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COMMISSION

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2020/0213 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

granting temporary support under Council Regulation (EU) 2020/672 to the Czech Republic 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 7 August 2020, the Czech Republic has requested the Union financial assistance under the SURE Regulation. In accordance with Article 6(2) of the SURE Regulation, the Commission has consulted the Czech authorities to verify the sudden and severe increase in actual and planned expenditure directly related to the short-time work scheme called "Antivirus" Programme (with its sub-programmes Option A and Option B) and similar measures targeting non-wage labour costs ("Antivirus" Programme Option C) and support for the self-employed, incurred in response to the COVID-19 pandemic. In particular it concerns:

(a) Antivirus Programme options A and B, which is designed to partially compensate wage costs of private employers forced to suspend or significantly scale down their economic activity as a direct consequence of measures taken by the authorities (Option A), or indirectly due to adverse economic effects of the pandemic (Option B), for example employees not able to work due to travel restrictions, shortage of inputs and/or reduced demand for outputs. Under Option A, the state contribution is provided for 80% of the wages paid but not more than 39,000 CZK per employee per month. Under option B, the state contribution amounts to 60% of the wages paid but not more than CZK 29,000 per employee per month. Employees benefiting from the scheme cannot be dismissed during the employer's participation in the scheme. The measures run from 12 March to 31 August 2020.

(b) Antivirus Programme option C, which partially compensates non-wage labour costs (for example social security contributions paid by the employer) of small companies (up to 50 employees) that maintain employment and the wage bill at a level of at least 90% of what it was at the end of March 2020. The base of the calculation is capped at 150% of the average gross wage in the Czech Republic. The support can be provided for some or all of the period from June to August 2020.

(c) "Pětadvacítka" Programme, which provides self-employed persons who are forced to suspend or significantly scale down their economic activity due to public health risks or crisis measures taken by public authorities with a tax bonus of CZK 500 per calendar day per person. The program is split into two bonus periods: from 12 March to 30 April 2020, and from 1 May to 8 June 2020.

(d) the partial waiver of social and health security contributions due by the self-employed who maintain activity during the provision of support. The state assumes payment of the corresponding contribution due each month from March to August 2020. The waived amount is capped at a level established in the law.

(e) the "Care allowance" for self-employed which compensates the loss of income incurred by self-employed persons as a consequence of the need to take care of children or care-dependent people due to the closure of child and social care

facilities. The daily amount of support is CZK 424 for March and CZK 500 for April to June. .

The Czech Republic 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 the Czech Republic 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 7 August 2020, the Czech Republic 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 the Czech Republic 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, the Czech Republic was expected to have a general government deficit and debt of 6.7% and 38.7% of gross domestic product (GDP) respectively by the end of 2020. According to the Commission's 2020 Summer interim forecast, the Czech Republic's GDP is projected to decrease by 7.8% in 2020.

(3) The COVID-19 outbreak has immobilised a substantial part of the labour force in the Czech Republic. This has led to a sudden and severe increase in public expenditure by the Czech Republic in respect of the short-time work scheme known as the "Antivirus" Programme (with its sub-programmes Option A and Option B) and similar measures targeting non-wage labour costs ("Antivirus" Programme Option C) or support for the self-employed, as set out in recitals 4 to 8.

(4) More specifically, "Government Resolution No. 353 of 31 March 2020, as amended", and "Article 120 of Law No. 435/2004 Coll., on employment, as amended", as they are referred to in the Czech Republic's request of 7 August 2020, introduced "Antivirus" Programme Options A and B. Those measures are designed to partially compensate wage costs of private employers forced to suspend or significantly scale down their economic activity as a direct consequence of measures taken by the authorities (Option A), or indirectly due to adverse economic effects of the pandemic (Option B), for example employees not able to work due to travel restrictions. Under Option A, the state contribution is provided for 80% of the wages paid but not more than CZK 39 000 per employee per month. Under Option B, the state contribution

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

amounts to 60% of the wages paid but not more than CZK 29 000 per employee per month. Employees benefiting from the scheme cannot be dismissed during the employer's participation in the scheme. The measures run from 12 March to 31 August 2020.

(5) Furthermore, the authorities have introduced "Antivirus" Programme Option C, on the basis of "Law No. 300/2020 Coll." and "Law No. 187/2006 Coll."[2],, as they are referred to in the Czech Republic's request of 7 August 2020. That measure partially compensates non-wage labour costs (for example, social security contributions paid by the employer) of small companies (up to 50 employees) that maintain employment and the wage bill at a level of at least 90% of what it was at the end of March 2020. Only 90% of the total expenditure of the measure has been requested to ensure that assistance is matched to expenditure that has maintained employment. The base of the calculation is capped at 150% of the average gross wage in the Czech Republic. The support can be provided for some or all of the period from June to August 2020.

(6) The "Pětadvacítka" Programme, as introduced by "Law No. 159/2020 Coll."[3], as it is referred to in the Czech Republic's request of 7 August 2020, provides self-employed persons with a tax bonus of CZK 500 per calendar day per person to those who are forced to suspend or significantly scale down their economic activity due to public health risks or crisis measures taken by public authorities. The program is split into two bonus periods: from 12 March to 30 April 2020, and from 1 May to 8 June 2020. The tax bonus 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.

(7) On the basis of "Law No. 136/2020 Coll. (for social security)" and "Law No. 134/2020 Coll. (for health security)", as they are referred to in the Czech Republic's request of 7 August 2020, the authorities have introduced the partial waiver of social and health security contributions due by self-employed persons who maintain activity during the provision of support. The state assumes payment of the corresponding contribution due each month from March to August 2020. The waived amount is capped at a level established in the law.

(8) Finally, on the basis of "Government Resolutions No. 262 of 19 March 2020, No. 311 of 26 March, No. 354 of 31 March, No. 514 of 4 May and No. 552 of 18 May; Article 14 of Law No. 218/2000 Coll., on budgetary rules, as amended (for S/E in primary agricultural and forestry production), Article 3 letter h) of Law No. 47/2002 Coll., as amended, on support to SMEs (for all other S/E)", as referred to in the Czech Republic's request of 7 August 2020, the authorities have introduced the "Care allowance" for self-employed persons. That measure compensates the loss of income incurred by self-employed persons as a consequence of the need to take care of children or care-dependent people due to the closure of child and social care facilities. The daily amount of support is CZK 424 for March and CZK 500 for April to June.

(9) The Czech Republic fulfils the conditions for requesting financial assistance set out in Article 3 of Regulation (EU) 2020/672. The Czech Republic has provided the Commission with appropriate evidence that the actual and planned public expenditure

[2] Law No. 300/2020 Coll., on the waiver of social security contributions and contributions to the state employment policy paid by some employers as taxpayers in connection with emergency measures during the epidemic in 2020 and amending Law No. 187/2006 Coll., on health insurance, as amended

[3] Law No. 159/2020 Coll., on a compensation bonus related to crisis measures related to the incidence of SARS CoV-2 coronavirus, as amended

has increased by EUR 2 940 446 745 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 the new measures cover a significant proportion of undertakings and of the labour force in the Czech Republic. The Czech Republic intends to finance EUR 940 446 745 of the increased amount of expenditure through Union funds and its own financing.

(10) The Commission has consulted the Czech Republic 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 7 August 2020, in accordance with Article 6 of Regulation (EU) 2020/672.

(11) Financial assistance should therefore be provided with a view to helping the Czech Republic 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) The Czech Republic 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 the Czech Republic has implemented that expenditure.

(14) The decision to provide financial assistance has been taken taking into account existing and expected needs of the Czech Republic, 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

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

Article 2

1. The Union shall make available to the Czech Republic a loan amounting to a maximum of EUR 2 000 000 000. The loan shall have a maximum average maturity of 15 years.

2. The availability period for financial assistance granted by this Decision shall be 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 the Czech Republic in a maximum of eight 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. The Czech Republic 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

1. The Czech Republic may finance the following measures:

(a) the "Antivirus" Programme as provided for by Government Resolution No. 353 of 31 March 2020, as amended, and Article 120 of Law No. 435/2004 Coll., on employment, as amended;

(b) the "Antivirus" Programme Option C, as provided for by Law No. 300/2020 Coll.;

(c) the "Pětadvacítka" Programme, as provided for by Law No. 159/2020 Coll.;

(d) the partial waiver of social and health security contributions due by the self-employed), as provided for by Law No. 136/2020 Coll. (for social security) and Law No. 134/2020 Coll. (for health security);

(e) the "Care allowance" for self-employed persons, as provided for by Government Resolutions No. 262 of 19 March 2020, No. 311 of 26 March, No. 354 of 31 March, No. 514 of 4 May and No. 552 of 18 May; Article 14 of Law No. 218/2000 Coll., on budgetary rules, as amended (for S/E in primary agricultural and forestry production), Article 3 letter h) of Law No. 47/2002 Coll., as amended, on support to SMEs (for all other S/E).

Article 4

The Czech Republic 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 Czech Republic.

Article 6

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

Done at Brussels,

For the Council
The President