The SURE regulation, short-time work and the need for universal access to adequate social protection for all workers

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Abstract

As a response to the COVID-19 on a European level the Temporary Support to mitigate Unemployment Risks in an Emergency (SURE) regulation entered into force. SURE provides loans to the states to cover share of their sudden increases in costs directly related to the establishment or extension of national short time work or other similar policies. Still a high proportion of workers (i.e. precarious, bogus self-employed) remain unprotected because they cannot qualify for eligibility conditions for STW. It is argued that the COVID-19 has exposed the necessity for universal access to adequate social insurance for all workers in the EU.

In a European scale it is estimated that **COVID** -19 could leave up to 59 million jobs at risk (i.e. reduction in payment hours, permanent layoffs, dismissals etc) which is around 26% of the total employment in the European Union (EU). As a response to the to COVID-19 the European Commission on April 2, 2020 published its proposal on the so-called Temporary Support to mitigate Unemployment Risks in an Emergency (SURE) with the aim to help companies experiencing difficulties and to protect jobs and workers affected. The proposal was based on the legal basis in Article 122 of the Treaty Functioning of the European Union and it was adopted by the Council on May 19, 2020.

SURE is designed to provide funding of up to €100 billion to member states by covering share of their sudden increases in public expenditure to preserve employment. To ensure prudent financing of SURE a minimum amount of committed guarantees (25% of the maximum amount of loans of €100 billion) will be paid by the states and the SURE instrument will only be made available once all the states have committed to those guarantees. Specifically, loans will support

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states to cover costs directly related to the establishment or extension of national short time work (STW) and other similar policies developed for the self-employed, as well as to cover expenditure on some health-related measures in particular in the workplace as a reaction to the current pandemic.

STW are defined in a 2020 Commission regulation proposal as ‘public programmes that allow firms experiencing economic difficulties to temporarily reduce the hour worked while providing their employees with income support from the state for the hours not worked’. Therefore, STW allow employers who their economic output and production is affected by temporary shocks to lower their employees’ hours worked instead of dismissing them. For the employers STW allows them to keep their skilled trained personnel while for the employees it allows them to be part of the labour market even if they work less hours and are paid less. STW encompass either a partial suspension of the employment contract meaning a partial reduction in the number of hours worked for a limited period or a full suspension of the employment contract thus a temporary redundancy. The important element is that in both cases the parties remain bound to the contract of employment and it is not broken.

In Germany almost 6% of total employment which amounts around 2.35 million employees currently receive STW, this comes in comparison to the 1.4 million employees who received STW during the peak of the global recession. Also, in France at the peak of the global recession 227,000 employees received STW compared to 730,000 employees who until now have received STW due to COVID -19. Significantly, in Belgium at the peak of the global recession 100,000 individuals were on STW, whereas presently there are more than 1 million on the scheme. The European Trade Union Confederation (ETUC) underlines that across the whole EU, it is estimated that 160 million workers are presently participating in STW or similar schemes. This dramatic situation reflects the significance of SURE to help states to protect jobs and businesses, but at the same time it raises disputes whether its financial capacity will be sufficient. Another challenge for an effective outcome of SURE is that each state has its own rules and procedures in relation to STW thus there is a fundamental institutional variation in STW across Europe. Precisely, the Commission has already identified that schemes vary on duration, the amount of wage compensation and caps (max) levels. Eventually this could lead to a weaker EU labour market due to high disparities of the workforce within and between the states. A critical point that needs to be mentioned is that SURE does not provide any criteria or guidelines on what constitutes as a sufficient and fair STW, so this is solely upon the states to decide.

In most of the states as a result of the global recession, STW were developed to include also non-standard workers, for example part-time and fixed-term employees and temporary agency workers. In France the authorities extended the eligibility to workers on a temporary contract, similarly in Belgium eligibility rules for STW for temporary workers have been relaxed. Likewise currently, some states have extended the scope of STW thus offering social protection to higher number of workers. For example in Germany before the COVID -19 pandemic temporary agency workers were excluded from STW, but now they are admitted in accordance to a crisis-related temporary rule. Another example is the Netherlands which according to a special rule based on COVID -19 it has extended the scope of STW to temporary workers and staff employed on zero-hour contracts. In Spain, as a response to COVID -19 employees can now receive support through STW irrespective of their contributions paid to the unemployment insurance scheme.

Nevertheless, a substantial element that remains blurred is when non-standard workers are unable to access financial support because they cannot qualify for STW. According to the statistics in the EU in 2015, 7% (around 1 in 14) of the workers working in the service industry had no written contract of employment; the numbers in Europe vary from highest rate at 34% in Cyprus to lowest at 1% in Sweden. Taking into consideration the above it could be supported that heavy reliance on STW could backfire on SURE as it seems that the EU solidarity is limited to those employees whose jobs could be saved during the recession i.e. standard workers. Furthermore, it is observed that SURE fails to refer to all those workers who will inevitably become unemployed for example, workers who are employed in businesses which will close because they will go bankrupt due to the recession. Also, depending on the social insurance system workers, may not be permitted to receive welfare benefits. This happens as their access to various types of social security benefits is at risk: for example, due to low number of working hours and/or due to little pay which could otherwise grant them entitlement to social security schemes.

Even though SURE comes with failures still it needs to be recognized as a step towards solidarity and that it has a fundamental added value for the European citizens and for the states who call for support during the COVID -19 pandemic. However, it seems that a high percentage of non-standard workers and self-employed people in the EU will most likely not qualify for the financial support under STW and will neither have access to other national social security schemes. This being said, there is an urgent need for a European action to address the issue of non-standard workers and self-employed workers who are not granted access to national social security systems and are socially excluded. Arguably, COVID -19 has exposed - possibly more than ever - that universal access to adequate social insurance to all workers in the EU is mandatory if it is to achieve social protection and inclusion which is distinguishably a key principle of the European Pillar of Social Rights, which was proclaimed in 2017.

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