EU agrees to give Ukraine revenues from frozen Russian assets

European Commission President Ursula von der Leyen and Belgian Prime Minister Alexander De Croo at the start of Belgium's presidency of the EU Council in January.

After Russia attacked Ukraine in February 2022, the G7 countries froze roughly €300 billion of Russian financial assets – cash and securities – in banks. More than €200 billion of those assets, including virtually all of the assets of Russia's central bank, were in financial institutions within the EU, most of them – roughly €190 billion – in Euroclear, a Belgian securities depository for financial transactions. The frozen Russian assets in Euroclear generated €4.4 billion in revenue last year. In March, the leaders of the European Union, meeting as the European Council, considered a proposal put forward by Josep Borrell, the EU's High Representative for Foreign Affairs and Security Policy, that the EU take the revenues generated by the Russian financial assets that are now frozen in banks and other financial institutions in Europe and transfer 90 percent of the funds to the European Peace Facility for military assistance for Ukraine, with the remaining 10 percent going into the EU budget for other types of assistance for Ukraine. If approved, the proposal would provide roughly €4 billion a year in assistance for Ukraine.

Some of the EU leaders were opposed to the proposal and others were 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 prior to the March meeting, "If we do that, well, the Russians will not be very happy. The amount of money…is not even extraordinary. But it is not negligible." In its conclusions issued after the meeting, the European Council said it had "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" and invited the Council of Ministers to take the work forward based on Borrell's proposal. Perhaps the most challenging issue raised by the proposal was the fact that three of the member states – Austria, Ireland, and Malta – are militarily neutral and not members of NATO (although all three do participate in NATO's Partnership for Peace program) and a fourth, Cyprus, is not only not a member of NATO but is non-aligned. No less important was the fact that there are a few EU member states – most notably, Hungary – that, despite being members of NATO, often take positions inside the EU that are supportive of Russia.

After the March meeting, the Commission and Council of Ministers continued work on the proposal and on May 8, the Belgian government, which currently holds the six-month rotating presidency of the Council of the European Union, announced the member states had resolved their differences over the proposal and the ambassadors of the 27 member states had agreed to the proposal: "EU ambassadors agreed in principle on measures concerning extraordinary revenues stemming from Russia's immobilized assets. The money will serve to support Ukraine's recovery and military defense in the context of the Russian aggression." The EU would impose a windfall profits tax on the revenues generated by the Russian frozen assets, with 90 percent of the proceeds going into the EPF for military assistance for Ukraine and 10 percent being used to provide non-military assistance to Ukraine. As part of the deal, Austria and the other EU member states that do not provide military assistance to Ukraine would abstain from the vote to allocate 90 percent of the funds to military assistance. After the announcement, the Austrian foreign ministry said, "We are glad that Austria's concerns were heard and we have reached a political agreement allowing us to constructively abstain. Austria, as a militarily neutral country, cannot and will not fund or supply lethal material to Ukraine."

Today, after the EU lawyers had revised the documents to reflect the decisions taken two weeks ago, the General Affairs Council of the EU, which consists of the foreign ministers of the member states, met and unanimously approved the proposal. The Council said, "In the light of Russia's continued war of aggression against Ukraine, the Council today adopted a set of legal acts ensuring that the net profits stemming from unexpected and extraordinary revenues accruing to central securities depositories (CSDs) in the EU, as a result of the implementation of the EU restrictive measures, will be used for further military support to Ukraine, as well as its defense industry capacities and reconstruction. This means that the CSDs holding Russian sovereign assets and reserves of more than €1 million will make a financial contribution from their corresponding net profits, accumulating since 15 February 2024. The amounts will be paid by the CSDs to the EU on a bi-annual basis and will be used for further military support to Ukraine through the European Peace Facility, as well as with support to Ukraine's defense industry capacities and reconstruction needs with EU programs, according to the following key: European Peace Facility 90%; EU programs financed from the EU budget 10 %. This allocation will be reviewed yearly, and for the first time before 1 January 2025. CSDs will be allowed to provisionally retain a share of around 10% of the financial contribution to comply with statutory capital and risk management requirements in view of the impact due to the war in Ukraine, with regard to the assets held by CSDs."

How Russia will respond remains to be seen. In late April, Russian officials threatened a “severe” response and “endless” legal challenges. And a decision taken by a court in St. Petersburg last Thursday may be a precursor to a Russian response: The court seized assets worth more than €700 million – €463 million belonging to UniCredit, a pan-European banking company; €238 million belonging to Deutsche Bank; and €95 million belonging to Commerzbank – in response to a claim from RusChemAlliance, a subsidiary of Gazprom, that Linde, a German company that contracted in 2021 to build a gas processing plant and production facilities for liquified natural gas near St. Petersburg, had suspended the work after the EU adopted sanctions against Russian firms after Russia began its “special military operation” in the Donbas in 2022 and had failed to complete the contract.

Nevertheless, Commission President Ursula von der Leyen was right when she said two weeks ago, after the meeting that gave initial approval to the plan to take the interest earned on the frozen Russian financial assets and use the funds to provide Ukraine with military support as well as support for its defense industry and its reconstruction: “There could be no stronger symbol and no greater use for that money than to make Ukraine and all of Europe a safer place to live.”

David R. Cameron
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