

## In orchestrated abstention, Orbán leaves room and European Council unanimously approves opening accession negotiations with Ukraine



European Council President Charles Michel announcing Council's decision today.

On Nov. 8, 2023, in anticipation of today's meeting of the European Council, which consists of the leaders of the 27 member states of the EU, the European Commission announced its 2023 Enlargement Package, which provided a detailed assessment of the state of play and progress made by Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, Serbia and Türkiye, and for the first time Ukraine, Moldova, and Georgia, on their respective paths toward accession to the EU. The Commission recommended that the Council approve the opening of accession negotiations with Bosnia and Herzegovina once the necessary degree of compliance with the membership criteria is achieved and that Georgia be granted the status of a candidate with the understanding that a number of steps will be taken to strengthen its engagement with the EU and increase the pace of reforms.

But undoubtedly the most notable feature of the package was the Commission's recommendation that, in light of the ongoing reform efforts and the results achieved thus far, the Council open accession negotiations with Ukraine and Moldova and, once they have adopted certain key measures, adopt the negotiating frameworks for both. It said the Council's decision in June 2022 to grant Ukraine candidate status had created a "powerful reform dynamic, despite the ongoing war, with strong support from the people of Ukraine," and said, "the Ukrainian government and Parliament demonstrated resolve in making **substantial progress** on meeting the seven steps set out in the Commission's Opinion on Ukraine's application for membership." Specifically, it said

Ukraine has established a transparent pre-selection system for Constitutional Court judges, reformed the judicial governance bodies, further developed its track record of high-level corruption investigations and convictions, strengthened its institutional framework, taken positive steps in a wider and systemic effort to address the influence of oligarchs, and demonstrated its capacity to make progress in aligning with the EU acquis, even during wartime.

As expected, Hungarian Prime Minister Viktor Orbán immediately opposed the Commission's recommendation. Speaking a couple of days later, he said, "Ukraine is in no way in a condition to negotiate over its desires to join." It is, he said, "light years" away from EU membership: "Ukraine is as far from EU membership as Makó [a small town on the border with Romania] is from Jerusalem." And he denied his position would change if the EU were to finally agree to approve Hungary's request for almost €10 billion in grants and loans from the EU's Recovery and Resilience Facility: "Hungary's position of rejecting the start of accession talks with Ukraine cannot become part of any deal" and can't be connected to any "financial questions." Three weeks later, a few days after European Council President Charles Michel went to Budapest to discuss the issue with him, Orbán said, "The start of negotiations concerning Ukraine's EU membership does not coincide with Hungary's national interests. It is not worth starting membership negotiations because we cannot answer the question of what the consequences of Ukraine's membership would be. I would be in favor of the EU concluding a strategic partnership agreement with Ukraine first. This could last for up to five to ten years. Let's bring them closer, as the gap is too wide now. Let's give time for us to work together, and when we see that we can work together, then let's bring up the issue of membership."

But while Orbán was issuing his standard public denunciations of Ukraine's candidacy for EU membership, behind the scenes the Commission was considering Hungary's modified recovery and resilience plan, which originally requested €5.8 billion in grants and €3.9 billion in loans and was modified to include an additional €700 million in grants under the EU's REPowerEU chapter, which aims to make Europe independent of Russian fossil fuels before 2030. On November 23, the Commission "positively assessed" Hungary's modified recovery and resilience plan. The Council has four weeks from Nov. 23 to endorse the Commission's assessment, after which Hungary can receive up to €900 million in pre-financing of the REPowerEU funds.

There was, of course, an unspoken quid pro quo for approval of the modified recovery and resilience plan, which Michel no doubt made very clear when he met with Orbán in Budapest. Any decision involving approval of candidacy for membership or approval of starting accession negotiations, and indeed even approval of starting the negotiation of specific chapters in the accession treaty, must be approved unanimously. But an abstention is just that – an abstention and not a vote against. And so when the discussion in regard to opening accession negotiations with Ukraine concluded today, Orbán conveniently, and as an EU official later confirmed had been previously

arranged, left the room and the Council voted unanimously to approve starting the accession negotiations with Ukraine. (The Council also agreed to start accession negotiations with Moldova and begin accession negotiations with Bosnia-Herzegovina once there is a greater degree of compliance with membership criteria, and it agreed that Georgia is a candidate for membership.)

Moments later, Michel went down to the media room and announced that the Council had approved starting accession negotiations with Ukraine. It was, he said, “a clear signal of hope for their people and our continent.” In Kyiv, President Volodymyr Zelenskyy said the decision is “a victory for Ukraine. A victory for all of Europe. History is made by those who don’t get tired of fighting for freedom.”

David R. Cameron  
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