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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	Proposal for a COUNCIL IMPLEMENTING DECISION granting temporary support under Council Regulation (EU) 2020/672 to Romania to mitigate unemployment risks in an emergency situation following the COVID-19 outbreak

Delegations will find attached document COM(2020) 439 final.

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2020/0211 (NLE)

Proposal for a

COUNCIL IMPLEMENTING DECISION

granting temporary support under Council Regulation (EU) 2020/672 to Romania 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, Romania requested Union financial assistance under the SURE Regulation. In accordance with Article 6(2) of the SURE Regulation, the Commission has consulted the Romanian authorities to verify the sudden and severe increase in actual and planned public expenditure incurred in the response to the COVID-19 pandemic and directly related to Romania's short-time work schemes and similar measures, as well as health-related measures. In particular, it concerns:

(1) a benefit to employees of employers that reduce or temporarily interrupt their activity due to the effects of the COVID-19 outbreak. The benefit is capped at 75% of their basic salary (but no more than 75% of the average gross salary in the economy) for the duration of the state of emergency.

(2) a benefit for persons whose employment contract was suspended for at least 15 days during the state of emergency or alert, provided that their employment relationship is maintained until 31 December 2020. The benefit amounts to 41.5% of their gross basic salary (but no more than 41.5% of the average gross salary in the economy).

(3) a short-time work scheme, under which in the event of a temporary reduction of activity caused by the state of emergency or alert the employer has the possibility to reduce the working hours of employees by up to 50%. During the period of working time reduction, affected employees would benefit from an indemnity of 75% of the difference between the gross salary for normal working time and their actual salary.

(4) two measures for the self-employed and liberal professions: for those that stopped work entirely due to the effects of the COVID-19 outbreak, the state provides a benefit of 75% of their average gross salary. For those that reduce their working hours, the state provides a benefit of up to 41.5% of their average gross salary.

(5) a measure providing a support allowance of 35% of the due remuneration per working day, for a maximum period of 3 months, for daily labourers who stop working as a result of the suspension of business activities due to the effects of the COVID-19 outbreak.

(6) a bonus for additional work for the personnel of the specialty structures of the National Public Health Institute and the county public health directorates and/or the public health directorate of Bucharest which act towards coordinating and implementing the measures of prevention and limitation of events declared global public health emergency by the WHO as a result of the infections with COVID-19. The measure provides a benefit equivalent to 75% of the basic salary, for the hours worked over the normal working hours, and to 100% of the basic salary, for the

hours worked on weekends, legal holidays and other days not counted as working days.

(7) a childcare bonus for the employees of the national system of defence, penitentiaries, public health units and other categories established through ministerial orders. The benefit is conditional on the other parent not benefitting from alternative rights that grant days off to parents for the supervision of children in the event of temporary closure of educational units.

(8) a bonus for particular danger conditions of up to 30% of their salary for medical personnel that participate in the medical actions against COVID-19.

Romania 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 Romania 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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granting temporary support under Council Regulation (EU) 2020/672 to Romania to mitigate unemployment risks in an emergency situation 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) On 7 August 2020, Romania 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 Romania 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, Romania was expected to have a general government deficit and debt of 9.2% and 46.2% of gross domestic product (GDP) respectively by the end of 2020. According to the Commission's 2020 Summer interim forecast, Romania's GDP is projected to decrease by 6.0% in 2020.

(3) The COVID-19 outbreak has immobilised a substantial part of the labour force in Romania. This has led to a sudden and severe increase in public expenditure by Romania in respect of short-time work schemes and similar measures, as well as health-related measures, as set out in recitals 4 to 11.

(4) "Government Emergency Ordinance 30/2020[2]", as it is referred to in Romania's request of 7 August 2020, provides a benefit to employees of employers that reduce or temporarily interrupt their activity due to the effects of the COVID-19 outbreak. The benefit is capped at 75% of their basic salary (but no more than 75% of the average gross salary in the economy) for the duration of the state of emergency.

(5) "Government Emergency Ordinance 92/2020"[3], as it is referred to in Romania's request of 7 August 2020, introduced a benefit for persons whose employment contract was suspended for at least 15 days during the state of emergency or alert, provided that their employment relationship is maintained until 31 December 2020.

[1] OJ L 159, 20.5.2020, p.1.
[2] Published in Official Monitor 231 of 21 March 2020.
[3] Published in Official Monitor 459 of 29 May 2020.

The benefit amounts to 41.5% of their gross basic salary (but no more than 41.5% of the average gross salary in the economy).

(6) "Government Emergency Ordinance 132/2020"[4] introduced a short-time work scheme, under which, in the event of a temporary reduction of activity caused by the state of emergency or alert, the employer has the possibility to reduce the working hours of employees by up to 50%. During the period of working time reduction, affected employees benefit from an indemnity of 75% of the difference between the gross salary for normal working time and their actual salary.

(7) For the self-employed and liberal professions, two measures were introduced. For those that stopped work entirely due to the effects of the COVID-19 outbreak, the state provides a benefit of 75% of their average gross salary[5]. For those that reduce their working hours, the state provides a benefit of up to 41.5% of their average gross salary.

(8) For daily labourers who stop working as a result of the suspension of business activities due to the effects of the COVID-19 outbreak, the authorities introduced a measure providing a support allowance of 35% of the due remuneration per working day, for a maximum period of 3 months.

(9) "Government Emergency Ordinance 11/2020"[6], as it is referred to in Romania's request of 7 August 2020, provides a bonus for additional work for the personnel of the specialty structures of the National Public Health Institute and the county public health directorates and/or the public health directorate of Bucharest which act towards coordinating and implementing the measures of prevention and limitation of events declared global public health emergency by the WHO as a result of the infections with COVID-19. The measure provides a benefit equivalent to 75% of the basic salary, for the hours worked over the normal working hours, and to 100% of the basic salary, for the hours worked on weekends, legal holidays and other days not counted as working days. This measure can be considered a health-related measure, as referred to in Regulation (EU) 2020/672.

(10) For the employees of the national system of defence, penitentiaries, public health units and other categories established through ministerial orders, the authorities provided a childcare bonus. The benefit is conditional on the other parent not benefitting from alternative rights that grant days off to parents for the supervision of children in the event of temporary closure of educational units. This measure can be considered a similar measure to short-time work schemes, as referred to in Regulation (EU) 2020/672, as it provides income support to employees, which will help to cover the costs of childcare during school closures and therefore help parents to continue working, preventing putting the employment relation at risk.

(11) Finally, "Law no. 56/2020"[7], as it is referred to in Romania's request of 7 August 2020, introduces a bonus for particular danger conditions of up to 30% of their salary for medical personnel that participate in the medical actions against COVID-19.

(12) Romania fulfils the conditions for requesting financial assistance set out in Article 3 of Regulation (EU) 2020/672. Romania has provided the Commission with appropriate evidence that the actual and planned public expenditure has increased by EUR 4 370

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4 Published in Official Monitor 720 of 10 August 2020

5 As provided by the Law no. 6/2020 State Social Insurance budget for 2020.

6 Published in Official Monitor 102 of 11 February 2020.

7 Published in Official Monitor 402 of 15 May 2020.

779 006 as of 1 February 2020 due to the increase in the amounts directly related to the technical unemployment benefits for employees and other categories than employees, a benefit for reinstated employees and other categories than employees, a forthcoming short-time work scheme, a support allowance to daily labourers and a childcare bonus for specific personnel. This constitutes a sudden and severe increase because it relates to new measures, which cover a significant proportion of undertakings and of the labour force in Romania. Romania intends to finance EUR 271 534 419 of the increased amount of expenditure through Union funds.

(13) The Commission has consulted Romania 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 well as the recourse to relevant health-related measures related to the COVID-19 outbreak referred to in the request of 7 August 2020, in accordance with Article 6 of Regulation (EU) 2020/672.

(14) Financial assistance should therefore be provided with a view to helping Romania to address the socio-economic effects of the severe economic disturbance caused by the COVID-19 outbreak.

(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 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.

(16) Romania 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 Romania has implemented that expenditure.

(17) The decision to provide financial assistance has been taken taking into account existing and expected needs of Romania, 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

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

Article 2

1. The Union shall make available to Romania a loan amounting to a maximum of EUR 4 099 244 587. 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 Romania 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. Romania 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. Romania may finance the following measures:

(1) the technical unemployment benefit to employees of employers that reduce or temporarily interrupt their activity, as provided for by Government Emergency Ordinance 30/2020, Article 11;

(2) the benefit applied for persons whose employment contract was suspended, as provided for by Government Emergency Ordinance 92/2020, Article 1;

(3) the short-time work scheme, as provided for by Government Emergency Ordinance 132/2020, Article 1;

(4) the benefit similar to that referred to in point (a) for categories other than employees, including self-employed and liberal professions, as provided for by Government Emergency Ordinance 30/2020, Article 15;

(5) the benefit provided by Law no. 6/2020 on State Social Insurance budget for 2020 for other categories than employees (including self-employed and liberal professions) as provided for by Government Emergency Ordinance 132/2020, Article 3;

(6) the support allowance to daily labourers as provided for by Government Emergency Ordinance 132/2020, Article 4;

(7) the bonus in respect of additional work for the personnel of the specialty structures of the National Public Health Institute and the county public health directorates and/or the public health directorate of Bucharest, as provided for by Government Emergency Ordinance 11/2020, Art. 8(6);

(8) the childcare bonus granted to the employees of the national system of defence, penitentiaries, public health units and other categories established through ministerial orders, as provided for by Government Emergency Ordinance 30/2020, Art. 1(6);

(9) the bonus in respect of particularly dangerous conditions granted in recognition of the merits of medical personnel, as provided for by Law no. 56/2020, Art.7.

Article 4

Romania 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 Romania.

Article 6

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

Done at Brussels,

For the Council
The President