance to Lithuania under the SURE Regulation in support of the measures above.

- **Consistency with existing policy provisions in the policy area**

The present proposal is fully consistent with Council Regulation (EU) 2020/672, under which the proposal is made.

The present proposal comes in addition to another Union law instrument to provide support to Member States in case of emergencies, namely Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund (EUSF) ("Regulation (EC) No 2012/2002"). Regulation (EU) 2020/461 of the European Parliament and of the Council, which amends that instrument to extend its scope to cover major public health emergencies and to define specific operations eligible for financing, was adopted on 30 March.

- **Consistency with other Union policies**

The proposal is part of a range of measures developed in response to the current COVID-19 pandemic such as the "Coronavirus Response Investment Initiative", and it complements other instruments that support employment such as the European Social Fund and the European Fund for Strategic Investments (EFSI)/InvestEU. By making use of borrowing and lending in this particular case of the COVID-19 outbreak for supporting Member States, this proposal acts as a second line of defence to finance short-time work schemes and similar measures, helping protect jobs and thus employees and self-employed against the risk of unemployment.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for this instrument is Council Regulation (EU) 2020/672.

- **Subsidiarity (for non-exclusive competence)**

The proposal follows a Member State request and shows European solidarity by providing Union financial assistance in the form of temporary loans to a Member State affected by the COVID-19 outbreak. As a second line of defence, such financial assistance supports the government's increased public expenditure on a temporary basis in respect of short-time work schemes and similar measures to help them protect jobs and thus employees and self-employed against the risk of unemployment and loss of income.

Such support will help the population affected and helps to mitigate the direct societal and economic impact caused by the present COVID-19 crisis.

- **Proportionality**

The proposal respects the proportionality principle. It does not go beyond what is necessary to achieve the objectives sought by the instrument.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

Due to the urgency to prepare the proposal so that it can be adopted in a timely manner by the Council, a stakeholder consultation could not be carried out.

- **Impact assessment**

Due to the urgent nature of the proposal, no impact assessment was carried out.

4. BUDGETARY IMPLICATIONS

The Commission should be able to contract borrowings on the financial markets with the purpose of on-lending them to the Member State requesting financial assistance under the SURE instrument.

In addition to the provision of Member State guarantees, other safeguards are built into the framework in order to ensure the financial solidity of the scheme:

- A rigorous and conservative approach to financial management;
- A construction of the portfolio of loans that limits concentration risk, annual exposure and excessive exposure to individual Member States whilst ensuring sufficient resources could be granted to Member States most in need; and
- Possibilities to roll over debt.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) 2020/672 of 19 May 2020 on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak[1], and in particular Article 6(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) On 25 September 2020, the Council granted financial assistance to Lithuania taking the form of a loan amounting to a maximum of EUR 602 310 000 with a maximum average maturity of 15 years, following the Lithuania's request of 7 August 2020, with a view to complementing its national efforts to address the impact of the COVID-19 outbreak and respond to the socio-economic consequences of the outbreak for workers and the self-employed.

(2) The loan was to finance the short-time work schemes and similar measures adopted by Lithuania, as referred to in Council Implementing Decision (EU) 2020/1350[2].

(3) The COVID-19 outbreak continues to immobilise a substantial part of the labour force in Lithuania. This has led to a still sudden and severe increase in public expenditure by Lithuania in respect of the measures referred to in Article 3(a) and (b) of Implementing Decision (EU) 2020/1350.

(4) The COVID-19 outbreak and the extraordinary measures implemented by Lithuania in 2020 and 2021 to contain the outbreak and its socio-economic and health-related impact had and still have a dramatic impact on public finances. According to the Commission's 2020 autumn forecast, Lithuania was expected to have a general government deficit and debt of 8.4% and 47.2% of gross domestic product (GDP) respectively by the end of 2020. In 2021, Lithuania's general government deficit and debt are forecast to stand at 6.0% and 50.7% of GDP respectively. According to the Commission's 2021 winter interim forecast, Lithuania's GDP is projected to increase by 2.2% in 2021.

(5) On 11 March 2021, Lithuania requested further financial assistance from the Union in an amount of EUR 354 950 000 with a view to continue complementing its national

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1 OJ L 159, 20.5.2020, p. 1.

2 Council Implementing Decision (EU) 2020/1350 of 25 September 2020 on granting temporary support under Regulation (EU) 2020/672 to the Republic of Lithuania to mitigate unemployment risks in the emergency following the COVID-19 outbreak, OJ L 314, 29.9.2020, p. 35.

efforts undertaken in 2020 and 2021 to address the impact of the COVID-19 outbreak and respond to the socioeconomic consequences of the outbreak for workers and the self-employed. In particular it concerns the measures set out in recitals 6 to 8.

(6) In the 'Law on Employment No XII-2470' of 21 June 2016, as amended in 2020[3], as referred to in Article 3(a) of Implementing Decision (EU) 2020/1350, Lithuania introduced a scheme to pay subsidies to employers to cover estimated wages for each employed person facing time without work, as a support during the state emergency or quarantine. Before 1 January 2021, the employer could choose between subsidies to cover 70% of the salary, up to a maximum of 1.5 times the minimum wage, or 90% of the salary (100% in the case of employees aged 60 and above), up to a maximum of the minimum wage. From 1 January 2021, the employer can receive subsidies to cover 100% of the salary, up to a maximum of 1.5 times the minimum wage. Employers that have participated in the scheme must retain at least 50% of their employees for at least three months after the pay subsidy ends.

(7) Under the 'Law on Employment No XII-2470' of 21 June 2016, as amended in 2020, as referred to in Article 3(a) of Implementing Decision (EU) 2020/1350, subsidies were also paid for employees returning from time without work[4], for up to six months following their return to work. Subject to a cap of the minimum wage or two times the minimum wage, depending on the economic activity carried out by the employer, the amount of the subsidies paid in the first and second months following return could be as high as 100% of an employee's salary, in the third and fourth months, 50%, and in the fifth and sixth months, 30%. Those subsidies can be considered to be a similar measure to short-time work schemes, as referred to in Regulation (EU) 2020/672, as they aimed to provide income support to employees and help maintain existing employment relationships.

(8) The authorities have also introduced benefits for the self-employed including the self-employed engaged in agricultural activity with an agricultural holding or farm of no less than four economic size units, as referred to in Article 3(b) of Implementing Decision (EU) 2020/1350. This measure was amended in 2020[5]. In 2020, the benefit amounted to EUR 257 and was paid during the period of the quarantine and state emergency and the following two months. In 2021, the benefit amounts to EUR 260 and is paid during the period of the quarantine and state emergency and one month after. The benefits for the self-employed can be considered to be a similar measure to short-time work schemes, as referred to in Regulation (EU) 2020/672, as they aim to protect the self-employed or similar categories of workers from a reduction in or loss of income

(9) Lithuania fulfils the conditions for requesting financial assistance set out in Article 3 of Regulation (EU) 2020/672. Lithuania has provided the Commission with appropriate evidence that the actual and planned public expenditure has increased by EUR 1 101 607 198 as of 1 February 2020 due to the national measures taken to address the socio-economic effects of the COVID-19 outbreak. This constitutes a

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[3] Article 41, part 2-1 of 'Law on Employment No XII-2470' of 21 June 2016, as amended by Law No. XIII-2822 of 17 March 2020, Law No. XIII-2846 of 7 April 2020, Law No. XIII-3005 of 4 June 2020, and Law No. XIV-131 of 23 December 2020.

[4] Article 41, part 2-4 of 'Law on Employment No XII-2470' of 21 June 2016, as amended by Law No. XIII-2822 of 7 May 2020 and Law No XIII-3005 of 4 June 2020.

[5] Article 5-1 of 'Law on Employment No XII-2470' of 21 June 2016, as amended by Law No. XIII-2822 of 17 March 2020, Law No. XIII-2846 of 7 April 2020, Law No. XIII-2877 of 30 April 2020, and Law No. XIV-35 of 3 December 2020.

sudden and severe increase because it is related also to an extension of existing national measures directly related to short-time work scheme and similar measures that cover a significant proportion of undertakings and of the labour force in Lithuania. Lithuania financed EUR 144 347 198 of the increased amount of expenditure through Union funds.

(10) The Commission has consulted Lithuania and verified the sudden and severe increase in the actual and planned public expenditure directly related to short-time work schemes and similar measures, referred to in the request of 11 March 2021, in accordance with Article 6 of Regulation (EU) 2020/672.

(11) Financial assistance should therefore be provided with a view to helping Lithuania to address the socio-economic effects of the severe economic disturbance caused by the COVID-19 outbreak. The Commission should take the decisions concerning maturities, size and release of instalments and tranches in close cooperation with national authorities.

(12) Lithuania and the Commission should take this Decision into account in the loan agreement referred to in Article 8(2) of Regulation (EU) 2020/672.

(13) This Decision should be without prejudice to the outcome of any procedures relating to distortions of the operation of the internal market that may be undertaken, in particular pursuant to Articles 107 and 108 of the Treaty. It does not override the requirement for Member States to notify instances of potential State aid to the Commission under Article 108 of the Treaty.

(14) Lithuania should inform the Commission on a regular basis of the implementation of the planned public expenditure, in order to enable the Commission to assess the extent to which Lithuania has implemented that expenditure.

(15) The decision to provide financial assistance has been reached taking into account existing and expected needs of Lithuania, as well as requests for financial assistance pursuant to Regulation (EU) 2020/672 already submitted or planned to be submitted by other Member States, while applying the principles of equal treatment, solidarity, proportionality and transparency,

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision (EU) 2020/1350 is amended as follows:

(1) Article 2 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. The Union shall make available to Lithuania a loan amounting to a maximum of EUR 957 260 000. The loan shall have a maximum average maturity of 15 years.’;

(b) paragraph 4 is replaced by the following:

‘4. The first instalment shall be released subject to the entry into force of the loan agreement provided for in Article 8(2) of Regulation (EU) 2020/672. Any further instalments shall be released in accordance with the terms of such loan agreement or, where relevant, be subject to the entry into force of an addendum to the latter, or an amended loan agreement concluded between Lithuania and the Commission.’;

(2) Article 3 is replaced by the following:

'*Article 3*

Lithuania may finance the following measures:

(a) wage subsidies during time without work, as provided for in Article 41 of 'Law on Employment No XII-2470' of 21 June 2016, as amended in 2020;

(b) wage subsidies after time without work, as provided for in Article 41 of 'Law on Employment No XII-2470' of 21 June 2016, as amended in 2020;

(c) benefits to the self-employed, as provided for in Article 5-1 of 'Law on Employment No XII-2470' of 21 June 2016, as amended in 2020;

(d) benefits to the self-employed engaged in agriculture, as provided for in Article 5-2 of 'Law on Employment No XII-2470' of 21 June 2016, as amended in 2020;

(3) Article 4 is replaced by the following:

'*Article 4*

1. Lithuania shall inform the Commission by 30 March 2021, and every six months thereafter of the implementation of the planned public expenditure until that planned public expenditure has been fully implemented.

2. Where measures referred to in Article 3 are based on planned public expenditure and have been subject to an Implementing Decision amending Implementing Decision (EU) 2020/1350, Lithuania shall inform the Commission within 6 months after the date of adoption of that decision, and every 6 months thereafter of the implementation of the planned public expenditure until that planned public expenditure has been fully implemented.'

Article 2

This Decision is addressed to the Republic of Lithuania.

Done at Brussels,

For the Council
The President