REBUILD

Working Paper

European Solidarity in Action: The SURE Programme between Fiscal Means and Social Ends

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Abstract
This Chapter argues that just as the NGEU is commonly seen as a move towards a "Fiscal Europe," SURE should be seen as an important step in the direction of "Social Europe." In April 2020, the EU introduced the European instrument for Temporary Support to mitigate Unemployment Risks in an Emergency (SURE). The SURE instrument was the only EU pandemic emergency measure specifically targeted at keeping people in work. Its purpose was to provide financial support to member states programmes to support workers through existing – as well as newly introduced and expanded – short term work schemes. This Chapter analyses the SURE programme, tracing its historical background in previous macroeconomic and social policy debates, as well as its creation and implementation. Given its constraints, in particular its modest €100bn size and its time-limited character, SURE provided a vital backstop that helped to protect the jobs of millions of EU citizens, making it a marked success of (post) pandemic economic governance. While it was quickly overshadowed by the larger NGEU programme that followed it, the SURE programme was of historical significance in its own right, as it stands as the EU's largest ever single intervention in the field of social policy.

Keywords: Economic and Monetary Union, European Unemployment Reinsurance Scheme (EURS), Fiscal Stabilization, Social Europe, Support to Mitigate Unemployment Risks in an Emergency (SURE)

I. Introduction

When the Covid-19 pandemic raged across the European Union (EU) in early 2020, governments of the member states (MS) attempted to stop the spread of the virus by imposing widespread lockdowns, bringing a great deal of their societies' economic activity to an abrupt halt. To help the millions of workers at risk of losing their jobs in these circumstances, the main public policy response was to introduce or vastly expand programmes that would keep them in employment through short time work. In other words, MS governments stepped in to keep employees connected to their jobs, while compensating them for the wages lost because their working hours had been cut due to forces beyond their control. The surge in demand for these schemes led to sudden and severe increases in public expenditure, which threatened the viability of these programmes. In response, the European Union (EU) hastily devised a plan to extend €100bn of financial assistance to MS to undergird these worker support

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programmes. Thus was created the "European instrument for temporary Support to mitigate Unemployment Risks in an Emergency" – also known by the acronym SURE.[2] SURE proved to be a success: according to the Commission, it facilitated EUR 98.4 billion in emergency loans to 19 MS (saving them €9bn in interest payments) which in 2020 covered around 31.5 million jobs and 2.5 million firms and helped to prevent about 1.5 million people from becoming unemployed.[3] Yet the story of SURE, a time-limited programme which ended on 31 December 2022, remains largely unknown and under-researched: while there was a small flurry of academic interest at the time of its announcement in early 2020,[4] there has been relatively little in-depth analysis of the SURE programme's subsequent implementation and long-term significance.[5]

The argument of this Chapter is that SURE should be understood and analysed primarily as a major initiative in the realm of EU social policy. SURE has more commonly been viewed through the lens of fiscal policy, as one of several financial measures put forward to stabilize the EU economy in the face of the pandemic; from this perspective, the €100bn SURE programme agreed in April 2020 is seen merely as a precursor and an adjunct to the much larger and more ambitious €750bn NGEU programme agreed by the European Council in July 2020.[6] However, viewed from a social policy perspective, SURE is a

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[2] 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.
[3] European Commission, 'SURE after its sunset: final bi-annual report' (2023) 2-3.
[4] Early reactions to the SURE proposal were mostly short, policy-focused analyses. See: László Andor, 'SURE – EU Capacity for Stabilising Employment and Incomes in the Pandemic' (2020) Intereconomics 139; Grégory Claeys, 'The European Union's SURE plan to safeguard employment: a small step forward', 20 May 2020, *Breugel*, <https://www.bruegel.org/blog-post/european-unions-sure-plan-safeguard-employment-small-step-forward>, accessed 1 February 2024; Francesco Corti and Amandine Crespy, 'SURE: A quick fix to be welcomed in the search for long-term solutions', 2020, FEPS Covid Response Papers No. 2, 1; Karl Croonenborghs, 'The European Instrument for Temporary Support to Mitigate Unemployment Risks in an Emergency (SURE) - an Innovative (Social) Approach to EU Financial Assistance Under the Treaty,' 2020, Weekend Edition (No 19) of *EU Law Live*, 2; Sofia Fernandes and Frank Vandenbroucke, 2020. 'SURE : A welcome lynchpin for a European unemployment re-insurance,' 2020, Notre Europe Jacques Delors Institute Policy Paper no. 251; Torsten Müller and Thorsten Schulten, 'Ensuring fair short-time work - a European overview', 2020, ETUI Policy Brief. N°7/2020; René Repasi, 'A Dwarf in Size, But a Giant in Shifting a Paradigm – The European Instrument for Temporary Support to Mitigate Unemployment Risks (SURE)', Weekend Edition (No 19) of *EU Law Live*, 8; Frank Vandenbroucke, Chris Luigjes, Francesco Nicoli, Theresa Kuhn, Georg Fischer, Brian Burgoon, Roel Beetsma, and László Andor 2020. 'The European Commission's SURE initiative and euro area unemployment re-insurance' 6 April 2020, *VoxEU*, <https://cepr.org/voxeu/columns/european-commissions-sure-initiative-and-euro-area-unemployment-re-insurance>, accessed 1 February 2024.
[5] For longer analyses of the implementation and significance of SURE, see László Andor, 'European unemployment insurance. From undercurrent to paradigm shift' (2022) 28(2) Transfer 267; Francesco Corti and Cinzia Alcidi, 'The time is ripe to make SURE a permanent instrument' 2021, CEPS Policy Insights No.10/2021; Francesco Corti and Robin Huguenot-Noël, 'Towards a Re-Insurance Union? SURE as an EU response to preserve jobs in the Covid-19 pandemic', (in press) *Journal of European Social Policy*; Francesco Corti, Alexandre Ounnas and Tomás Ruiz De La Ossa, 'Job retention schemes between the Great Recession and the COVID-19 crises - Does the institutional design affect the take up? An EU-27 cross-country comparison' (2023), *CEPS in-depth analysis*. January 2023 – 02; Panayiotis Elia and Sonja Bekker 2023; 'SURE: EU support to national short-term working schemes and its openness to non-standard workers,' (2023) 25(1) *European Journal of Social Security*, 41.
[6] See for example, Richard Crowe, 'An EU budget of states and citizens', (2021) 26 Eur Law J 331; Caroline de la Porte and Mads Dagnis Jensen, 'The next generation EU: An analysis of the dimensions of conflict behind the deal,' (2021) 55 *Soc Policy Adm* 388; Federico Fabbrini, *EU Fiscal Capacity: Legal Integration After Covid-19 and the War in Ukraine* (2023) Oxford; Federico Fabbrini, 2022. 'The Legal Architecture of the Economic Responses to COVID-19: EMU beyond the Pandemic' (2022) 60 JCMS 186; David Howarth and Lucia Quaglia, 'Failing forward in Economic and Monetary Union: explaining weak Eurozone financial support

genuinely groundbreaking initiative: in terms of the amount of money spent in such a short time for a single purpose, it is the EU's largest ever intervention in the realm of social policy.[7] In addition, SURE did not emerge from a vacuum but against a background of years of policy debate about whether and how to create a European Unemployment Benefits Scheme (EUBS), and a specific promise in 2019 from the incoming Commission President Ursula von der Leyen that she would deliver a policy proposal for a European Unemployment Reinsurance Scheme (EURS). When she subsequently announced the SURE proposal, she described it as "European solidarity in action." Among social policy experts, SURE was welcomed variously as a "paradigm shift"[8] and a "quantum leap"[9] in EU social policymaking. Whereas as a fiscal intervention the €100bn committed to SURE may seem only a "small step forward,"[10] it is a very large for a social policy programme at EU level – "a dwarf in size, but a giant in shifting a paradigm."[11] By way of comparison, it is substantially the same amount as the entire 7-year budget for the European Social Fund (now known as ESF+, which merges four previously separate funding instruments), which amounts to €99.3bn within the 2021-2017 Multiannual Financial Framework (MFF); the ESF+ is the EU's main instrument for supporting the implementation of the European Pillar of Social Rights.[12] Whereas the NGEU is sometimes referred to as the EU's "Hamilton moment" because it was the first time it financed its budget with common debt on a large scale, perhaps SURE should be seen as the EU's "Roosevelt moment," its first major investment in the field of European social policy.

This paper is structured as follows. Section II details the long macroeconomic and social policy debates, from the 1970s to the 2010s, over whether and how to establish a EUBS – debates which prefigured and ultimately laid the groundwork for the creation of SURE. Section III describes the creation of SURE, noting in particular its most important design features, including its legal basis in Article 122 TFEU (the Treaty's 'emergency clause'), its lack of strict conditionality, and its novel financial structure based on intra-EU solidarity in which all MS contributed funds up front to guarantee the programme, including several who were not recipients. Section IV examines the implementation and the effects of SURE, detailing why it was broadly seen as a policy success. It had the effect of incentivizing MS to create or expand short-time-work or similar schemes, saving them not just jobs but also money in the form of interest payments. Finally, Section V concludes by noting that SURE ought to be made a permanent programme, even though there are no immediate plans to do so.

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mechanisms,' (2021) 28 Journal of European Public Policy 1555; Martin Rhodes 'Failing forward': a critique in light of covid-19,' (2021) 28 Journal of European Public Policy, 1537.

[7] It is noted in, 'National Recovery & Resilience Plans' by Zeitlin et al., Chapter 10 in this volume that within the NGEU's Recovery and Resilience Facility (RRF) the 'social dimension' accounts for 28% of the planned spending in the MS' National Recovery and Resilience Plans (NRRPs). Given that the RRF is €723bn, the social spending in the NRRPs, if taken together, would be approximately double the size of SURE (28% x €723bn ≈ €202bn). However, this spending is spread across several kinds of social programmes and so is not comparable to SURE, a single programme with a unified purpose.

[8] Andor, 'SURE' (n3) 139.

[9] Karen M. Anderson and Elke Heins, 'Chapter 1: After the European elections and the first wave of Covid‑19: prospects for EU social policymaking' in Bart Vanhercke, Slavina Spasova and Boris Fronteddu (eds.) *Social policy in the European Union: state of play 2020. Facing the pandemic, Brussels, European Trade Union Institute* (ETUI) and European Social Observatory (OSE) (2021), 28.

[10] Claeys 'The European Union's SURE plan to safeguard employment' (n3), 1.

[11] Repasi, 'A Dwarf in Size, But a Giant in Shifting a Paradigm' (n3), 8.

[12] European Commission, 'What is ESF+?' <https://european-social-fund-plus.ec.europa.eu/en/what-esf>, last accessed 1 February 2024.

II. The Historical Background Leading up to SURE

The SURE programme may be seen as the culmination of a much longer policy debate within the EU over whether and how to create some kind of European Unemployment Benefits Scheme (EUBS). The initiative grew out of two fields of policy development that had long evolved along separate and parallel tracks – macroeconomic policy and social policy. Within each of these two policy approaches there are arguments in favour of creating a EUBS, but they differ on the fundamental purpose of such a scheme – whether it is to promote social cohesion (a "genuine" EUBS) or macroeconomic stabilization (an "equivalent" EUBS).[13] The debate has most frequently focused on the political feasibility of such schemes, their workability in the face of "moral hazard," and their legal basis under the EU Treaties (as they currently stand or may be amended in the future). Another parallel distinction along these lines is whether the EUBS should be a largely harmonized pan-EU programme in which the beneficiaries are unemployed individuals, or a system of reinsurance involving transfers between MS to bolster national unemployment benefits schemes subject to an economic shock. The latter type of system, called a European Unemployment Reinsurance Scheme (EURS), was the model that was eventually adopted for SURE.

Within decades-long macroeconomic policy debates, proposals for a EUBS/EURS have occasionally come up in the search for stabilization mechanisms, either automatic or discretionary, in the design of Europe's economic and monetary union. One early proposal for such as scheme appeared in the 1975 Marjolin Report, a study intended to prepare for an economic and monetary union in 1980.[14] From time to time further proposals of this kind arose in the years leading up to Economic and Monetary Union (EMU) in the 1990s. In the 2010s, at the height of the euro-crisis, the idea of a EUBS/EURS was sometimes suggested as part of a broader institutional solution that would finally produce a genuine or complete EMU.[15] For example the Four Presidents Report (2012) mooted the creation of an unemployment insurance system that could be a "shock absorption function" as exercised by a "euro area fiscal capacity".[16] In the late 2010s the idea of an EUBS/EURS was often cited in the ongoing debates between MS over whether the EU or the eurozone should be empowered with an enhanced fiscal capacity with a countercyclical stabilization function. A key moment came in 2018 when the German position shifted when the long-time finance minister Wolfgang Schäuble, who had staunchly opposed any such measure, was replaced by Olaf Scholz, who was open to the idea of a European Unemployment Stabilisation Fund (EUSF).[17] This shift paved the way for the Franco-German Meseberg Declaration of 2018, which proposed the creation of a Eurozone budget with a stabilization function, possibly including a EUSF[18] This debate, which frequently pitted the Southern member states of the

[13] R. Repasi, 'Legal options and limits for the establishment of a European unemployment benefit scheme' (2017) Publications Office, European Commission, Directorate-General for Employment, Social Affairs and Inclusion..
[14] Robert Strauss, 'The history and debate in Europe on a European Unemployment Benefits Scheme' (2016) ms.
[15] See e.g. European Commission, 'A blueprint for a deep and genuine economic and monetary union: Launching a European Debate' 2012, COM(2012) 777 final, 32.
[16] H. Van Rompuy, in close collaboration with J.M. Barroso, J. Juncker and M. Draghi, 'Towards a Genuine Economic and Monetary Union, Report of the President of the European Council' (Brussels, 5 December 2012), 11.
[17] Corti and Huguenot-Noël, 'Towards a Re-Insurance Union?' (2023) (n4), 11.
[18] Meseberg Declaration 2018.

Euromed group against the Northern MS of the New Hanseatic League[19] continued throughout 2019 and was still unresolved when the pandemic hit the EU in early 2020.

In parallel to the macroeconomic policy debate there was also a social policy debate regarding the need for a EUBS/EURS to achieve social cohesion and solidarity. This idea was put on the EU agenda in the early 2010s by László Andor,[20] Commissioner for Employment, Social Affairs and Inclusion (2010-2014) in the Barroso II Commission, and it gained support under the Juncker Commission (2014-2019) which generally took a more active role in providing renewed momentum towards social Europe.[21] Most notably, the Commission launched the European Pillar for Social Rights (EPSR), which was proclaimed at the Gothenburg Social Summit in November 2017. The EPSR is a package of 20 rights and principles in the social domain, including (at number 13) "Unemployment benefits," which reads as follows:

> "The unemployed have the right to adequate activation support from public employment services to (re)integrate in the labour market and adequate unemployment benefits of reasonable duration, in line with their contributions and national eligibility rules. Such benefits shall not constitute a disincentive for a quick return to employment."[22]

In addition to EPRS, the Commission produced ideas and proposals in relation to a EUBS/EURS. In 2017, one thorough study prepared for the European Commission systematically compared 18 proposals of for an EUBS/EURS,[23] while another exhaustively analysed the possible legal bases for such a plan under the EU Treaties.[24] Also in 2017, the Commission published a reflection paper entitled Deepening the Economic and Monetary Union which raised three options, including a EURS which would reinsure national unemployment schemes in the case of macroeconomic shocks (the other two options were for a European Investment Protection Scheme and a Rainy Day Fund). In a similar vein, the Commission in 2018 proposed the creation of a European Investment Stabilization Function (EISF) to provide assistance to member states hit by asymmetric shocks, which could include a major rise in unemployment.[25]

It is notable that the financial structure of the SURE proposal drew upon ideas that emerged in these debates, and previous programmes that were unrelated to a EUBS/EURS. Many of the financial aspects of the above EISF proposal (back-to-back loans, conditionality, semi-automatic activation) would later be reproduced in the SURE programme.[26] In fact, the closest previous antecedents to this innovative funding structure of SURE were the Community Loan Mechanism (1975) that was introduced to help member states that faced balance of payments difficulties during the oil crisis, and the European Financial Stability

[19] For more on these Intra-EU regional groups, see Ian Cooper and Federico Fabbrini, 'Regional Groups in the European Union: Mapping an Unexplored Form of Differentiation' (2022) 7 European Papers, 949.
[20] Andor, 'SURE' (n3) 2020; Andor, 'European unemployment insurance' '2022' (n4).
[21] Paul Copeland, 'The Juncker Commission as a Politicising Bricoleur and the Renewed Momentum in Social Europe' (2022) 60 JCMS 1629.
[22] European Pillar of Social Rights, no. 13.
[23] Miroslav Beblavý and Karolien Lenaerts, 'Feasibility and Added Value of a European Unemployment Benefits Scheme' (2017), CEPS.
[24] Repasi, 'Legal options and limits for the establishment of a European unemployment benefit scheme' (n19), 1.
[25] Corti and Huguenot-Noël 'Towards a Re-Insurance Union?' (2023) (n4), 10
[26] Corti and Huguenot-Noël 'Towards a Re-Insurance Union?' (2023) (n4), 10.

Mechanism (2010), an emergency funding programme established under EU law that facilitated bailouts for Ireland and Portugal in the early 2010s.[27].

In addition to the above policy debates, the groundwork for the emergence of what became SURE was also affected by contingent political events, party politics and inter-institutional rivalry. A major push to the idea of a EURS was given new life by the results of the 2019 European Parliament election and the unexpected election of Ursula von der Leyen as President of the European Commission after the breakdown of the *Spitzenkandidat* process. Both the Socialists & Democrats party group and the European Green Party had campaigned on manifestoes calling for a EURS. After the election, the Greens initially did not support Von der Leyen but the S&D group explicitly conditioned their support for Commission president on the proposal for "… a fully-fledged and meaningful counter-cyclical stabilisation function in the form of a European unemployment re-insurance scheme."[28] Subsequently, in July 2019 Von der Leyen included the EURS proposal among the priorities of her candidacy for Commission President. Prior to the new Commission assuming office, two nominees – Paolo Gentiloni, Commissioner-elect for the Economy, and Nicholas Schmitt, Commissioner-elect for Jobs and Growth – were tasked in their mission letters with designing the EURS instrument. In fact a working group of Commission officials (from DG ECFIN, DG EMPL and SECGEN) was set up in the summer of 2019 with the aim of presenting a proposal by the end of 2020. In October 2019 the EP effectively endorsed these efforts when it called on the Commission to "present a European unemployment benefit reinsurance scheme to protect citizens and reduce the pressure on public finances during external shocks."[29] Thus the planning for a EURS proposal was already in progress when the pandemic hit in early 2020, leading the Commission to rush it out on a temporary, emergency basis.

III. The Creation of SURE

It is apparent from the above that the SURE programme did not emerge from a vacuum but from decades of macroeconomic and social policy debates, and the peculiar circumstances of the appointment of the new Commission President after the 2019 European Parliament elections. When the pandemic hit in early 2020, the ideas for what became SURE had already been gestating for several months. Indeed, the Commission made this connection explicit when it stated, in its Communication of 13 March 2020 on a "Coordinated economic response to the COVID-19 Outbreak" that it will "…accelerate the preparation of its legislative proposal for a European Unemployment Reinsurance Scheme" the aims of which would include "…strengthening the social dimension of Europe, and increasing its cohesion."[30] Moreover, the final legislative proposal made this connection clear when it stated the following:

> This temporary instrument should be seen as an emergency operationalisation of a European Unemployment Reinsurance Scheme in the specific context of the

[27] Paul Dermine, *The New Economic Governance of the Eurozone: A Rule of Law Analysis* (2022) (Cambridge), 164.
[28] Corti and Huguenot-Noël, 'Towards a Re-Insurance Union?' (2023) (n4), 12.
[29] European Parliament resolution of 10 October 2019 on employment and social policies of the euro area (2019/2111(INI)).
[30] Corti and Huguenot-Noël, 'Towards a Re-Insurance Union?' (2023) (n4), 13.

> COVID-19 crisis, without prejudice to the possible subsequent establishment of a permanent instrument under a different legal basis in the TFEU.[31]

The Commission's actions in this circumstance have been insightfully described as an instance of "purposeful opportunism" in that it leveraged the circumstances of the pandemic, as well as its unique institutional position and technical expertise, to advance a legislative proposal that would advance the cause of social progress in the EU.[32]

The SURE proposal was first published on 2 April 2020 and announced the same day by Ursula von der Leyen at a press conference. Noting that €100bn is an "enormous amount of money," she said: "This is European solidarity in action."[33] The SURE proposal was endorsed one week later on 9 April by the Eurogroup, meeting in inclusive format (ie also including finance ministers from non-eurozone MS). It was actually presented as the smallest part of a three-part €540bn rescue package that included €240bn for the European Stability Mechanism (ESM), €200bn for the European Investment Bank (EIB) and €100bn for SURE; these three were targeted at the rescue of MS, companies and workers, respectively.[34] In fact, the Eurogroup had already met and failed to reach an agreement on a package the previous day. The principal point of disagreement concerned whether there should be strict conditionality for ESM funding, which pitted the Netherlands (which was in favour) against Italy (which was opposed). A similar disagreement arose over SURE, over whether it should be temporary and solely focused on protecting workers. This pitted the Netherlands, which was adamant that SURE should not turn into a permanent EU-wide unemployment insurance scheme, against Spain, which favoured the eventual adoption of such a scheme. In part to address the Netherlands' concerns, SURE was designed to be a temporary measure that, even though its primary purpose remained the protection of workers, could also cover some health-related measures. SURE was subsequently endorsed by the European Council on 23 April, along with the other elements of the Eurogroup package. Finally, after some negotiation the SURE regulation was formally adopted by the Council on 19 May, and entered into force immediately.

The legal basis for the SURE regulation is Article 122 TFEU. In fact, the regulation specifically states that the regulation rests on a dual legal basis, both Article 122(1) and (2) TFEU, as follows:

> (1) Article 122(1) of the Treaty on the Functioning of the European Union (TFEU) allows the Council to decide, on a proposal from the Commission and in a spirit of solidarity between Member States, upon the measures appropriate to respond to the socio-economic situation following the COVID-19 outbreak.

[31] European Commission (2020), "Proposal for a Council Regulation on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak", (2 April 2020, COM (2020), 139 final), 3.
[32] Corti and Huguenot-Noël, 'Towards a Re-Insurance Union?' (2023) (n4), 3. See also Tobias Tesche, 'Pandemic Politics: The European Union in Times of the Coronavirus Emergency' (2022) 60 JCMS 480.
[33] Daniel Boffey, 'EU plans to spend €100bn on saving jobs amid coronavirus crisis', The Guardian, 2 April 2020.
[34] "Eurogroup agrees on €540 billion corona-package", By Jorge Valero | EURACTIV 10 Apr 2020. In fact, the money for the ESM was never used; see Tomi Tuominen, 'European Stability Mechanism', Chapter 5 in this Volume.

(2) Article 122(2) TFEU enables the Council to grant Union financial assistance to a Member State that is in difficulties or is seriously threatened with severe difficulties caused by exceptional occurrences beyond its control.[35]

Article 122 has been described as "what comes closest to an emergency clause in the Treaty framework".[36] From the Commission's point of view, the use of Art. 122 TFEU had advantages over alternative options for a treaty basis, specifically Art. 352 or Art. 175. Article 122 allowed the Council to take action based on a qualified majority vote without needing the approval of the European Parliament. The use of Article 352 (the treaty's "flexibility clause") would have required unanimous approval of the Council, with all the attendant uncertainty and potential delay that this would entail. Article 175 would have required legislation via the ordinary legislative procedure, requiring the extensive and intrusive involvement of the European Parliament, which could also have considerably delayed, or even derailed, passage of the measure. Arguably, the use of this "emergency clause" is fully justifiable for SURE, a temporary programme which needed to be passed quickly in response to a genuine emergency, the sudden and massive disruption to European labour markets as a result of the Covid-19 pandemic.[37]

The financial structure of the SURE instrument is notable in that it is based on intra-EU solidarity. The Commission would be empowered to raise €100bn on the capital markets, guaranteed by €25bn provided by the MS. All EU-27 MS voluntarily contributed shares proportional to their economic size, with irrevocable, unconditional and on-demand guarantees – which meant that if one member state failed to honour a call on time, all the others would be called up.[38] These guarantees lent financial credibility to the EU, allowing it to borrow on advantageous terms that could be passed on to the MS in the form of very low interest long-term loans under the SURE instrument. SURE benefitted from the unanimous financial support and implicit political buy-in bestowed by the endorsement of the European Council.[39] It was specifically when describing this system of member state guarantees for SURE that Ursula von der Leyen described it as "European solidarity in action." The SURE "social bonds" were very successful on global bond markets, with the first transaction attracting record-breaking demand.[40]

Another notable design feature of the SURE instrument is its approach to conditionality, which is on the one hand prescriptive, in that the funds must be directed toward the achievement of a particular policy goal, but on the other hand open and flexible regarding the national programmes it would support, so long as they are aimed at that goal. In the case of SURE, as is also true of NGEU, financial support from the EU is closely tied to project-based recovery programmes – essentially a "cash against reforms" approach.[41] These programmes mark a "potential new step in the progressive emergence of a fully-fledged EU

[35] SURE Regulation, (n1).
[36] Dermine, *The New Economic Governance of the Eurozone*, (n38), 163.
[37] Dermine, *The New Economic Governance of the Eurozone*, (n38), 164; see also Repasi, 'A Dwarf in Size, But a Giant in Shifting a Paradigm (n3), 13
[38] Croonenborghs, 'The European Instrument for Temporary Support to Mitigate Unemployment Risks in an Emergency (SURE), (n3), 4
[39] Ibid, 7.
[40] European Commission, SURE; SURE Social Bonds, <https://commission.europa.eu/strategy-and-policy/eu-budget/eu-borrower-investor-relations/sure_en>, last accessed 1 February 2024.
[41] Dermine, *The New Economic Governance of the Eurozone*, (n38), 93

economic policy."[42] In this regard, SURE is distinct from NGEU in that it is an economic policy promoting a specific *social policy* goal, to support job retention schemes within the member states. This approach to conditionality is a marked change from the regime of EU economic governance that was prevalent during the global financial crisis. The previous model of rescue, "strict conditionality in the shape of a macro-economic adjustment programme," has been replaced with a new model of policy-based conditionality, "financial assistance in return for earmarking."[43] Moreover, as we shall see, it was implemented in a way that supported a variety of MS worker support programmes.

IV. The Implementation and Effects of SURE

The implementation of SURE was, in the words of the final Commission report, "swift and smooth."[44] As noted above, the legislative process itself was very fast, as it took less than seven weeks from its initial proposal (2 April) to its adoption by the Council and entry into force (19 May). Four months later, on 22 September, the financial envelope of €100bn became available after all EU member states had signed guarantee agreements. The Commission quickly granted financial assistance to 19 member states – Belgium, Bulgaria, Croatia, Cyprus, Czechia, Estonia, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia, Slovenia and Spain. Over 90% of the granted financial assistance was disbursed in seven months, between October 2020 – May 2021, when the economic disruption caused by the pandemic was still acute. Financial activity in the SURE programme diminished quickly in late 2021 and into 2022 as the critical phase of the pandemic subsided; even so, 11 member states availed themselves of top-up financial assistance. The Commission's final issuance of social bonds was for 6.5 billion EUR in December 2022. In the end, SURE had disbursed 98.4 billion EUR in financial assistance by the time it came to an end on 31 December 2022. The SURE legislation had left open the possibility that the programme could be extended by the Council on a proposal from the Commission; however, no extension was proposed because by mid-2022 the global health emergency had abated and thus the exceptional circumstances justifying SURE no longer obtained.

There was no differentiation in the SURE programme, in that it was a programme that was made available to all EU member states – unlike for example the ESM which was a eurozone-only programme.[45] All EU-27 member states provided funding guarantees to SURE and all were eligible to apply for financial assistance. However, as we have seen, only 19 of the 27 member states received financial assistance, and this number included both eurozone and non-eurozone states. The long-term low interest loans of SURE were particularly beneficial to two groups of countries, high debt-to-GDP ratio member states that benefited from the lower yields (mostly in Southern Europe) and small local debt markets that profited from the longer maturity (mostly in Central and Eastern Europe).[46] These states had the most

[42] Ibid, 94
[43] Repasi, 'A Dwarf in Size, But a Giant in Shifting a Paradigm (n3), 9-11.
[44] European Commission, 2023. SURE after its sunset: final bi-annual report (n2).
[45] Stefania Baroncelli, 'Differentiated Governance in European Economic and Monetary Union: From Maastricht to Next Generation EU' (2022) 7 European Papers 867.
[46] Corti and Huguenot-Noël, 'Towards a Re-Insurance Union?' (2023) (n4), 1.

to gain from availing themselves of very long-term low-interest loans – and indeed, together they saved 9 billion EUR in interest payments thanks to SURE. The eight member states that did not take SURE funds tended to be those larger and/or northern countries that enjoyed a good credit rating and that could already borrow at advantageous rates; the non-SURE member states were Austria, Denmark, France, Finland, Germany, Luxembourg, Netherlands, and Sweden. Of the 19 SURE beneficiaries, only two were from the northwest region of Europe – Belgium and Ireland.

The Commission attests that in 2020, at the height of the pandemic, the SURE programme covered approximately 31.5 million people (comprised of an estimated 22.25 million employees and 9.25 million unemployed) and 2.5 million firms; this represents almost one third of total employment and over one quarter of total firms in the beneficiary member states. These numbers reduced precipitously as the pandemic eased, down to 9 million people and over 900 000 firms in 2021, and just 350 000 people and over 40 000 firms in 2022. The primary recipients of assistance were SMEs, and the most supported sectors were contact-intensive services – accommodation and food services, wholesale and retail trade – and manufacturing.[47]

The SURE instrument was premised on policy conditionality, the assumption that it would be earmarked for specific purposes, but it was designed to allow for the fact that member states' policy programmes vary considerably even as they are intended to achieve the same general goal. Many member states already had short-time work schemes, which in several cases were a legacy of the previous financial crisis, but the legislation was drafted broadly to support these "and similar measures." In all, 49% of total public expenditure on SURE-eligible measures was spent on short-time work schemes, 31% was allocated to 'similar measures' for the self-employed, 9% was allocated to wage subsidy schemes, and 6% was allocated to 'other' similar measures supporting job retention and workers' incomes. (The remaining 5% was spent on health-related measures, vindicating the demand made by the Netherlands in the negotiations that the programme not be purely a job retention programme.) Arguably the flexibility of the SURE instrument made it more amenable to the coverage of non-standard workers.[48]

The Commission estimates that 1.5 million people were prevented from becoming unemployed as a result of the support measures adopted, including SURE. This estimate is based on a counterfactual scenario that compares the "expected" change in the unemployment rate modelled on past economic performance to the actual change as experienced in 2020 in the SURE beneficiary countries. This kind of estimate should be treated with caution, as noted by the European Court of Auditors, because it is difficult to predict what would have happened in the labour market in the absence of SURE.[49] However, other studies have generally confirmed that SURE had the effect of reducing unemployment. A Eurofound study comparing SURE beneficiary states found that the size of the prevented increase in unemployment was correlated with the size of the loans received through SURE.[50] Another study showed that there was a substantial increase in take-up of job retention schemes in the

[47] European Commission, 2023. SURE after its sunset: final bi-annual report (n2).
[48] Elia and Bekker, 'SURE' (n4), 41.
[49] European Court of Auditors (ECA), Special Report 28/2022 on SURE) (2022), 31.
[50] Eurofound 'Monitoring convergence in the European Union: Looking backwards to move forward – Upward convergence through crises' (2021) (Challenges and prospects in the EU series, Publications Office of the European Union, Luxembourg), 2.

Covid-19 crisis compared to what had occurred in the Great Recession.[51] It is also worth noting that SURE was relatively free of fraud. An analysis of the financial probity of SURE compared to similar programmes found it to be a particularly “virtuous” programme, showing that despite the substantial sums involved and the need to distribute them quickly due to the pandemic, the risk of fraud was “effectively contained” and “the protection of European financial interests can be said to have been effectively preserved.”[52]

Perhaps the most telling indicator of the success of SURE as an EU-wide social policy measure is that it had the effect not only of bolstering existing national programmes but also encouraging MS either to create new programmes or significantly expand existing ones, as indicated by a Commission survey of the member states.[53] While many states had already set up a short-time work scheme by March 2020, some only did so after 2 April, the date of the announcement of the SURE programme: four states – Hungary, Greece, Romania and Slovenia – introduced new schemes after that date, and two other states, Italy and Spain, modified their pre-existing schemes. Furthermore, 17 member states requested SURE financial assistance for programmes similar to short-time work – many of which were introduced after the 2 April announcement – and these were made more ambitious in response to the availability of SURE funding. In addition, member states were incentivized by the advantageous terms of SURE to undertake greater borrowing and spending in response to the crisis, and a majority of them indicated that its availability influenced their decision to increase the coverage and generosity of short-time work and similar measures.

V. Conclusion

The SURE programme deserves further research in its own right as a highly significant policy initiative, as distinct from the EU’s many other post-pandemic economic governance measures. It is by some measure the largest ever EU intervention in the field of social policy, and for this reason could be seen to be a ‘Roosevelt moment’ analogous to the ‘Hamilton moment’ represented by NGEU. As we have seen, SURE did not emerge from a vacuum but from a several decades of macroeconomic and social policy debates on the question of an EUBS/EURS, and the circumstances of the 2019 European Parliament elections which brought the issue to the fore. The SURE programme employed a financial structure that rested on strong intra-EU solidarity, and premised on a goal-oriented but flexible form of conditionality. The programme as implemented gave crucial and timely support to MS, not only supporting existing programmes but encouraging their expansion and the creation of new programmes in several MS. In its final report on the programme, the Commission stated that in 2020 SURE covered approximately 31.5 million jobs and 2.5 million firms in the 19 MS that availed of the programme, preventing about 1.5 million people from becoming unemployed, and saving the MS €9bn in interest payments. For these reasons, SURE has been hailed as a success by German Chancellor Olaf Scholz and others.[54] SURE contributed to the relative success of the EU in keeping unemployment down and limiting labour market disruption in comparison to the US, where the unemployment rate was

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[51] Corti et al ‘Job retention schemes between the Great Recession and the COVID-19 crises (2023) (n4), 1.

[52] Alessandro Nato and Valerio Bontempi, 'The Protection of the EU’s Financial Interests and Pandemic Emergency Tools: an Analysis of the Control Mechanism between the EU and the Member States' (2022) 15 Review of European Administrative Law, 26.

[53] European Commission, 2023. SURE after its sunset: final bi-annual report (n2).

[54] Olaf Scholz, Prague Speech, 29 August 2022. See also Marco Buti and Sergio Fabbrini Next generation EU and the future of economic governance: towards a paradigm change or just a big one-off?, (2023) 30 Journal of European Public Policy, 681.

far higher and the Paycheck Protection Program (the US analogue to SURE) was comparatively inefficient and ineffective.[55]

While SURE was hailed among social policy advocates as a 'paradigm shift' or a 'quantum leap' in EU social policy, some have leveled the criticism that it does not go far enough. Former Commissioner László Andor has cautioned that SURE is not really an unemployment reinsurance scheme but a "job insurance scheme."[56] That is to say, SURE helped the people who were already employed to stay in their jobs rather than directly benefiting the unemployed, although it may have indirectly helped the jobless by permitting the state to devote more resources to national unemployment benefits schemes. Furthermore, it was a system that facilitated long-term low interest loans to member states, but it was not substantially a programme of redistribution either within states or between them. From the left it may be criticized as a form of "emergency Keynesianism" whose aim is to support rather than challenge the core institutions of capitalism.[57] However, it is possible to recognize the validity of these criticisms even as one acknowledges that SURE was a success on its own terms.

Finally, the question arises, what are the prospects for a future EUBS/EURS, whether in the form of SURE or another programme like it? Despite its evident success, there are no current plans to turn SURE into a permanent instrument, even though several observers have called for such a move.[58] In fact, at the 2021 Porto Social Summit, the Italian prime minister Mario Draghi proposed turning SURE into a permanent scheme, as a first step towards a fully-fledged European unemployment insurance programme – a proposal that was supported by Spanish prime minister Pedro Sanchez.[59] However, the Commission has not made it a priority to advance an EURS since the pandemic, even though Ursula von der Leyen had supported such a programme at the time of her election in 2019. The EURS policy was absent from a EPSR Action Plan put forward in 2021; the Commission was pivoting away from SURE in favour of programmes targeting active labour market policies such as Effective Active Support to Employment (EASE).[60] In the meantime, other EU legislative files advancing the interests of workers have made significant progress; the Adequate Minimum Wages directive[61] was proposed by the Commission in October 2020 and entered into force in October 2022, while the Platform Workers Directive, proposed in December 2021, had advanced to the trilogue stage of legislative negotiations by late 2023. Thus since the pandemic the Commission has prioritized other issues relating to the rights of workers rather than extending EU support to national short-time work schemes. Yet SURE can and should be developed into a permanent programme: indeed, as analysts have shown, a mechanism

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55 Rhodes 'Failing forward' (n6),1547.
56 Andor, 'SURE' (n3), 140.
57 Daniel Béland, Bea Cantillon, Rod Hick, and Amílcar Moreira, 'Social policy in the face of a global pandemic: Policy responses to the COVID-19 crisis' (2021) 55 Soc Policy Adm 249. See also David Natali, 'COVID-19 and the opportunity to change the neoliberal agenda: evidence from socio-employment policy responses across Europe' (2022) 28 Transfer 15; Gunther Schmid, 'Beyond European unemployment insurance. Less moral hazard, more moral assurance?' (2020) 26 Transfer 465.
58 Corti and Alcidi 2021. Tommaso Grossi, Laura Rayner, Danielle Brady, Xheimina Dervishi, The Social Pillar and the Future of the EU Social Agenda, 2024, (Foundation for European Progressive Studies, Social Platform, AK Europa and Solidar) 54.
59 Maurizio Ferrera, 'Round Table. From Lisbon to Porto: taking stock of developments in EU social policy Social Europe 2.0? New prospects after the Porto Social Summit' (2021) 27 Transfer, 508.
60 "EU unemployment reinsurance scheme falls off Commission's radar," *Euractiv.com*, 4 March 2021.
61 Thorsten Schulten and Torsten Müller, 'A paradigm shift towards Social Europe? The proposed Directive on adequate minimum wages in the European Union' (2021) 14 Italian Labour Law e-Journal, 1561.

like SURE, if made permanent, would yield "sizable welfare gains".[62] It is true that this might require finding a different legal basis than the "emergency clause" of the Treaty framework, but there are legal options for a EUBS/EURS that would not require amending the Treaty.[63] The EU should seriously consider extending and making permanent such a successful programme, which was the embodiment of 'European solidarity in action.'

[62] Árpád Ábrahám, João Brogueira de Sousa, Ramon Marimon, Lukas Mayr, 'On the design of a European Unemployment Insurance System' (2023) 156 European Economic Review, 104469.
[63] Repasi, 'Legal options and limits for the establishment of a European unemployment benefit scheme' (n19), 1.