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EU condemns Russia's recognition of "people's republics" & invasion, imposes three packages of sanctions, bans some banks from SWIFT, and approves military aid



*Monday, February 28, 2022*

Last Monday, after Russia's 30-member Security Council discussed the situation in eastern Ukraine – specifically, the continuing conflict between Ukrainian troops and pro-Russian separatists supported by Russian troops in the Donetsk and Luhansk regions – Russian President Vladimir Putin signed executive orders formally recognizing the independence of the "People's Republics" created by the separatists in those regions in 2014. He also signed treaties of friendship, cooperation and mutual assistance with both "republics" and, after doing so, deployed additional troops to those areas.

On Tuesday, the presidents of the European Council and the European Commission, Charles Michel and Ursula von der Leyen, declared that both the recognition and the deployment were illegal and violated international law and Ukraine's territorial integrity and sovereignty and announced that Josep Borrell, the EU's High Representative for Foreign Affairs and Security Policy, would chair an informal meeting of the EU Foreign Affairs Council later that day, after which a package of sanctions would be formally tabled.

On Wednesday, the Council, consisting of the foreign ministers of the 27 member states, adopted a package of

restrictive measures on the 351 members of the Russian Duma who voted in favor of an appeal to Putin on February 15 to recognize the independence of the two “republics.” The measures included a freeze on any assets held in the EU, a prohibition from making any funds available to the individuals, and a prohibition from entering or transiting through EU territory. Similar restrictive measures were also imposed on 27 “high profile” individuals and entities that played a role in undermining or threatening the territorial integrity of Ukraine, including members of the Russian government who were involved in the decisions, banks and business people who support Russian operations in the “republics” or benefit from them, senior military officers who were involved in the actions, and individuals who have been involved in Russia’s “disinformation war” against Ukraine. In addition, measures were adopted banning the import of goods from the areas controlled by the “republics,” restricting trade and investment in certain sectors and banning the export of certain goods and technologies to those areas. Finally, and importantly, the Council approved a sectoral prohibition that in effect blocks the access of the Russian government to the EU’s capital and financial markets.

Early Thursday morning, Putin went on Russian television and announced a “special military operation” in eastern Ukraine to protect the people who, since the creation of the “republics” in 2014, “have been facing humiliation and genocide perpetrated by the Kiev regime. To this end, we will seek to demilitarize and denazify Ukraine, as well as bring to trial those who perpetrated numerous bloody crimes against civilians, including against citizens of the Russian Federation.” But it was not just an operation in the Donbas; it was a full-fledged, multi-pronged invasion of Ukraine launched from Belarus in the north, less than 100 kilometers from Kyiv, Crimea and the Black Sea in the south, and Russian territory adjacent to eastern and northeastern Ukraine.

Condemning the invasion as not only “the greatest violation of international law” but also “a violation of the basic principles of human existence,” Borrell announced that the EU “will respond in the strongest possible terms” and that Michel had called for an extraordinary meeting of the European Council that evening at which the leaders “will agree and provide political guidance to adopt the strongest package, the harshest package of sanctions we have ever implemented.” On Thursday afternoon, the members of the European Council issued a joint statement in which they condemned “in the strongest possible terms Russia’s unprecedented military aggression against Ukraine” and demanded that Russia immediately cease its military actions, unconditionally withdraw all forces and equipment from Ukraine, and fully respect Ukraine’s territorial integrity, sovereignty and independence. They said they would meet later in the day to discuss “this blatant aggression and agree in principle on further restrictive measures that will impose massive and severe consequences on Russia.” They also condemned the involvement of Belarus in the invasion.

In their meeting Thursday evening, the EU leaders condemned “in the strongest possible terms the Russian Federation’s unprovoked and unjustified military aggression against Ukraine” and said that “by its illegal military actions, Russia is grossly violating international law.” They demanded that “Russia immediately ceases its military actions, unconditionally withdraws all forces and military equipment from the entire territory of Ukraine and fully respects Ukraine’s territorial integrity, sovereignty and independence within its internationally recognised borders.” They agreed on “further restrictive measures that will impose massive and severe consequences on Russia for its action, in close coordination with our partners and allies. These sanctions cover the financial sector, the energy and transport sectors, dual-use goods as well as export control and export financing, visa policy, additional listings of Russian individuals and new listing criteria.” They said

the Foreign Affairs Council “will adopt without delay the proposals prepared by the Commission and the High Representative.”

On Friday, the Foreign Affairs Council, chaired by Borrell, met again and formally approved the sanctions the leaders had agreed upon in their meeting. It formally sanctioned Putin and Russian Foreign Minister Sergei Lavrov, freezing any assets they may have in the EU. As Borrell noted, Putin now joins Assad of Syria and Lukashenko of Belarus on the list of leaders who have been formally sanctioned by the EU. (The Council did not, however, apply the prohibition against traveling to or transiting through the EU that normally accompanies such restrictive measures since there might be a need for one or both of them to travel to the EU at some later time in regard to the war in Ukraine.) The Council also imposed restrictive measures on the members of Russia’s Security Council who supported Russia’s recognition of the two “republics” in eastern Ukraine as independent entities. And it sanctioned the members of the Duma not already sanctioned who voted to ratify the treaties of friendship, cooperation and mutual assistance between Russia and the two entities. The Council also approved sanctions on the individuals, including Lukashenko, who facilitated the Russian military aggression from Belarus.

The Council also approved the package of economic sanctions the EU leaders had approved Thursday evening. The financial restrictions on Russian firms were expanded, thereby reducing Russia’s access to European and international capital markets. Among other things, the restrictions prohibit the listing and provision of services in relation to the shares of Russian state-owned entities on EU trading venues. In addition, the EU will no longer accept deposits exceeding €100,000 from Russian nationals or residents, will no longer allow the EU Central Securities Depositories to hold accounts of Russian clients, and will no longer allow the selling of euro-denominated securities to Russian clients, all of which will significantly limit the financial inflows from Russia to the EU. Those sanctions will target 70 percent of the Russian banking market and key state-owned companies including companies involved in defense. Additional measures will be taken to prevent Russia’s elite from hiding funds in safe havens in Europe.

The EU will also prohibit the sale, supply, transfer or export to Russia of specific goods and technologies in oil refining and will introduce restrictions on the provision of related services, making it impossible for Russia to upgrade its oil refineries. It will also ban the export to Russia of goods and technology in the aviation and space industry, and will prohibit the provision of insurance, reinsurance, maintenance services, and related technical and financial assistance. And it will further restrict the export to Russia of dual-use goods and technology and goods and technology that might contribute to Russia’s further development of its defense and security sector. In addition, Russian diplomats and other officials, as well as businesspeople, will no longer be able to make use of the EU’s visa facilitation provisions, which allow privileged access to the EU.

The sanctions enacted Friday will no doubt have some adverse impact on the Russian economy. But no one in the EU or anywhere else believed they would have any effect in persuading Putin to stop Russia’s attack on Ukraine, and as the world saw the images of apartment buildings in Kyiv being damaged or destroyed, of people huddled together in subway tunnels or fleeing toward the safety of the nearest EU border, and of civilians and soldiers who had been wounded or killed, pressure mounted for the EU to do more about the unfolding humanitarian catastrophe. One obvious option, strongly urged by Ukraine, was to ban Russian financial institutions from SWIFT (the Society for Worldwide Interbank Financial Transactions), the

international payments system through which secure messages between more than 10,000 financial institutions in more than 200 states and territories throughout the world are transmitted.

A number of states, both within the EU and beyond – for example, the UK and Canada – had been calling for the EU to ban Russian banks from SWIFT. At Thursday's meeting of the European Council, the leaders were sharply divided on doing so. Some – for example, those of Belgium, the Netherlands, Ireland, Poland and the Baltic states – made the case for a ban. But others – most notably, those of Germany, Italy, Hungary and Cyprus – were worried about the economic consequences of doing so, and since, under EU rules, levying sanctions requires unanimous support, nothing was done. SWIFT is, of course, the system through which Europeans are paid for their exports to Russia and through which they pay for oil and gas from Russia, and there was, perhaps understandably, some concern about whether their businesses would continue to be paid for their exports and they would continue to receive the oil and gas from Russia upon which some of them are highly dependent if Russian financial institutions were excluded from SWIFT. (There is an alternative to SWIFT; after Russia annexed Crimea in 2014 and some states threatened to ban Russian financial institutions from SWIFT, it created the System for Transfer of Financial Messages (STFS). But that system is much more limited in scope and, for that reason, more expensive.)

But after Thursday's meeting of the European Council, as the world witnessed what Russia was doing to Ukraine, the opposition of Germany and other states softened, and on Saturday, von der Leyen announced that, in coordination with Presidents Biden and Macron, Chancellor Scholz, and Prime Ministers Draghi, Trudeau and Johnson, the EU had considered a "significant tightening of our international response" and was working to "cripple Putin's ability to finance his war machine." Toward that end, von der Leyen said she was proposing to the EU leaders that the EU commit to 1) ensuring that a certain number of Russian banks are removed from SWIFT and thereby from the international financial system; 2) freezing all assets of Russia's central bank in the EU and prohibiting the bank from carrying out any transactions in the EU; and 3) prohibiting Russian oligarchs from using their assets on the EU markets.

On Sunday, von der Leyen, joined by Borrell, announced that, for the first time ever, the EU will finance the purchase and delivery of weapons and other equipment to a country that is under attack. She also said the EU will strengthen once more its sanctions against Russia as well as Belarus. And she said the Commission was proposing that all Russian-owned, registered, or controlled aircraft be prohibited from landing in, taking off from, or flying over EU territory; that the Russian state-owned media organizations be banned from Europe; and that Belarus be hit with new sanctions, including restrictive measures prohibiting the export to the EU of a wide range of products and restrictive measures on Belarusians who have assisted the Russian war effort.

Following von der Leyen's announcement, Borrell announced that, in response to a request from Ukrainian Foreign Minister Dmytro Kuleba, he was convening an extraordinary meeting of the Foreign Affairs Council yesterday at which he would propose that the EU's European Peace Facility be used to provide Ukraine for two types of emergency assistance – one involving lethal equipment such as ammunition, the other involving non-lethal equipment and supplies such as fuel and urgent medical supplies. He said he would also discuss with the ministers the announcement Saturday by the Commission and a number of governments involving the exclusion of a certain number of Russian banks from SWIFT, the prevention of the Russian central bank from deploying its international reserves, and the imposition of restrictive measures on individuals and entities

facilitating the war in Ukraine.

At yesterday's meeting, the Council agreed unanimously, in an historic decision, to provide Ukraine with €450 million in lethal assistance and €50 million in fuel and medical supplies. In addition, it approved the measures proposed by the Commission on Saturday, including the removal of a certain number of Russian banks from SWIFT, the freezing of all of the assets of Russia's central bank that are in the EU and its prohibition from carrying out transactions in the EU, and the prohibition of Russian oligarchs using their assets in EU markets.

Today, as Russian forces moved closer to Kyiv, Kharkiv, and other large cities, Russian and Ukrainian negotiators met for almost five hours in an 18<sup>th</sup>-century palace in Gomel, Belarus to discuss a possible end of hostilities. According to a statement from Ukrainian President Volodymyr Zelenskyy's office after the talks concluded, "their main goal was to discuss a ceasefire and the end of combat actions on the territory of Ukraine. The parties have determined the topics where certain decisions were mapped out. In order for these decisions to be implemented as a roadmap, the parties are returning for consultations to their capitals. The parties discussed holding another round of negotiations where these decisions can develop."

And in meantime, the war goes on.

*David R. Cameron is a professor emeritus of political science and the former director of the MacMillan Center's Program in European Union Studies.*

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