MNI POLITICAL RISKS ANALYSIS-More EU Leaders Voice Support For 'Reparations Loan' For Ukraine, But Obstacles Abound

by Tom Lake

A growing number of EU leaders are voicing their support for mooted EU plans that could see EUR140bln of frozen Russian assets held in the Union utilised as a zero-interest "reparations loan" for Kyiv. The loan would then only have to be repaid once Russia has in turn, repaid Ukraine for war damage. European Commission President Ursula von der Leyen said in late September that "*We will strengthen our own defence industry by ensuring that part of the loan is used for procurement in Europe and with Europe*."

- In a notable boost for the prospect of the reparations loan, German Chancellor Friedrich Merz backed the idea in an **FT op-ed**. At today's informal meeting of EU leaders in Copenhagen, a number of EU leaders have backed the idea. Latvian PM Evika Silina said, "We have long called for using frozen Russian assets to aid Ukraine." Finnish PM Petteri Orpo called the plan "a very good idea", while Estonian PM Kristen Michal said the frozen assets should be utilised "as much as possible". Dutch PM Dick Schoof says the proposal "should seriously be considered, as long as risks are covered".
- EU High Representative for Foreign Affairs and Security Policy Kaja Kallas said there is no deadline for an agreement, but acknowledged "Not all EU countries support the reparations loan yet." She added, "If the Ukrainian reparations loan is not repaid, then this will fall on European taxpayers".
- Perennial obstacles to action against Russia/supporting Ukraine, Slovakia and Hungary, could present challenges to the plan, as could Belgium. The bulk of frozen Russian assets held in the EU are at Belgium's Euroclear, and at the UNGA last week, Belgian PM Bart De Wever **lashed out at Merz** and ruled out any seizure of funds, saying, "*Taking Putin's money and leaving the risks with us. That's not going to happen, let me be very clear about that*,".
- As BELGA reports, the loan could impact Belgium's public finances: "*The government is counting on the 25 percent corporate tax on Russia's assets to help fund its pledge to raise defence spending to 2 percent of GDP. If the EU were to endorse Merz's plan, De Wever would be forced to look for alternative sources of revenue*."
- Supporters claim that assets will not be confiscated but simply locked up until Russia repays Ukraine, but critics argue that the move is *de facto* confiscation. John Berrigan, director-general at the Commission's financial services unit, **told MEPs in late September** that "*Sovereign assets enjoy immunity under international law. Once you break it, it's broken for all countries*,". On a number of occasions, ECB President Christine Lagarde has **warned** of the potential implications for the euro, **saying** back

in March, "*the international law basis on which any decision is made will matter as far as other investors are concerned*."

- The Jacques Delors Institute think tank **writes** that potential methods to avoid a veto would be the suspension of voting rights for Slovakia and Hungary under Article 7. of the Treaty on European Union (TEU) for a "*a serious and persistent breach"* of EU values. This would be viewed as a 'nuclear option', and in turn required unanimity among other member states. Invoking Art. 7 over persistent breaches of EU norms on rule of law and democratic rights is one thing, but removing voting rights for differences of views on geopolitical matters would be a step too far for some member states.
- Another potential workaround would be that under Title 5, Art. 31 of the TEU, only a qualified majority (55% of states representing 65% of EU population) is required to adopt *"any decision implementing a decision defining an action or position of the Union".* As the Delors Institute notes, "*Based on previous decisions taken by the Council concerning frozen Russian assets, the legal texts establishing this loan would be considered to be merely implementing measures for those decisions, which can therefore be approved by qualified majority.*"
- For countries objecting, their recourse could come in the form of the requirement that every six months, their vote is needed to maintain sanctions on Russia (including the freezing of its assets in the EU). Either action aimed at circumventing the unanimity rule risks the entire edifice of EU sanctions on Russia collapsing. As such, looking for cooperation at the EU level, rather than tricksy workarounds, may be the order of the day, given the vast sums involved.
