Priority question for written answer P-002946/2020
to the Commission
Rule 138
Guido Reil (ID), Lars Patrick Berg (ID), Nicolaus Fest (ID), Jörg Meuthen (ID), Gunnar Beck (ID), Markus Buchheit (ID), Harald Vilimsky (ID), Roman Haider (ID), Bernhard Zimniok (ID)

Subject: SURE

On 2 April 2020, the Commission proposed a new regulation introducing a temporary European loan scheme to fund short-time work (SURE).

Under the scheme, the Member States would be able to apply to the Commission for a loan if they were overwhelmed by the cost of state-funded short-time work. In order to finance the scheme, the Commission intends to purchase bonds on the capital market.

As regards the borrowing element, the Commission has based its proposal on Article 122(1) TFEU. This legal basis specifies only a qualified majority for adoption of the proposal.

Article 122 TFEU authorises the Council to adopt measures only if severe difficulties arise in the supply of certain products, notably in the area of energy. This paragraph has been applied only once, when the matter at issue was Member States' oil stocks.\(^1\)

In the Pringle judgment, the Court of Justice of the European Union (CJEU) stated that 'Article 122(1) TFEU does not constitute an appropriate legal basis for possible Union financial assistance to Member States experiencing or threatened with serious financing problems [...]'.\(^2\)

1. How does the Commission justify a choice of legal basis which is at odds with previous practice and with the settled case-law of the CJEU?

2. Why did the Commission not choose Article 352 TFEU as the legal basis?

3. What legal opinions did the Commission request when preparing its proposal?

---

\(^1\) Directive 2009/119/EC of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products.

\(^2\) CJEU judgment of 27 November 2012, Case C-370/12, paragraph 116.