

## European Council welcomes approval of Ukraine Assistance Fund and proposal to use revenues of frozen Russian assets for Ukraine.



European Commission President Ursula von der Leyen and European Council President Charles Michel speaking Thursday evening after first day of European Council meeting.

On Thursday and Friday, the leaders of the 27 member states of the European Union met in Brussels for a two-day meeting of the European Council. As is usually the case in meetings of the European Council, a number of urgent issues were on the agenda. But two were of particular concern – the continuing conflict in the Gaza Strip and the war in Ukraine. In regard to the conflict in Gaza, the leaders said in their Conclusions they were “appalled by the unprecedented loss of civilian lives and the critical humanitarian situation” and called for “an immediate humanitarian pause leading to a sustainable ceasefire, the unconditional release of all hostages, and the provision of humanitarian assistance.” They said they were “deeply concerned about the catastrophic humanitarian situation in Gaza and its disproportionate effect on civilians, particularly children, as well as the imminent risk of famine caused by the insufficient entry of aid into Gaza.” They said “full, rapid, safe and unhindered humanitarian access into and throughout the Gaza Strip via all routes is essential to provide the civilian population with life-saving assistance and basic services at scale.... Immediate measures should be taken to prevent any further population displacement and provide safe shelter to the population to ensure that civilians are protected at all times. The European Council urges the Israeli government not to undertake a ground operation in Rafah, which would worsen the already catastrophic humanitarian situation and prevent the urgently needed provision of basic services and humanitarian assistance.” And, they said, “All parties must respect international law, including international humanitarian law and international human rights law.” They reiterated that the EU

remains “firmly committed to a lasting and sustainable peace based on the two-state solutions. Palestinians and Israelis have an equal right to live in safety, dignity, and peace.” They called “on all parties to refrain from actions that undermine the principle of the two-state solution and the viability of a future Palestinian state” and said “the European Union stands ready to work with Israel, the Palestinian Authority, and regional and international parties to contribute to reviving a political process, through the Peace Day Initiative and a Peace Conference to be convened as soon as possible, and to support the Palestinian Authority as it undertakes the necessary reform. The EU stands ready to support a coordinated international effort to rebuild Gaza.”

Turning to the war in Ukraine, which was the focus of an extended discussion in the first day of the meeting, the EU leaders said in their Conclusions, “the European Council is ever more steadfast in its support for Ukraine’s independence, sovereignty and territorial integrity within its internationally recognized borders. Russia must not prevail. Given the urgency of the situation, the European Union is determined to continue providing Ukraine and its people all the necessary political, financial, economic, humanitarian, military and diplomatic support for as long as it takes and as intensely as needed. The European Council invites allies and partners across the world to join in this endeavor.” Continuing, the leaders said, “As it exercises its inherent right to self-defense, Ukraine urgently needs air defense systems, ammunition and missiles. At this critical moment, the European Union and Member States will speed up and intensify the delivery of all the necessary military assistance. The European Council welcomes all recent initiatives in this regard, including the one launched by Czechia to urgently procure ammunition for Ukraine, which will enable the swift fulfilment of the EU’s commitment to provide Ukraine with one million rounds of artillery ammunition.”

The leaders welcomed the decision of the Council of Ministers on Monday to create a new Ukraine Assistance Fund within the European Peace Facility and called on the Council to work on the 8<sup>th</sup> support package for Ukraine under the EPF. It also welcomed the increased capacity of the EU Military Assistance Mission for Ukraine (EUMAM). The EPF is a seven-year €12 billion off-budget instrument that was created in March 2021 to support EU actions related to its Common Foreign and Security Policy – specifically, actions designed to prevent conflicts, build peace, and strengthen international security. In February 2022, days after Putin began Russia’s “special military operation” in Ukraine, the EU provided Ukraine €4.5 billion in military assistance through the EPF. In October 2022, it created the EU Military Assistance Mission for Ukraine (EUMAM) within the EPF. Last March the EPF was replenished with €2 billion, last May it provided Ukraine with €1 billion for ammunition, and last July it was replenished with another €3.5 billion. But with funding running out, Josep Borrell, the EU’s High Representative for Foreign Affairs & Security Policy, proposed creation of a new four-year Ukraine Assistance Fund within the EPF that could provide Ukraine up to €5 billion a year for four years for weapons, ammunition and military assistance. On Monday, after the governments of the member states agreed to

amend the 2021 decision that created the EPF to allow creation of a new Ukraine Assistance Fund, the Council of Ministers formally approved creation of the Fund and increased the financial ceiling of the EPF by €5 billion.

For the last several months, there has been considerable discussion about the possibility the EU might take some or all of the revenue generated by Russian financial assets – cash and securities – belonging to the Russian central bank and Russian individuals and companies that are now frozen in banks and financial institutions in Europe. On Monday, Borrell proposed that the EU take 90 percent of the revenue earned on the frozen financial assets and transfer the funds to the EPF for use by Ukraine, with the remaining 10 percent going into the EU budget. The EU estimates there is approximately €210 billion in the frozen accounts of Russian individuals and firms in Europe, with about €190 billion of that consisting of Russian central bank securities and cash in Euroclear, a Belgian securities depository for financial transactions. In 2023, Euroclear received approximately €4.4 billion in interest on the frozen assets. One senior EU official has estimated the frozen Russian assets are likely to generate €15-20 billion in after-tax profits until 2027.

Some EU leaders were undoubtedly worried about the possible consequences – litigation or worse – that might result from taking the revenues generated by the frozen Russian assets; after all, as Borrell said last week in describing his proposal, “If we do that, well, the Russians will not be very happy. The amount of money – three billion per year – is not even extraordinary. But it is not negligible.” But the European Council to its credit didn’t reject the idea and, indeed, encouraged the Council to continue work on the proposal: “The European Council reviewed progress on the next concrete steps towards directing extraordinary revenues stemming from Russia’s’ immobilized assets for the benefit of Ukraine, including the possibility of funding military support. It invites the Council to take work forward on the recent proposals by the High Representative and the Commission.”

The European Council also welcomed the adoption by the Council of the 13<sup>th</sup> package of sanctions and urged that further steps be taken to weaken Russia’s ability to continue the war by strengthening the sanctions and their implementation, including by preventing their circumvention through third countries or subsidiaries abroad. And they called for further sanctions to be prepared against Belarus, North Korea, and Iran, all of which continue to provide weapons, including missiles and drones, to Russia. The leaders said the EU and its Member States “will continue their intensive global outreach efforts to ensure the widest possible international support for a comprehensive, just and lasting peace and the key principles and objectives of Ukraine’s Peace Formula with a view to a future Global Peace Summit.” And they made it clear that “Russia and its leadership must be held fully accountable for waging a war of aggression against Ukraine and for other most serious crimes under international law, as well as for the massive damage caused by its war. The European Council supports ongoing efforts, including in the Core Group, to establish a tribunal for the prosecution of

the crime of aggression against Ukraine that would enjoy the broadest cross-regional support and legitimacy, and a future compensation mechanism.”

To their credit, the EU leaders also spoke out unambiguously against Russia’s persecution of its citizens for their political opposition: “The European Council calls for the immediate and unconditional release of all political prisoners in Russia and an end to the persecution of the political opposition. The ultimate responsibility for the death of Alexei Navalny lies with the Russian authorities. The European Council calls for an independent and transparent international investigation into the exact circumstances of his death. It welcomes the adoption of new restrictive measures against those responsible for serious human rights violations and abuse and calls for work to be taken forward in the Council to establish a new sanctions regime in view of the situation in Russia and its destabilizing actions abroad.”

The EU leaders also took stock of progress in the ongoing enlargement process. In December, the leaders agreed to open accession negotiations with Ukraine and Moldova and grant candidate status to Georgia. In their Conclusions, the leaders said the EU “remains committed to supporting Ukraine’s repair, recovery and reconstruction, in coordination with international partners. The European Council welcomes the recent strengthening of the European Union Advisory Mission (EUAM) in Ukraine which will allow the scaling up of support for Ukrainian law enforcement agencies in Ukraine’s liberated and adjacent territories, and for reforms in the context of its EU accession process.” They said the EU “will continue to provide all relevant support to the Republic of Moldova in addressing the challenges it faces as a consequence of Russia’s aggression against Ukraine, and to strengthen the country’s resilience, security and stability in the face of destabilizing activities by Russia.” And they said the EU “will also continue to support Georgia in strengthening its resilience and addressing the challenges it faces as a consequence of Russia’s actions to undermine Georgia’s territorial integrity as well as Russia’s war of aggression against Ukraine.” The leaders welcomed the progress of both Ukraine and Moldova in working on the reforms that will be necessary in order to become members and invited the Council to swiftly adopt the draft negotiating frameworks for both and take the work forward without delay. They also took note of Georgia’s ongoing efforts and encouraged it to advance on the outstanding priority reforms. And building on the Commission’s recommendation last week, the leaders also decided to open accession negotiations with Bosnia and Herzegovina.

David R. Cameron

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