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COMMISSION

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2020/0222 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

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

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 3 August 2020, Spain requested Union financial assistance under the SURE Regulation. In accordance with Article 6(2) of the SURE Regulation, the Commission has consulted the Spanish authorities to verify the sudden and severe increase in actual and planned expenditure directly related to its short-time work for employees, similar schemes specifically targeted at self-employed and workers in the tourism sector, and health benefits for workers infected by COVID-19, caused by the COVID-19 pandemic. In particular, it concerns:

(a) a wage compensation of up to 70 per cent of the employees' basic salary for employees furloughed under the short-time work scheme 'ERTE' ('*Expediente de Regulación Temporal de Empleo*'). The compensation is capped at a maximum of EUR 1 098.09 per month, which may be increased to EUR 1 254.96 per month or EUR 1 411.83 per month, depending on the beneficiary's number of dependent children.

(b) a full or partial social security contribution exemption, depending on the employers size, and the month of the year, in respect of employees participating in 'ERTE'. The exemption 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.

(c) a benefit for the 'cessation of activity' (that is to say, the suspension, in full or in part of self-employed activity) and accompanying social security contribution exemptions. The measure provides monthly payments whilst businesses are required to be closed or, if opened, where turnover has been reduced by more than 75%.

(d) a benefit for 'permanent seasonal workers' in the tourism sector who have not been able to return to their activity on the scheduled dates

(e) an exemption for employers from payment of social security contributions (by 50%) to support 'employment conservation in the tourism sector' during the state of emergency and beyond, while maintaining a minimum level of social protection for several categories of workers. An average of total monthly expenditure and the number of persons for whom companies have received subsidies gives an average expenditure per person per month of approximately EUR 192.

(f) health benefits for workers absent due to COVID-19 (either in preventive isolation or infected workers). The measure is similar to the scheme for accidents at work (that is to say, the benefits are more generous and are paid by the Social Security Fund as of the first day of leave), with benefits capped at 75% of the basic salary.

Spain 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 Spain 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 3 August 2020, Spain 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 Spain 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, Spain was expected to have a general government deficit and debt of 10.1% and 115.6% of gross domestic product (GDP) respectively by the end of 2020. According to the Commission's 2020 Summer interim forecast, Spain's GDP is projected to decrease by 10.9% in 2020.

(3) The COVID-19 outbreak has immobilised a substantial part of the labour force in Spain. This has led to a sudden and severe increase in public expenditure by Spain in respect of the short-time work scheme, similar schemes specifically targeted at the self-employed and workers in the tourism sector, and in support of public health measures, as set out in recitals 4 to 9.

(4) More specifically, "Royal Decree-Law 8/2020", "Royal Decree-Law 11/2020" and "Royal Decree-Law 24/2020", as they are referred to in Spain's request of 3 August 2020, introduced wage compensation of up to 70 per cent of the employees' basic salary for employees furloughed under the short-time work scheme 'ERTE' ('*Expediente de Regulación Temporal de Empleo*'). The compensation is capped at a maximum of EUR 1 098.09 per month, which may be increased to EUR 1 254.96 per month or EUR 1 411.83 per month, depending on the beneficiary's number of dependent children.

(5) The authorities have also introduced a full or partial social security contribution exemption, depending on the employers size and the month of the year, in respect of employees participating in 'ERTE'. The exemption consists in foregone revenues for

[1] OJ L 159, 20.5.2020, p.1.

the government, which for the purpose of the implementation of Council Regulation 2020/672 can be considered equivalent to public expenditure.

(6) For the self-employed, the authorities have introduced a benefit for the ‘cessation of activity’ (that is to say, the suspension, in full or in part of self-employed activity) and accompanying social security contribution exemptions. The measure provides monthly payments whilst businesses are required to be closed or, if opened, where turnover has been reduced by more than 75%.

(7) Monthly payments have also been introduced for ‘permanent seasonal workers’ in the tourism sector who have not been able to return to their activity on the scheduled dates due to the COVID-19 outbreak, on the basis of “Royal Decree-Law 15/2020”, as it is referred to in Spain’s request of 3 August 2020.

(8) “Royal Decree Law 8/2019”, “Royal Decree Law 12/2019”, “Royal Decree Law 7/2020” and “Royal Decree Law 25/2020”, as they are referred to in Spain’s request of 3 August 2020, have introduced an exemption for employers from payment of social security contributions (by 50%) to support ‘employment conservation in the tourism sector’ during the state of emergency and beyond, while maintaining a minimum level of social protection for several categories of workers. An average of total monthly expenditure and the number of persons for whom companies have received subsidies gives an average expenditure per person per month of approximately EUR 192.

(9) Finally, Spain has extended health benefits for workers absent due to COVID-19 (either in preventive isolation or infected workers) on the basis of “Royal Decree-Law 6/2020” and “Royal Decree-Law 13/2020”, as they are referred to in Spain’s request of 3 August 2020. The measure is similar to the scheme for accidents at work (that is to say, the benefits are more generous and are paid by the Social Security Fund as of the first day of leave), with benefits capped at 75% of the basic salary.

(10) Spain fulfils the conditions for requesting financial assistance set out in Article 3 of Regulation (EU) 2020/672. Spain has provided the Commission with appropriate evidence that the actual and planned public expenditure has increased by EUR 23 803 573 600 as of 1 February 2020 due to the national measures taken to address the socio-economic effects of the COVID-19 outbreak. The increased amount directly related to the short-time work scheme ‘ERTE’ and similar measures specifically targeted at the self-employed and workers in the tourism sector constitutes a sudden and severe increase because of the almost immediate and unprecedented increase in the number of beneficiaries covered by those schemes and the magnitude of the related benefits in Spain. Spain intends to finance EUR 1 660 000 000 of the increased amount of expenditure through Union funds.

(11) The Commission has consulted Spain and verified the sudden and severe increase in the actual and planned public expenditure directly related to short-time work schemes and similar measures, as well as the recourse to relevant health-related measures related to the COVID-19 outbreak referred to in the request of 3 August 2020, in accordance with Article 6 of Regulation (EU) 2020/672.

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

(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 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.

(14) Spain 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 Spain has implemented that expenditure.

(15) The decision to provide financial assistance has been taken taking into account existing and expected needs of Spain, 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

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

Article 2

1. The Union shall make available to Spain a loan amounting to a maximum of EUR 21 324 820 449. 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 Spain 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. Spain 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

Spain may finance the following measures:

(a) the short-time work scheme 'ERTE' ('*Expediente de Regulación Temporal de Empleo*') for employees, as provided for by Royal Decree Law 8/2020 of 17 March (chapter II, articles 22-28), Royal Decree Law 18/2020 of 12 May and Royal Decree Law 24/2020 of 26 June (articles 1-7);

(b) the extraordinary social security contribution measures for employees subject to ERTE, as provided for by Royal Decree-Law 8/2020, of 17 March (chapter II, articles 22-28), Royal Decree-Law 18/2020, of 12 May, Royal Decree-Law 24/2020, of 26 June (Chapter I, article 4);

(c) the benefit due to ‘cessation of activity’ and the accompanying social security contribution exemptions, as provided for by Royal Decree-Law 8/2020 of 17 March (article 17), modified by Royal Decree-Law 11/2020 of 31 March (final disposition 1.8) and by Royal Decree-Law 24/2020 of 26 June (article 8);

(d) the support scheme for ‘permanent seasonal workers’, as provided for by Royal Decree-Law 15/2020, of 21 April (final disposition 8);

(e) the partial exemption of employers from payment of social security contributions to support ‘employment conservation in the tourism sector’, as provided for by Royal Decree Law 8/2019, of 8 March, Royal Decree Law 12/2019, of 11 October, Royal Decree Law 7/2020 (article 13) of 12 March and Royal Decree Law 25/2020 (final disposition 4);

(f) health benefits for workers absent due to COVID-19, as provided for by Royal Decree-Law 6/2020, of 10 March (article 5) and Royal Decree-Law 13/2020, of 7 April (final disposition 1).

Article 4

Spain 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 Kingdom of Spain.

Article 6

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

Done at Brussels,

For the Council
The President