EUROPEAN
COMMISSION

Brussels, 29.3.2021
COM(2021) 163 final

2021/0086 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

amending Implementing Decision (EU) 2020/1352 granting temporary support pursuant to Regulation (EU) 2020/672 to the Republic of Malta to mitigate unemployment risks in the emergency following the COVID-19 outbreak

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Council Regulation (EU) 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 25 September 2020 the Council granted financial assistance to Malta with a view to complementing its national efforts to address the impact of the COVID-19 outbreak and respond to the socioeconomic consequences of the outbreak for workers and the self-employed.

On 10 March 2021, Malta submitted a new request for Union financial assistance under the SURE Regulation.

In accordance with Article 6(2) of the SURE Regulation, the Commission has consulted the Maltese authorities to verify the sudden and severe increase in actual and planned expenditure directly related to Malta's labour market measures and caused by the COVID-19 pandemic. In particular, the increased expenditure for which additional financial assistance is being requested pertains to the existing measure referred to in Council Implementing Decision (EU) 2020/1352:

(a) a COVID-19 wage supplement, which covers employees and self-employed individuals, to address the disruption caused by the pandemic. Between March to June 2020, full-time employees working in the sectors hardest hit by the crisis listed in Annex A were eligible for wage support of EUR 800 per month (EUR 500 per month for part-time employees). In less affected sectors listed in Annex B, full-time employees were able to receive EUR 160 per month (EUR 100 per month for part-time employees). In July 2020 the list of sectors included in the two annexes was revised. Sectors previously supported under the scheme but not included in the updated Annex A or B were assisted with a wage supplement of EUR 600 for full-time employees. The scheme featuring these conditions was extended until the end of 2020. As of January 2021, the size of the wage supplement reflects a drop in sales over six months between March and October 2019 against turnover declared over six months between March and October 2020. Where no VAT records are available, the wage supplement is disbursed based on the criteria applicable in 2020. The scheme is envisaged to run until the end of 2021. In the second half of 2021, support will remain in effect in line with the set parameters for the accommodation and catering activities. For other eligible activities it will decline to 66% in the third quarter and further to 33% in the last quarter of the year. The scheme will remain available only for those enterprises who were eligible for the support already under the original scheme. According to the new rules, the scheme will also cover replacement of employees (i.e. replacing those who voluntarily terminated their employment after June 2020) as long as the original number of employees as at end of May 2020 is not exceeded. Only the part of the public expenditure related to the employees who were

continuously in employment was requested by the authorities and excluding the part for these newly hired employees.

Malta 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 Malta under the SURE Regulation in support of the measure above.

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

The present proposal is fully consistent with Council Regulation (EU) 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 (EU) 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 25 September 2020, the Council granted financial assistance to Malta taking the form of a loan amounting to a maximum of EUR 243 632 000 with a maximum average maturity of 15 years, following the Malta's request of 07 August 2020, with a view to complementing its national efforts to address the impact of the COVID-19 outbreak and respond to the socio-economic consequences of the outbreak for workers and the self-employed.

(2) The loan was to finance the short-time work schemes, similar measures and health-related measures adopted by Malta, as referred to in Council Implementing Decision (EU) 2020/1352[2].

(3) The COVID-19 outbreak continues to immobilise a substantial part of the labour force in Malta. This has led to a still sudden and severe increase in public expenditure by Malta in respect of the measure referred to in Article 3(a) of Implementing Decision (EU) 2020/1352.

(4) The COVID-19 outbreak and the extraordinary measures implemented by Malta in 2020 and 2021 to contain the outbreak and its socio-economic and health-related impact had and still have a dramatic impact on public finances. According to the Commission's 2020 autumn forecast, Malta was expected to have a general government deficit and debt of 9.4% and 55.2% of gross domestic product (GDP) respectively by the end of 2020. In 2021, Malta's general government deficit is forecast to narrow to 6.3% while debt is forecast to increase to 60.0% of GDP. According to the Commission's 2021 winter interim forecast, Malta's GDP is projected to increase by 4.5% in 2021.

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

[2] Council Implementing Decision (EU) 2020/1352 of 25 September 2020 on granting temporary support under Regulation (EU) 2020/672 to the Republic of Malta to mitigate unemployment risks in the emergency following the COVID-19 outbreak, OJ L 314, 29.09.2020, p. 42.

(5) On 10 March 2021, Malta requested further financial assistance from the Union in an amount of EUR 177 185 000 with a view to continue complementing 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 it concerns the measure set out in recital 6.

(6) 'Malta Enterprise Act (Chap. 463 of the Laws of Malta)'/'L-Att dwar il-Korporazzjoni għall-Intrapriża ta' Malta (Kap. 463 tal-Liġijiet ta' Malta)' and 'Government Notice No 389 of 13 April 2020'/'Notifikazzjoni tal-Gvern Nru 389 tat-13 ta' April 2020', which is referred to in Article 3(a) of Implementing Decision (EU) 2020/1352, introduced a COVID-19 wage supplement, which covers employees and the self-employed, to address the disruption caused by the pandemic. Between March to June 2020, employees working in the sectors hardest hit by the crisis listed in Annex A, referred to in the Government Notice were eligible for wage support of EUR 800 per month for full-time employment. In less affected sectors listed in Annex B, referred to in the Government Notice, full-time employees were able to receive EUR 160 per month. Support was available also to part-time employees for a lower amount. In July 2020 the list of sectors included in the two annexes was revised. Sectors previously supported under the scheme but not included in the updated Annex A or B were assisted with a wage supplement of EUR 600 for full-time employees. The scheme featuring these conditions was extended until the end of 2020. As of January 2021, the size of the wage supplement reflects a drop in sales over six months between March and October 2019 against turnover declared over six months between March and October 2020. Where no VAT records are available, the wage supplement is disbursed based on the criteria applicable in 2020. The scheme is envisaged to run until the end of 2021. In the second half of 2021, support will remain in effect in line with the set parameters for the accommodation and catering activities. For other eligible activities it will decline to 66% in the third quarter and further to 33% in the last quarter of the year. The scheme will remain available only for those subjects who were eligible for the support already under the original scheme. Currently, it is applied in practice by the 'Malta Enterprise' and it will be specified in a forthcoming Government Notice. According to the new rules, the scheme will also cover replacement of employees (i.e. replacing those who voluntarily terminated their employment after June 2020) as long as the original number of employees as at end of May 2020 is not exceeded. Only the part of the public expenditure related to the employees who were continuously in employment was requested by the authorities and excluding the part for these newly hired employees.

(7) Malta fulfils the conditions for requesting financial assistance set out in Article 3 of Regulation (EU) 2020/672. Malta has provided the Commission with appropriate evidence that the actual and planned public expenditure has increased by EUR 427 961 805 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 is directly related to the extension of an existing national job measure similar to short-time work that covers a significant proportion of undertakings and of the labour force in Malta. Malta financed EUR 7 144 805 of the increased amount of public expenditure through its own financing.

(8) The Commission has consulted Malta and verified the sudden and severe increase in the actual and planned public expenditure directly related to a measure similar to short-time work referred to in the request of 10 March 2021, in accordance with Article 6 of Regulation (EU) 2020/672.

(9) Financial assistance should therefore be provided with a view to helping Malta to address the socio-economic 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.

(10) Malta and the Commission should take this Decision into account in the loan agreement referred to in Article 8(2) of Regulation (EU) 2020/672.

(11) 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.

(12) Malta 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 Malta has implemented that expenditure.

(13) The decision to provide financial assistance has been reached taking into account existing and expected needs of Malta, 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) 2020/1352 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 Malta a loan amounting to a maximum of EUR 420 817 000. 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 such loan agreement or, where relevant, be subject to the entry into force of an addendum to the latter, or an amended loan agreement concluded between Malta and the Commission.’;

(2) Article 3 is replaced by the following:

‘Article 3

Malta may finance the following measures:

(a) the COVID-19 wage supplement, as provided for in ‘Malta Enterprise Act (Chap. 463 of the Laws of Malta)’/‘L-Att dwar il-Korporazzjoni għall-Intrapriża ta’ Malta (Kap. 463 tal-Liġijiet ta’ Malta)’ and ‘Government Notice

No 389 of 13 April 2020'/'Notifikazzjoni tal-Gvern Nru 389 tat-13 ta' April 2020', as extended and amended in 2020 and 2021;

(b) the COVID-19 disability benefit, as provided for in 'Government Notice No 331 of 25 March 2020'/'Notifikazzjoni tal-Gvern Nru 331 tal-25 ta' Marzu 2020';

(c) the COVID-19 parent benefit, as provided for in 'Government Notice No 330 of 25 March 2020'/'Notifikazzjoni tal-Gvern Nru 330 tal-25 ta' Marzu 2020';

(d) the COVID-19 medical benefit, as provided for in 'Government Notice No 353 of 30 March 2020'/'Notifikazzjoni tal-Gvern Nru 353 tat-30 ta' Marzu 2020';

(3) Article 4 is replaced by the following:

'Article 4

1. Malta shall inform the Commission by 30 March 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 Implementing Decision (EU) 2020/1352, Malta shall inform the Commission within 6 months after the date of adoption of that decision, and every 6 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 the Republic of Malta.

Done at Brussels,

For the Council
The President