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COMMISSION

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2020/0214 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

granting temporary support under Council Regulation (EU) 2020/672 to Poland to mitigate unemployment risks in an emergency situation following the COVID-19 outbreak

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Council Regulation 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 6 August 2020, Poland requested Union financial assistance under the SURE Regulation. In accordance with Article 6(2) of the SURE Regulation, the Commission has consulted the Polish authorities to verify the sudden and severe increase in actual and planned expenditure directly related to short-time work schemes and similar measures caused by the COVID-19 pandemic. In particular, it concerns:

(1) a temporary reduction in social security contributions for the self-employed and companies employing up to 50 people to protect workplaces in response to the COVID-19 outbreak. The reduction applied for the period between March and May 2020. Those employing up to 10 people and – in most cases – self-employed persons, could benefit from a full reduction, while for the entities employing between 10 and 50 people, the reduction amounted to 50%.

(2) a downtime benefit for self-employed persons and those working under civil law contracts who have experienced a reduction in revenue due to the crisis. The measure consists of a lump sum benefit for self-employed persons (50% or 80% of the minimum wage – depending on the decrease in revenue) and those working under non-standard labour contracts (up to 80% of the minimum wage) to compensate them for a drop in revenue.

(3) subsidies towards salaries and social security contributions conditional on a decrease in turnover due to the crisis. Independently of their size, undertakings can ask for temporary co-financing of their costs for salaries and social security contributions.

(4) subsidies to self-employed persons without employees. The subsidies provide temporary co-financing of a part of the costs of running a business incurred by natural persons without employees. The amount depends on the decrease in turnover and amounts to between 50% and 90% of the minimum salary.

(5) a measure that provides loans that are convertible into grants to self-employed persons, micro-companies and non-government organisations. The measure provides micro-loans of up to PLN 5 000. The loans may be converted into grants if the beneficiary continues operations for three months after the loan is paid. Poland 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 Poland under the SURE Regulation in support of the above measures.

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

The present proposal is fully consistent with Council Regulation 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 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 6 August 2020, Poland requested financial assistance from the Union with a view to complementing its national efforts to address the impact of the COVID-19 outbreak and its socio-economic consequences for workers.

(2) The COVID-19 outbreak and the extraordinary measures implemented by Poland to contain the outbreak and its socio-economic and health-related impact are expected to have a dramatic impact on public finances. According to the Commission's 2020 Spring forecast, Poland was expected to have a general government deficit and debt of 9.5% and 58.5% of gross domestic product (GDP) respectively by the end of 2020. According to the Commission's 2020 Summer interim forecast, Poland's GDP is projected to decrease by 4.6% in 2020.

(3) The COVID-19 outbreak has immobilised a substantial part of the labour force in Poland. This has led to a sudden and severe increase in public expenditure by Poland in respect of a reduction in social security contributions for the self-employed and companies employing up to 50 people, a downtime benefit for the self-employed and those working on civil law contracts, subsidies towards salaries and social security contributions, subsidies to the self-employed without employees and loans convertible into subsidies granted to the self-employed, micro-companies and non-government organisations, as set out in recitals 4 to 8.

(4) More specifically, "the Act of 2 March 2020 on specific solutions related to the prevention, counteraction and eradication of COVID-19, other infectious diseases and crisis situations caused by them"[2], as it is referred to in Poland's request of 6 August 2020, introduced a temporary reduction in social security contributions for the self-employed and companies employing up to 50 people to protect workplaces in response to the COVID-19 outbreak. The reduction applied for the period between March and May 2020. Those employing up to 10 people and – in most cases – self-employed

[1] OJ L 159, 20.5.2020, p.1.
[2] Dz.U. 2020 poz. 374, as amended

persons, could benefit from a full reduction, while for the entities employing between 10 and 50 people, the reduction amounted to 50%. The temporary reduction in social security contributions can be considered a similar measure to short-time work schemes, as referred to in Regulation (EU) 2020/672, as, for the self-employed, it aims at protecting the self-employed from a reduction or loss of income and, for companies employing up to 50 people, it supports those employed in the companies that remain employed until the end of the measure. The temporary reduction in social security contributions consists in foregone revenues for the government, which for the purpose of the implementation of Council Regulation 2020/672 can be considered equivalent to public expenditure.

(5) Furthermore, the authorities have introduced a downtime benefit for self-employed persons and those working under civil law contracts who have experienced a reduction in revenue due to the crisis. The measure consists of a lump sum benefit for self-employed persons (50% or 80% of the minimum wage – depending on the decrease in revenue) and those working under non-standard labour contracts (up to 80% of the minimum wage) to compensate them for a drop in revenue.

(6) Subsidies towards salaries and social security contributions have been introduced, conditional on a decrease in turnover due to the crisis. Independently of their size, undertakings can ask for temporary co-financing of their costs for salaries and social security contributions. The subsidies towards salaries and social security contributions can be considered a similar measure to short-time work schemes, as referred to in Regulation (EU) 2020/672, as concerns expenditure incurred by companies that use short-time work, voluntarily reduce working time or when the employees were continuously in employment up to the latest available outturn data, as, it requires that companies maintain employment, either during the period of reduced working time or up until the latest available outturn data.

(7) Subsidies to self-employed persons without employees have been introduced by the authorities. The subsidies provide temporary co-financing of a part of the costs of running a business incurred by natural persons without employees. The amount depends on the decrease in turnover and amounts to between 50% and 90% of the minimum salary.

(8) Finally, the authorities have introduced a measure that provides loans that are convertible into grants to self-employed persons, micro-companies and non-government organisations. The measure provides micro-loans of up to PLN 5 000. The loans may be converted into grants if the beneficiary continues operations for three months after the loan is paid. In order to meet the requirement of being public expenditure, only expenditure relating to loans being converted into grants should be supported under Regulation (EU) 2020/672.

(9) Poland fulfils the conditions for requesting financial assistance set out in Article 3 of Regulation (EU) 2020/672. Poland has provided the Commission with appropriate evidence that the actual and planned public expenditure has increased by EUR 11 668 118 894 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 sudden and severe increase because it relates to both new measures and an extension of existing measures, which cover a significant proportion of undertakings and of the labour force in Poland.

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

(11) Financial assistance should therefore be provided with a view to helping Poland to address the socio-economic effects of the severe economic disturbance caused by the COVID-19 outbreak.

(12) 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 under Articles 107 and 108 TFEU. It does not override the requirement for Member States to notify instances of potential State aid to the Commission under Article 108 TFEU.

(13) Poland 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 Poland has implemented that expenditure.

(14) The decision to provide financial assistance has been taken taking into account existing and expected needs of Poland, 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. In particular, the amount of the loan has been established to ensure compliance with the prudential rules applicable to the portfolio of loans as specified in Council Regulation (EU) 2020/672,

HAS ADOPTED THIS DECISION:

Article 1

Poland fulfils the conditions set out in Article 3 of Regulation (EU) 2020/672.

Article 2

1. The Union shall make available to Poland a loan amounting to a maximum of EUR 11 236 693 087. The loan shall have a maximum average maturity of 15 years.

2. The availability period for financial assistance granted by this Decision shall be 18 months starting from the first day after the entry into force of this Decision.

3. The Union financial assistance shall be made available by the Commission to Poland in a maximum of ten instalments. An instalment may be disbursed in one or several tranches. The maturities of the tranches under the first instalment may be longer than the maximum average maturity referred to in paragraph 1. In such cases, the maturities of further tranches shall be set so that the maximum average maturity referred to in paragraph 1 is respected once all instalments have been disbursed.

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.

5. Poland shall pay the cost of funding of the Union referred to in Article 4 of Regulation (EU) 2020/672 for each instalment plus any fees, costs and expenses of the Union resulting from any funding.

6. The Commission shall decide on the size and release of instalments, as well as on the size of the tranches.

Article 3

Poland may finance the following measures:

a reduction in social security contributions, as provided for by Art. 31zo of the Act of 2 March 2020 on specific solutions related to the prevention, counteraction and eradication of COVID-19, other infectious diseases and crisis situations caused by them, for the part of expenditure related to the support of self-employed persons and, for companies employing up to 50 people, the part of expenditure in respect of employees who were continuously in employment;

a downtime benefit for self-employed persons and those working under civil law contracts, as provided for by Art. 15zq and 15zua of the Act of 2 March 2020 on specific solutions related to the prevention, counteraction and eradication of COVID-19, other infectious diseases and crisis situations caused by them;

subsidies towards salaries and social security contributions of companies that use short-time work or voluntarily reduce working time or when the employees were continuously in employment, as provided for by Art. 15g, 15ga, 15gg, 15zzb, 15zze, 15zze^2 of the Act of 2 March 2020 on specific solutions related to the prevention, counteraction and eradication of COVID-19, other infectious diseases and crisis situations caused by them;

subsidies to self-employed persons without employees as provided for by Art. 15zzc of the Act of 2 March 2020 on specific solutions related to the prevention, counteraction and eradication of COVID-19, other infectious diseases and crisis situations caused by them;

loans convertible into subsidies granted to self-employed persons, micro-companies and non-government organisations, for the amount actually converted into grants, as provided for by Art. 15zzd, 15zzda of the Act of 2 March 2020 on specific solutions related to the prevention, counteraction and eradication of COVID-19, other infectious diseases and crisis situations caused by them.

Article 4

Poland shall inform the Commission by [*DATE: 6 months after date of publication of this Decision*], and every 6 months thereafter of the implementation of the planned public expenditure until such time as that planned public expenditure has been fully implemented.

Article 5

This Decision is addressed to the Republic of Poland.

Article 6

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels,

For the Council
The President