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2022/0313 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

amending Implementing Decision (EU) 2020/1345 granting temporary support under Regulation (EU) 2020/672 to the Czech Republic 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 7 August 2020, Czechia requested financial assistance from the Union and on 25 September 2020, with its Implementing Decision (EU) 2020/1345, the Council granted financial assistance to Czechia 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 22 September 2022, Czechia requested again 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 Czechia's labour market measures caused by the COVID-19 pandemic. In particular, this pertains to existing measures referred to in Council Implementing Decision (EU) 2020/1345:

(a) the short-time work scheme known as the 'Antivirus' Programme. The programme was 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. Option "A plus" has been introduced in October 2020 in order to provide full compensation of wage costs to employers forced to suspend or scale down their activity due to measures taken by the authorities. There have been several prolongations of the programme and its sub-programmes. Option "A" was active from 12 March 2020 until 28 February 2022, Option "A plus" from 1 October 2020 until 31 May 2021 and Option "B" from 12 March 2020 until 31 May 2021 and from 1 November 2021 until 31 December 2021.

(b) the measures granting compensatory support in the form of tax bonuses for the self-employed. The first one, the 'Pětadvacítka' Programme, provides the self-employed with a compensation bonus of CZK 500 in the form of a tax bonus per calendar day of the bonus period per person to those who have been forced to suspend or significantly scale down their economic activity beyond normal business volatility due to the COVID-19 public health risks or crisis measures taken by public authorities. 'Pětadvacítka' was active from 12 March 2020 until 8 June 2020. The 'autumn compensatory bonus' was a de-facto extension with parametric changes to the 'Pětadvacítka' programme, that ran from 5 October 2020 until 15 February 2021 and provided tax bonus of CZK 500 per calendar day for self-employed forced to suspend or significantly scale down their economic activity due to public health risks

or crisis measures taken by public authorities. The 'new compensatory bonus for 2021' programme proposed an increase in the support to CZK 1,000 per day per person and ran from 1 February 2021 to 31 May 2021. The last compensatory bonus for self-employed also amounting to 1,000 CZK per day, called the 'compensatory bonus for 2022', ran from 22 November 2021 until 31 January 2022.

(c) the 'Partial waiver of social and health security contributions due by the self-employed' who continue in their activity during the provision of support was a scheme under which the state assumes payment of the corresponding contribution due each month from March to August 2020. While the programme ended in August 2020, additional amounts had to be paid in 2021 due to settlements related to advanced payments paid by the self-employed in 2020.

(d) the 'Care allowance' for the self-employed compensates for the loss of income incurred by the self-employed as a consequence of the need to take care of children or care-dependent people due to the closure of childcare and social care facilities. The daily amount of support was CZK 424 for March 2020 and CZK 500 for April to June 2020. It was afterwards extended to CZK 400 for the period October 2020 to May 2021.

Czechia 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 Czechia under the SURE Regulation in support of the measures 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 2020.

- **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) Further to a request from Czechia on 7 August 2020, the Council, by means of Implementing Decision (EU) 2020/1345[2], granted financial assistance to Czechia in the form of a loan amounting to a maximum of EUR 2 000 000 000 with a maximum average maturity of 15 years, and with an availability period of 18 months, with a view to complementing Czechia'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 Czechia to finance the short-time work schemes and similar measures, as referred to in Article 3 of Implementing Decision (EU) 2020/1345.

(3) The COVID-19 outbreak continues to immobilise a substantial part of the labour force in Czechia. This has led to a still sudden and severe increase in public expenditure in Czechia in respect of the measures referred to in Article 3 (a) (c) (d) (e) of Implementing Decision (EU) 2020/1345.

(4) The COVID-19 outbreak and the extraordinary measures implemented by Czechia in 2020, 2021 and 2022 to contain that outbreak and its socioeconomic and health-related impact had and still have a dramatic impact on public finances. In 2020, Czechia had a general government deficit and debt of 5.8% and 37.7% of gross domestic product (GDP) respectively, which expanded to 5.9% and 41.9% respectively at the end of 2021. According to the Commission's 2022 spring forecast, Czechia is forecasted to have a general government deficit and debt of 4.3% and 42.8% of GDP respectively by the end of 2022. According to the Commission's 2022 summer interim forecast, Czechia's GDP is projected to increase by 2.3% in 2022.

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

[2] Council Implementing Decision (EU) 2020/1345 of 25 September 2020 granting temporary support under Regulation (EU) 2020/672 to Czech Republic to mitigate unemployment risks in the emergency following the COVID-19 outbreak, OJ L 314, 29.9.2020, p.17.

(5) On 22 September 2022 Czechia requested further financial assistance from the Union in the amount of EUR 2 500 000 000 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 and the self-employed. In particular, Czechia further extended and amended short-time work schemes and similar measures set out in recitals 6 to 9.

(6) The short-time work scheme known as 'Antivirus' Programme, as referred to in Article 3 (a) of the Council Implementing Decision (EU) 2020/1345, was designed to 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"). It had as its legal basis the Government Resolution No. 353 of 31 March 2020, as amended, and Article 120 of Act No. 435/2004 Coll.[3], on employment, as amended. The program was extended and amended with Option "A plus" through the Government Resolution No. 1039 of 14 October 2020 in order to provide full compensation of wage costs to employers forced to suspend or scale down their activity due to measures taken by the authorities. The program was also extended through several government decisions, with Option "A" being active from 12 March 2020 until 28 February 2022, Option "A plus" from 1 October 2020 until 31 May 2021 and Option "B" from 12 March 2020 until 31 May 2021 and from 1 November 2021 until 31 December 2021.

(7) The first compensatory bonus for the self-employed, the so-called 'Pětadvacítka' Programme, as referred to in Article 3 (c) of the Council Implementing Decision (EU) 2020/1345, introduced by 'Law No 159/2020 Coll.'[4], provided the self-employed who have been forced to suspend or significantly scale down their economic activity beyond normal business volatility due to the COVID-19 public health risks or crisis measures taken by public authorities with a compensation bonus of CZK 500 per calendar day per person. 'Pětadvacítka' was active from 12 March 2020 until 8 June 2020. Introduced by Law No 461/2020 Coll.[5], its subsequent amendment, the 'autumn compensatory bonus' program ran from 5 October 2020 until 15 February 2021 and provided a tax bonus of CZK 500 per calendar day for the self-employed forced to suspend or significantly scale down their economic activity due to public health risks or crisis measures taken by public authorities. Law No. 95/2021 Coll.[6] and the related Government resolutions (No. 154/2021[7] and 188/2021[8]) introduced another amendment, called the 'new compensatory bonus for 2021' which was active from 1 February 2021 to 31 May 2021 and which raised the amount of the tax bonus to CZK 1000 per day. The last amendment of this compensatory bonus for the self-employed,

[3] Law No 435/2004 Coll. the Employment Act, as amended, published in the Collection of laws number 143 from 23 July 2004.

[4] Law No 159/2020 Coll. on a compensation bonus related to crisis measures related to the incidence of SARS CoV-2 coronavirus, as amended, published in the Collection of laws number 59 of 14 April 2020.

[5] Law No 461/2020 Coll. on a compensation bonus in connection with the prohibition or restriction of business activities related to the occurrence of the SARS CoV-2 coronavirus, as amended, published in the Collection of laws number 189 of 13 November 2020.

[6] Law No 95/2021 Coll. on a compensation bonus for 2021, as amended, published in the Collection of laws number 38 of 26 February 2021.

[7] Government Resolution No 154/2021 Coll. on the Compensation Bonus for 2021, as amended, published in the Collection of laws number 60 of 31 March 2021.

[8] Government Resolution No 188/2021 Coll. on the determination of the next bonus period of the compensation bonus for 2021, as amended, published in the Collection of laws number 79 of 7 May 2021.

the 'compensatory bonus for 2022', introduced by Law No. 519/2021 Coll.[9], also amounted to 1,000 CZK per day and ran from 22 November 2021 until 31 January 2022.

(8) The partial waiver of social and health security contributions due by the self-employed, as referred to in Article 3 (d) of the Council Implementing Decision (EU) 2020/1345, had as legal basis 'Law No 136/2020 Coll.'[10] (for social security) and 'Law No 134/2020 Coll.'[11] (for health security). The State assumed payment of the corresponding contribution due each month from March to August 2020 of social and health security contributions due by the self-employed. While the programme ended in August 2020, additional amounts had to be paid in 2021 due to settlements related to advanced payments paid by the self-employed in 2020. The measure consists of foregone revenues for the Government, which for the purpose of the implementation of Regulation (EU) 2020/672 can be considered equivalent to public expenditure.

(9) The 'Care allowance' for the self-employed, as referred to in Article 3 (e) of the Council Implementing Decision (EU) 2020/1345, had as legal basis Government Resolutions No. 262 of 19 March 2020[12], No. 311 of 26 March 2020, No. 354 of 31 March 2020, No. 514 of 4 May 2020, No. 552 of 18 May 2020, No. 1053 of 16 October 2020, No. 1260 of 30 November 2020 and No. 446 of 10 May 2021 and Article 14 of Act No. 218/2000 Coll.[13] on budgetary rules, as amended, which applies to the self-employed in primary agricultural and forestry production, and Article 3 point (h) of Law No. 47/2002 Coll.[14], as amended, on support to SMEs, which applies to all other self-employed. The programme compensates the loss of income incurred by the self-employed as a consequence of the need to take care of children or care-dependent people due to the closure of childcare and social care facilities. The daily amount of support was CZK 424 for March 2020 and CZK 500 for the period April to June 2020. The program was extended to the period October 2020 to May 2021 when it provided a daily support of CZK 400.

(10) Czechia fulfils the conditions for requesting financial assistance set out in Article 3 of Regulation (EU) 2020/672. Czechia has provided the Commission with appropriate evidence that the actual and planned public expenditure has increased by EUR 5 349 588 352 as of 1 February 2020 due to 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 short-time work scheme and similar measures that cover a significant proportion of undertakings and of the labour force in Czechia. Czechia intends to finance EUR 215 333 982 of the increased amount of expenditure

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9 Law No 519/2021 Coll. on a compensation bonus for 2022, as amended, published in the Collection of laws number 226 of 23 December 2021.

10 Law No 136/2020 Coll. on Certain adjustments in the field of social security contributions and contributions to the state employment and pension insurance policy in connection with emergency measures during the epidemic in 2020, as amended, published in the Collection of laws number 48 of 27 March 2020.

11 Law No 134/2020 Coll. amending Law No 592/1992 Coll., on Public health insurance premiums, as amended, published in the Collection of laws number 48 of 27 March 2020.

12 Government Resolution No 262/2020 Coll. on the adoption of a crisis measure, as amended, published in the Collection of laws number 42 of 19 March 2020.

13 Law No 218/2000 Coll. on budgetary rules, as amended, published in the Collection of laws number 65 of 21 July 2000.

14 Law No 47/2002 Coll. on the support of small and medium-sized enterprises, as amended, published in the Collection of laws number 20 of 8 February 2002.

through Union funds from the EU budget and EUR 634 254 370 through its own financing.

(11) The Commission has consulted Czechia 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 referred to in the request of 22 September 2022, in accordance with Article 6 of Regulation (EU) 2020/672.

(12) Financial assistance should therefore be provided with a view to helping Czechia 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) 2020/1345 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) 2020/1345 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) 2020/1345 has taken effect.

(14) Czechia 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) Czechia 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 Czechia has implemented that expenditure.

(17) The decision to provide financial assistance has been reached taking into account existing and expected needs of Czechia, 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) 2020/1345 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 Czechia a loan amounting to a maximum of EUR 4 500 000 000. The loan shall have a maximum average maturity of 15 years.’;

(b) paragraph 2 is replaced by the following:

‘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.’

(c) 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 Czechia and the Commission replacing the original loan agreement.’;

(2) Article 3 is replaced by the following:

‘Article 3

Czechia may finance the following measures:

(a) the ‘Antivirus’ Programme as provided for in ‘Government Resolution No 353 of 31 March 2020’, as amended, the legal basis of which is Article 120 of ‘Law No 435/2004 Coll. on employment’, as amended and extended by Government Resolution No. 1039 of 14 October 2020 and several government decisions;

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

(c) the ‘Pětadvacítka’ Programme, the compensation bonus for self-employed, as provided for in ‘Law No 159/2020 Coll.’, as amended with the ‘autumn compensatory bonus’ as provided by ‘Law No 461/2020 Coll.’, the ‘new compensatory bonus for 2021’ as provided by ‘Law No. 95/2021 Coll.’ and the related ‘Government resolutions No. 154/2021 and 188/2021’ and the ‘compensatory bonus for 2022’ as provided by ‘Law No. 519/2021 Coll.’;

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

(e) the ‘Care allowance’ for the self-employed, as provided for in ‘Government Resolutions No. 262 of 19 March 2020, No. 311 of 26 March 2020, No. 354 of 31 March 2020, No. 514 of 4 May 2020, No. 552 of 18 May 2020’, and as last amended and extended by ‘Government Resolution No. 446 of 10 May 2021’, and Article 14 of ‘Law No 218/2000 Coll.’ on budgetary rules, as amended, which applies to the self-employed in primary agricultural and forestry production, and Article 3 point (h) of ‘Law No 47/2002 Coll.’ on support to SMEs, as amended, which applies to all other self-employed.

Article 2

This Decision is addressed to the Czech Republic.

Done at Brussels,

For the Council
The President