EUROPEAN
COMMISSION

Brussels, 21.12.2021
COM(2021) 825 final

2021/0435 (NLE)

Proposal for a

# COUNCIL IMPLEMENTING DECISION

**amending Implementing Decision (EU) 2020/1561 granting temporary support pursuant to Regulation (EU) 2020/672 to Hungary 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 23 October 2020 the Council granted financial assistance to Hungary 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 1 December 2021, Hungary requested again Union financial assistance under the SURE Regulation.

In accordance with Article 6(2) of the SURE Regulation, the Commission has consulted the Hungarian authorities to verify the sudden and severe increase in actual and planned expenditure directly related to Hungary's labour market measures caused by the COVID-19 pandemic. In particular, these measures pertain to a combination of a new measure and existing measures referred to in Council Implementing Decision (EU) 2020/1561:

(a) an existing exemption from the employers' social security contributions and training levy for the period from March to December 2020 as well as a reduction in the employers' rehabilitation contribution tax for the period from March to June 2020 for the sectors most hit by the pandemic was extended until the end of state of emergency, with expenditure covering the period from December 2020 until June 2021.

(b) an existing exclusion of personnel costs from the tax base of the small enterprise tax ("KIVA"), for the period from March to June 2020 in the sectors most hit by the pandemic, was extended until the end of the state of emergency, with expenditure covering the period from December 2020 until June 2021. Only the part of the total expenditure 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.

(c) an existing exemption from the lump sum tax ("KATA") regime, for the period from March to June 2020 for small tax-payers in certain sectors, was extended until the end of state of emergency, with expenditure covering March and April 2021. Only the part of expenditure related to the support of self-employed and one-person companies has been requested.

(d) a new one-off income support scheme for self-employed in sectors affected by lockdown measures under 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 with the end of the state of emergency. The target group of the scheme are sole entrepreneurs that do not have employees, which are not eligible for support under the sectoral wage scheme.

Hungary 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 Hungary 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.

- **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.

2021/0435 (NLE)

Proposal for a

# COUNCIL IMPLEMENTING DECISION

## amending Implementing Decision (EU) 2020/1561 granting temporary support pursuant to 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, on 23 October 2020 the Council 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 similar measures to short-time work schemes and health-related measures, as referred to in Article 3 of Council Implementing Decision (EU) 2020/1561[2].

(3) The COVID-19 outbreak has immobilised a substantial part of the labour force in Hungary. This has led to a still sudden and severe increase in public expenditure in Hungary in respect of a new measure, namely a one-off income support scheme for self-employed in sectors affected by protection measures and measures referred to in Article 3 (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 still have 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 Hungary's GDP is projected to increase by 7.4% in 2021.

---

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).

(5) On 1 December 2021, Hungary requested further financial assistance from the Union of EUR 147 140 000 with a view to continuing to 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 it concerns the measures set out in recitals 6 to 8.

(6) On the basis of 'Government Decree No 485/2020 (XI. 10.)'[3], the authorities have extended until the end of the state of emergency and amended a number of tax-related measures, as referred to in Articles 3(f), (g), (h) and (j) of Implementing Decision (EU) 2020/1561. The loan has been requested to cover expenditure for the period from December 2020 until June 2021 only. The decree contains an explicit condition for the beneficiaries to maintain employment contracts that were in place at the time of the entry into force of the decree and not to terminate these contracts by notice from the employer for the duration of the measure. The scope of the sectors eligible for support was modified compared to the initial design of the measures, as amended in the Government Decrees.[4]

For the sectors most hit by the pandemic, the authorities introduced an exemption from the employers' social security contributions and training levy, initially for the period from March to December 2020, as well as a reduction in the employers' rehabilitation contribution tax, initially for the period from March to June 2020.

The authorities have 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 foregone 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 foregone revenue for the Government, they can be considered to be equivalent to public expenditure.

(7) Still in relation to tax-related measures, on the basis of 'Government Decree No. 105/2021 (III. 3.)','Government Decree No. 147/2021 (III. 27)' and 'Government Decree No. 204/2021 (IV. 29)'.[5], the authorities amended the exemption from the small business lump sum tax ('KATA') regime, as referred to in Article 3(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 a similar measure 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 workers from reduction or loss of income.

(8) With 'Government Decree No. 310/2021. (VI. 7.)' on the compensation support of the self-employed, Hungary has also introduced a new one-off income support scheme for self-employed in sectors affected by lockdown measures under the condition that they maintain their activities for at least two months after the prospective end of the state of

[3] Promulgated in the Hungarian Official Gazette (XI. 10).

[4] See Article 1 of Government Decree No. 571/2020 (XII. 9.), Article 1 of Government Decree No. 638/2020 (XII. 22.), Article 1 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.).

[5] Article 1 of Government Decree No. 147/2021(III.27), Article 1 of Government Decree No. 204/2021 (IV.29).

emergency.[6] The one-time payment amounts to the monthly guaranteed minimum wage (HUF 219,000). The eligibility period terminates with the end of the state of emergency. The target group of the scheme are sole entrepreneurs that do not have employees, which are not eligible for support under sectoral wage scheme. The measure can be considered a similar measure 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 workers 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 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 related also 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, referred to in the request of 1 December 2021, in accordance with Article 6 of Regulation (EU) 2020/672.

(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 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.

(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 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,

[6] 'Government Decree No. 310/2021. (VI. 7.)' on the compensation support of the self-employed, as referred to in Hungary's request of 1 December 2021.

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 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, for the part of expenditure related to the support of 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, for the part of expenditure related to the support of 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, for the part of expenditure related to the support of self-employed and one-person companies;

(e) the extension, until 30 June 2020, of those child care benefits which expired during the period of the state of danger, 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 point (a) of Article 4 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 point (a) of Article 4 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 rehabilitation contribution tax of employers in certain sectors as provided for by point (a) of Article 4 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 health care 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) one-off income support scheme for self-employed in sectors affected by protection measures under 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;

(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

Implementing Decision (EU) 2020/1561, Hungary 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 Hungary.

Done at Brussels,

*For the Council*
*The President*