DECISIONS

COUNCIL IMPLEMENTING DECISION (EU) 2022/98

of 25 January 2022

amending Implementing Decision (EU) 2020/1561 granting temporary support under Regulation (EU) 2020/672 to Hungary 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 Hungary on 6 August 2020, the Council, by means of Implementing Decision (EU) 2020/1561 ([2]), granted financial assistance to Hungary in the form of a loan amounting to a maximum of EUR 504 330 000 with a maximum average maturity of 15 years, with a view to complementing Hungary'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 Hungary to finance measures similar to short-time work schemes and health-related measures, as referred to in Article 3 of Implementing Decision (EU) 2020/1561.

(3) The COVID-19 outbreak has immobilised a substantial part of the labour force in Hungary. This has led to repeated sudden and severe increases in public expenditure in Hungary in respect of a new measure, namely a one-off income support scheme for the self-employed in sectors affected by protection measures and measures referred to in Article 3, points (f), (g), (h), (i) and (j), of Implementing Decision (EU) 2020/1561.

(4) The COVID-19 outbreak and the extraordinary measures implemented by Hungary in 2020 and 2021 to contain that outbreak and its socioeconomic and health-related impact had, and are still having, a dramatic impact on public finances. Hungary had a general government deficit and debt of 8,0 % and 80,1 % of gross domestic product (GDP) respectively by the end of 2020. According to the Commission's 2021 autumn forecast, Hungary's general government deficit and debt are forecast to narrow to 7,5 % and 79,2 % of GDP respectively in 2021 and its GDP is projected to increase by 7,4 % in 2021.

(5) On 1 December 2021 Hungary requested further financial assistance from the Union in the amount of EUR 147 140 000 in order to further complement its national 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 the measures referred to in recitals (6) to (8).

(6) By means of 'Government Decree No 485/2020. (XI. 10.)' ([3]), Hungary extended until the end of the state of emergency and amended a number of tax-related measures referred to in Article 3, points (f), (g), (h) and (j), of Implementing Decision (EU) 2020/1561. The loan requested by Hungary is intended to cover expenditure for the period from December 2020 until June 2021 only. The decree contains the explicit condition that the beneficiaries are to maintain employment contracts that were in place at the time of the entry into force of the decree and not to

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

([2]) Council Implementing Decision (EU) 2020/1561 of 23 October 2020 granting temporary support under Regulation (EU) 2020/672 to Hungary to mitigate unemployment risks in the emergency following the COVID-19 outbreak (OJ L 357, 27.10.2020, p. 24).

([3]) Promulgated in the Hungarian Official Gazette on 10 November 2020 (No 242), p. 7671.

terminate such contracts by means of notice from the employer for the duration of the respective measures. The scope of the sectors eligible for support has been modified by Article 1 of 'Government Decree No 571/2020. (XII. 9.)' ([4]), Article 1 of 'Government Decree No 638/2020. (XII. 22.)' ([5]), Article 1 of 'Government Decree No 105/2021. (III. 3.)' ([6]), Article 1 of 'Government Decree No 147/2021. (III. 27.)' ([7]) and Article 1 of 'Government Decree No 204/2021. (IV. 29.)' ([8]). For the sectors worst hit by the pandemic, Hungary has introduced an exemption from employers' social security contributions and training levy, initially for the period from March to December 2020, as well as a reduction in employers' rehabilitation contribution tax, initially for the period from March to June 2020. Hungary has also introduced an exemption of personnel costs from the tax base of the small-enterprise tax ('KIVA'), initially for the period from March to June 2020. For all these measures, only the part of total expenditure (or forgone revenue) related to companies that reduce or suspend working time or when the employees are continuously in employment up to the latest available outturn data has been requested. Since those measures consist of forgone revenue for the Government, they can be considered to be equivalent to public expenditure.

(7) Furthermore, by means of 'Government Decree No 105/2021. (III. 3.)', Article 1 of 'Government Decree No 147/2021. (III. 27.)' and Article 1 of 'Government Decree No 204/2021. (IV. 29.)', Hungary amended the exemption from the small business lump-sum tax ('KATA') regime, as referred to in Article 3, point (i), of Implementing Decision (EU) 2020/1561, which was initially introduced for the period from March to June 2020 and extended for the period from March to April 2021. Only the part of expenditure related to the support of the self-employed and one-person companies has been requested. The measure can be considered to be a measure similar to short-time work schemes, as referred to in Regulation (EU) 2020/672, as it aims to protect the self-employed or similar categories of worker from reduction or loss of income.

(8) By means of 'Government Decree No 310/2021. (VI. 7.) on the compensation support of the self-employed' ([9]), Hungary also introduced a new one-off income support scheme for the self-employed in sectors affected by lockdown measures on the condition that they maintain their activities for at least two months after the prospective end of the state of emergency. The one-time payment amounts to the monthly guaranteed minimum wage (HUF 219 000). The eligibility period terminates at the end of the state of emergency. The target group of the scheme are sole entrepreneurs who do not have employees and are not eligible for support under sectoral wage scheme. The measure can be considered to be a measure similar to short-time work schemes, as referred to in Regulation (EU) 2020/672, as it aims to protect the self-employed or similar categories of worker from reduction or loss of income.

(9) Hungary fulfils the conditions for requesting financial assistance set out in Article 3 of Regulation (EU) 2020/672. Hungary has provided the Commission with appropriate evidence that the actual and planned public expenditure has increased by EUR 897 720 542 as of 1 February 2020 because of the national measures taken to address the socioeconomic effects of the COVID-19 outbreak. This constitutes a sudden and severe increase because it relates to both a new measure and an extension of existing measures directly related to measures similar to short-time work schemes that cover a significant proportion of undertakings and of the labour force in Hungary. Hungary financed EUR 113 740 000 of the increased amount of expenditure through Union funds. Hungary financed EUR 132 510 542 of the increased amount of public expenditure through its own financing.

(10) The Commission has consulted Hungary and verified the sudden and severe increase in the actual and planned public expenditure directly related to measures similar to short-time work schemes, as referred to in the request of 1 December 2021, in accordance with Article 6 of Regulation (EU) 2020/672.

([4]) Promulgated in the Hungarian Official Gazette on 9 December 2020 (No 273), p. 9076.
([5]) Promulgated in the Hungarian Official Gazette on 22 December 2020 (No 287), p. 10473.
([6]) Promulgated in the Hungarian Official Gazette on 5 March 2021 (No 37), p. 1509.
([7]) Promulgated in the Hungarian Official Gazette on 27 March 2021 (No 52), p. 2042.
([8]) Promulgated in the Hungarian Official Gazette on 29 April 2021 (No 73), p. 2676.
([9]) Promulgated in the Hungarian Official Gazette on 7 June 2021 (No 104), p. 4469.

(11) Financial assistance should therefore be provided with a view to helping Hungary 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.

(12) Hungary 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 under 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) Hungary 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 Hungary has implemented that expenditure.

(15) The decision to provide financial assistance has been reached taking into account the existing and expected needs of Hungary, 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) 2020/1561 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 Hungary a loan amounting to a maximum of EUR 651 470 000. 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 that loan agreement or, where relevant, be subject to the entry into force of an addendum thereto, or of an amended loan agreement.';

(2) Article 3 is replaced by the following:

'*Article 3*

Hungary may finance the following measures:

(a) temporary support for upgrading accommodation in tourist destinations in order to retain the existing workforce as provided for by "Government Resolution 2080/2020 on the national development of accommodation", for the part of expenditure related to the support of the self-employed and one-person companies;

(b) temporary support for food-processing companies as provided for by the "Decree of Minister of Agriculture No 25/2020. (VI. 22.)", for the part of expenditure related to the support of the self-employed and one-person companies;

(c) temporary support for horticultural companies in the sectors of growing non-perennial crops and of plant propagation as provided for by the "Decree of Minister of Agriculture No 26/2020. (VI. 22.)", for the part of expenditure related to the support of the self-employed and one-person companies;

(d) temporary support for fish farming companies, as provided for by the "Decree of Minister of Agriculture No 30/2020. (VI. 22.)", for the part of expenditure related to the support of the self-employed and one-person companies;

(e) the extension, until 30 June 2020, of those childcare benefits which expired during the period of the state of alarm, as provided for by "Government Decree No 59/2020. (III. 23.)" and Article 71 of "Act LVIII of 2020";

(f) the suspension of the employers' social contribution tax in certain sectors, as provided for by Article 4, point (a), of "Government Decree No 47/2020. (III. 18.)" (as amended), for the part of expenditure related to companies that reduce or suspend working time or when the employees were continuously in employment, as extended and amended;

(g) exemptions from the employers' training levy in certain sectors, as provided for by Article 4, point (a), of "Government Decree No 47/2020. (III. 18.)" (as amended), for the part of expenditure related to companies that reduce or suspend working time or when the employees were continuously in employment, as extended and amended;

(h) the reduction of the employers' rehabilitation contribution tax in certain sectors as provided for by Article 4, point (a), of "Government Decree No 47/2020. (III. 18.)" (as amended), for the part of expenditure related to companies that reduce or suspend working time or when the employees were continuously in employment, as extended and amended;

(i) a tax exemption for small tax-payers from the small business lump-sum tax ("KATA") regime in certain sectors, as provided for by Article 5 of "Government Decree No 47/2020. (III. 18.)" (as amended), for the part of expenditure related to the support of the self-employed and one-person companies, as extended and amended;

(j) the exclusion of personnel costs from the tax base of the small-enterprise tax ("KIVA") in certain sectors, as provided for by "Government Decree No 47/2020. (III. 18.)" (as amended), for the part of expenditure related to companies that reduce or suspend working time or when the employees were continuously in employment, as extended and amended;

(k) a lump-sum benefit for healthcare workers as an acknowledgment of their extra work during the pandemic, as provided for by "Government Decree No 275/2020. (VI. 12.)";

(l) costs related to special measures to control the pandemic introduced in State-owned companies;

(m) costs related to special measures to control the pandemic and to protect the personal health of public officials, as provided for by "Government Decree No 250/2014. (X. 2.) on Directorate-General for Public Procurement and Supply (KEF)";

(n) costs related to infrastructure and investments in hospitals for high-level protection of healthcare workers and patients, as provided for by "Government Resolution 1012/2020. (I. 31.) on the Establishment of the Operative Staff";

(o) direct costs of personal protection tools and equipment in hospitals and other healthcare institutions for high-level protection of healthcare workers, as provided for by "Government Resolution 1012/2020. (I. 31.) on the Establishment of the Operative Staff";

(p) a one-off income support scheme for the self-employed in sectors affected by protection measures on the condition that they maintain their activities for at least two months after the prospective end of the state of emergency, as provided for by "Government Decree No 310/2021. (VI. 7.)".';

(3) Article 4 is replaced by the following:

'*Article 4*

1. Hungary shall inform the Commission by 28 April 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 this Decision, Hungary shall inform the Commission within six months of the date of adoption of that amending implementing decision, and every six 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 Hungary.

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

Done at Brussels, 25 January 2022.

For the Council
The President
C. BEAUNE