COUNCIL IMPLEMENTING DECISION (EU) 2022/2080

of 25 October 2022

amending Implementing Decision (EU) 2020/1350 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

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) Further to a request from Lithuania on 7 August 2020, the Council, by means of Implementing Decision (EU) 2020/1350 ([2]), granted financial assistance to Lithuania in the form of a loan amounting to a maximum of EUR 602 310 000 with a maximum average maturity of 15 years, and with an availability period of 18 months, with a view to complementing Lithuania's national efforts to address the impact of the COVID-19 outbreak and respond to the socioeconomic consequences of that outbreak for workers and the self-employed.

(2) The loan was to be used by Lithuania to finance short-time work schemes and similar measures, as referred to in Article 3 of Implementing Decision (EU) 2020/1350.

(3) Further to a second request from Lithuania on 11 March 2021, the Council, by means of Implementing Decision (EU) 2021/678 ([3]) amending Implementing Decision (EU) 2020/1350, granted additional financial assistance of EUR 354 950 000 to Lithuania by increasing the maximum loan amount to EUR 957 260 000 with a maximum average maturity of 15 years, and with an availability period of 18 months, with a view to complementing Lithuania's national efforts to address the impact of the COVID-19 outbreak and respond to the socioeconomic consequences of that outbreak for workers and the self-employed.

(4) The additional loan was to be used by Lithuania to finance the short-time work schemes and similar measures, as referred to in Article 3 of Implementing Decision (EU) 2020/1350, as amended by Implementing Decision (EU) 2021/678.

(5) The COVID-19 outbreak has immobilised a substantial part of the labour force in Lithuania. This has led to repeated sudden and severe increases in public expenditure in Lithuania in respect of the measures referred to in Article 3, points (a) and (b), of Implementing Decision (EU) 2020/1350.

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

([2]) Council Implementing Decision (EU) 2020/1350 of 25 September 2020 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).

([3]) Council Implementing Decision (EU) 2021/678 of 23 April 2021 amending Implementing Decision (EU) 2020/1350 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 144, 27.4.2021, p. 12).

(6) The COVID-19 outbreak and the extraordinary measures implemented by Lithuania in 2020, 2021 and 2022 to contain that outbreak and its socioeconomic and health-related impact had and are still having a dramatic impact on public finances. In 2020, Lithuania had a general government deficit and debt of 7,3 % and 46,6 % of gross domestic product (GDP) respectively, which narrowed to 1,0 % and 44,3 % respectively at the end of 2021. According to the Commission's 2022 spring forecast, Lithuania is expected to have a general government deficit and debt of 4,6 % and 42,7 % of GDP respectively by the end of 2022. According to the Commission's 2022 summer interim forecast, Lithuania's GDP is projected to increase by 1,9 % in 2022.

(7) On 8 August 2022 Lithuania requested further financial assistance from the Union in the amount of EUR 141 800 000 with a view to continuing to complement its national efforts undertaken in 2020, 2021 and 2022 to address the impact of the COVID-19 outbreak and respond to the socioeconomic consequences of the outbreak for workers. In particular, Lithuania further extended or amended the short-time work schemes and similar measures set out in recitals (8) to (9).

(8) In the '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, as referred to in Article 3, point (a), of Implementing Decision (EU) 2020/1350 and subsequently amended by 'Law No XIV-351' of 27 May 2021, and 'Law No XIV-911' of 20 January 2022, Lithuania introduced a scheme to pay subsidies to employers to cover estimated wages for each employed person facing time without work, as a means of support during the quarantine and state of emergency. Before 1 January 2021, an 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, an employer could 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 3 months after the pay subsidy ends.

(9) Under the 'Law on Employment No XII-2470' of 21 June 2016, as amended by 'Law No XIII-3005' of 4 June 2020, as referred to in Article 3, point (b), of Implementing Decision (EU) 2020/1350 and subsequently amended by 'Law No XIV-351' of 27 May 2021, before 1 July 2021 subsidies were also paid for employees returning from time without work, for a period of up to 6 months following their return to work. Subject to a cap of the minimum wage or twice 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 to work could be as high as 100 % of an employee's salary, in the third and fourth months as high as 50 %, and in the fifth and sixth months as high as 30 %. From 1 July 2021 subsidies were paid for employees returning from time without work, for a period of up to 2 months following their return to work. The subsidy in the first month consists of 100 % of the employee's salary, but not more than 0,9 times the minimum wage, and in the second month 100 % of the employee's salary, but not more than 0,6 times the minimum wage. Those subsidies can be considered to be a similar measure to the 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.

(10) 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 1 264 915 309 as of 1 February 2020 as a result of the national measures taken to address the socioeconomic effects of the COVID-19 outbreak. This constitutes a sudden and severe increase because it is also related to an extension or amendment of existing national measures directly related to the short-time work scheme and similar measures that cover a significant proportion of undertakings and of the labour force in Lithuania. Lithuania intends to finance EUR 144 350 000 of the increased amount of expenditure through Union funds and EUR 21 505 309 through its own financing.

(11) The Commission has consulted Lithuania and verified the sudden and severe increase in the actual and planned public expenditure directly related to the short-time work schemes and similar measures, as referred to in the request of 8 August 2022, in accordance with Article 6 of Regulation (EU) 2020/672.

(12) Financial assistance should therefore be provided with a view to helping Lithuania to address the socioeconomic 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.

(13) Given that the availability period indicated in Implementing Decision (EU) 2020/1350 has expired, a new availability period for the additional financial assistance is needed. The availability period for financial assistance of 18 months granted by Implementing Decision (EU) 2020/1350 should be extended by 21 months and, as a consequence, the total availability period should be 39 months starting from the first day after Implementing Decision (EU) 2020/1350 has taken effect.

(14) 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.

(15) 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.

(16) 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.

(17) The decision to provide financial assistance has been reached taking into account the 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) paragraphs 1 and 2 are replaced by the following:

‘1. The Union shall make available to Lithuania a loan amounting to a maximum of EUR 1 099 060 000. The loan shall have a maximum average maturity of 15 years.

2. The availability period for financial assistance granted by this Decision shall be 39 months starting from the first day after this Decision has taken effect.’;

(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 that loan agreement or, where relevant, be subject to the entry into force of an addendum thereto, or of an amended loan agreement concluded between Lithuania and the Commission replacing the original loan agreement.’;

(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 last amended by “Law No XIV-911” of 20 January 2022;

(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 last amended by "Law No XIV-351" of 27 May 2021;

(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.'.

Article 2

This Decision is addressed to the Republic of Lithuania.

This Decision shall take effect on the date of its notification to the addressee.

Article 3

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

Done at Luxembourg, 25 October 2022.

For the Council
The President
J. SÍKELA