

Occasional Paper
Nord Stream 2 – Continuation of Russia’s gas pipeline
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Abstract:

The 1,200 km-long offshore natural gas pipeline project - Nord Stream 2 remains to be a highly controversial subject in EU society. Even though the challenging aspects such as sanctions and legal complications played the core role in completing the construction with delays, the technical part of the project finalized in September 2021. Moreover, while the necessary process of making it operational has provoked the heat themes for discussions, Russia’s recent invasion of Ukraine, changed the whole situation and the possible future of the pipeline drastically.

1. Introduction

To start from the very beginning, Nord Stream 2 is the continuation of the already implemented project of Nord Stream 1 with the main goal to extend the gas supplies of the EU by delivering gas under the Baltic Sea from Russia to Germany bypassing Poland, Slovakia and Ukraine as transit countries.² Altogether the two Nord Streams should cover the 110 cubic metres of gas per year³ allowing the EU to secure additional gas resources in the long term.

The 1,200 km-long offshore natural gas pipeline maintains to be a highly controversial project and the core theme of discussion. Truth to be told, most of the major players around this project tended to strongly oppose the pipeline from taking a start. Including the US, as starting from the Obama administration to Trump and Biden, all of them tried to express their concerns regarding threatening and imposing sanctions against Nord Stream 2.

On the contrary, parties of the Gas Pipeline agreement characterised the mentioned project as the purely commercial one, with the main goal to supply Europe with gas and at

¹ I would like to express my gratitude to Prof. Markus C. Kerber, who supported me and gave the great comments during the whole period of research.

² Nord Stream 2 - Divide et Impera Again? Avoiding a Zero-Sum Game European political Strategy Center, 2018, p.1

³ Available at: <https://www.gazprom.com/projects/nord-stream2/> (Last access: 19.06.2022)

the same time encourage the liberalisation of the single gas market. However, the current Russia-Ukraine war situation shows that the Nord Stream 2 has always been far from being a commercial project, but rather a geopolitical one.

In general, alongside the main arguments such as the possible dependency on Russia and the threats to Ukraine's independence thus the loss of its transit fees, the questions arose in terms of Russia's capacity of gas supply as well as Gazprom's dominance in the EU market. For example, as it was stated, Gazprom only used up to 40 billion cubic metres from Ukraine gas transmission system instead of its full capacity of 146 billion cubic metres.⁴ Moreover, the Nord Stream 2 could have reinforced its dominance in the single gas market, taking into account the fact that Gazprom has already been involved in several cases of abuse of its dominant position. As it was noted about the project, "Economically, it will cement Gazprom's dominant position in the eastern parts of the EU market, and give Gazprom a competitive advantage over newcomers, notably in the liquefied natural gas (LNG) market. Geopolitically, it could deprive Ukraine of its transit role, a strategic asset and an important source of financial resources."⁵

The purpose of this paper is to discuss the present situation and complications regarding the Nord Stream 2, examine it by reviewing the project chronologically, underlining its major aspects such as sanctions, the market dominance position of Gazprom, certification process, related legal issues and the possible outcome. Especially, in parallel to the ongoing war situation between two countries - Russia and Ukraine, making not only the Nord Stream 2 project under question, but the whole Russian gas supply in Europe.

2. The outcome of Economic Sanctions

Economic sanctions could be a powerful tool for the geopolitical playfield. That could be true especially in the case of the USA which is well known for applying sanctions "with the purpose of coercing the behaviour of the targeted countries, companies and/or individuals in particular directions."⁶

It has already been discussed in the previous occasional paper⁷, that economic sanctions are mainly divided into the primary and the secondary sanctions. On the one hand, the former one regulates the inner circle of relationships such as sanctioning its citizens and companies or anyone residing in the U.S from making a business relationship with an

⁴ Available at <https://tsoua.com/en/news/gts-operator-of-ukraine-has-a-special-role-in-the-nord-stream-2-certification-process/> (Last access: 19.06.2022)

⁵ Marco Giuli, Nord Stream 2 : Rule no more, but still divide, European Policy Centre, Sustainable Prosperity For Europe Programme Climate and Energy Platform, June 2018, p.5

⁶ Mariam Ivanishvili, Nord Stream 2 – Single Gas Market, Europolis, 2020, p.2

⁷ Ibid.

unfavorable individual (“a rogue regime, terrorist group, or other international pariah”).⁸ While on the other hand, secondary sanctions represent additional restrictions to the already targeted subject of Primary sanctions making emphasis on the non-U.S. citizens and companies.⁹

In recent years, together with Ukraine and Poland, two of the main voices against the completion of the project, the US strongly opposes Nord Stream 2 by setting secondary sanctions. From the U.S. perspective, besides objections based on political issues, private business interest plays a major role in it as well. As a result, Trump’s administration expressed its attempts to prevent the mentioned project with two different acts. The first one is the 2017 Countering America’s Adversaries through Sanctions Act (CAATSA) and the second represents the very well-known 2019 Protecting Europe’s Energy Security act (PEESA).¹⁰

Due to the fact that secondary sanctions indicate interference with the other states’ businesses,¹¹ imposing them is no less controversial than the Nord Stream 2 project by itself. The response of the EU Commission on this matter seemed unchangeable for a long time as well, implying that imposing those sanctions contradicted international law and stating that all the companies involved in the project were in line with EU law.¹²

In terms of the above-mentioned acts, only the PEESA had an impact on the Nord Stream 2 as the CAATSA is not applying to the contracts signed before August 2, 2017.¹³ After President Trump’s aggressive measures towards the halting of the gas pipeline project, following President of the USA – Joe Biden changed the strategy and chose not to impose the secondary sanctions of the almost then completed project.¹⁴

Even though the recent US-Germany summer joint agreement¹⁵ considered no more sanctions thus Germany being in charge of securing Ukraine's position, The USA imposed another sanction on the Russia-linked entity, Transadria Ltd, and its vessel - the Marlin

⁸ Jeffrey A. Meyer, second thoughts on secondary sanctions, University of Pennsylvania Journal of International Law, Vol. 30:3, 2009, p.905

⁹ Ibid.

¹⁰ Olivier Malhebre, U.S. Economic Sanctions Against Nord Stream 2 Under International Jurisdiction Principles, International Law and Politics, Vol:53:1017, 2021, p.1024

¹¹ Ibid, p. 1023

¹² Katie McDougall, S. H. Reisinger, S. Greenwood, Update on US sanctions in respect of Nord Stream 2 and TurkStream pipelines, Norton Rose Fulbright, November 2020

¹³ Mariam Ivanishvili, Nord Stream 2 – Single Gas Market, Europolis, 2020, p.9

¹⁴ Available at <https://www.reuters.com/business/energy/us-germany-deal-nord-stream-2-pipeline-draws-ire-lawmakers-both-countries-2021-07-21/> (Last access: 19.06.2022)

¹⁵ Available at <https://www.auswaertiges-amt.de/en/newsroom/news/joint-statement-usa-and-germany/2472084> (Last access: 19.06.2022)

which is identified as blocked property.¹⁶ With this action, the Administration has “sanctioned 8 persons and identified 17 of their vessels as blocked property pursuant to PEESA in connection with Nord Stream 2,”¹⁷ which was classified as an action to “push back against harmful Russian activities, including in the energy sphere.”¹⁸

Until the Russian military intervention in Ukraine, President Biden never fully meant to use sanctions as a tool to stop the project. In his recent January Memo, he stated that the immediate sanctions on the Nord Stream 2 imposed under the Cruz Bill were not a real help in protecting Ukraine, but rather a catalyst to obstruct the Unity of the allies. In addition, he stated that Russia's reaction could lead Europeans “to a shortage in the midst of winter”.¹⁹ However, the approach changed drastically, sanctioning Nord Stream 2 AG the very moment Russia declared Donetsk and Luhansk - two regions of Ukraine being independent.²⁰ Not only Europe and the US, but almost the whole world denounced President Putin’s actions. As a result the project has been halted indefinitely.

3. Abuse of dominance under article 102 TFEU

According to article 102 TFEU, “Any abuse by one or more undertakings of a dominant position within the internal market or in a substantial part of it, shall be prohibited as incompatible with the internal market in so far as it may affect trade between the Member States.” From the essence of the article, two major elements should be involved to conclude that infringement has taken place: 1. Abuse behaviour by one or more undertakings and 2. The dominant position of such an undertaking.²¹ While reviewing the controversies and complications around the Project Nord Stream 2, the possibility of infringement of Article 102 TFEU by Gazprom should also become one of the main points of the observation.

To begin with, Gazprom being the only company allowed to deliver gas from Russia, is represented as “the world's largest natural gas reserves”²². Based on article 102 TFEU, the

¹⁶ Available at <https://www.reuters.com/business/energy/us-germany-deal-nord-stream-2-pipeline-draws-ire-lawmakers-both-countries-2021-07-21/> (Last access: 19.06.2022)

¹⁷ Available at <https://www.state.gov/imposition-of-further-sanctions-in-connection-with-nord-stream-2/> (Last access: 19.06.2022)

¹⁸ Ibid

¹⁹ available at <https://www.politico.com/f/?id=0000017e-4faa-dbc8-a1ff-7fab7a270000> (Last access: 19.06.2022)

²⁰ Available at <https://www.share-talk.com/nord-stream-2-owner-contemplates-insolvency-following-pipeline-halt-and-sanctions/#gs.4r22un> (Last access: 19.06.2022)

²¹ Moritz Lorenz, An Introduction to EU Competition Law, Article 102 TFEU – abuse of a dominant position, Cambridge University Press, 2013, p.188

²² CASE AT.39816 – Upstream gas supplies in Central and Eastern Europe, Article 9 Regulation (EC) 1/2003, Commission Decision of 24/05/2018, p. 6, Available at: https://ec.europa.eu/competition/antitrust/cases/dec_docs/39816/39816_10148_3.pdf (Last access: 19.06.2022)

dominant position by itself does not fall within the scope of the prohibition, but the above-mentioned two requirements. Consequently, the claims and investigations about the possible abuse of Gazprom's dominant position actively continued throughout the last years.

According to MEMO/11/641 from 2011, the Commission started unannounced inspections with the main concern of the possible breaches of EU antitrust rules in terms of anti-competitive practices.²³ Eventually, in 2012, formal proceedings against Gazprom took place. Therefore treating it as a priority case on the bases of possible abuse, further stating that "Gazprom may be abusing its dominant market position in upstream gas supply markets in Central and Eastern European Member States, in breach of Article 102 of the Treaty on the Functioning of the European Union."²⁴

In 2015, after a thorough investigation by the European Commission, Gazprom was notified about its supposed abuse of dominance position "in Central and Eastern European gas supply markets".²⁵ To bring to the light, the Commission indicated the infringement of EU antitrust law, which was created by the division of the two mentioned gas markets, making it possible for Gazprom to charge higher (not fare) prices in several countries. In addition it might have led to "making the supply of gas dependent on obtaining unrelated commitments from wholesalers concerning gas transport infrastructure."²⁶

Finally, in 2018 Commission adopted a decision imposing binding obligations on Gazprom as the possible way out of the mentioned issues. Those binding rules consisted of the following:

- "No more contractual barriers to the free flow of gas;
- Obligation to facilitate gas flows to and from isolated markets;
- Structured process to ensure competitive gas prices;
- No leveraging of dominance in gas supply."²⁷

However, in 2019 there was another incident – a complaint was filed to the European Commission regarding Gazprom's abuse of dominance under article 102 TFEU, Naftogaz being the side of the claimant.²⁸ Apart from indicating Gazprom's abuse of dominance position, the Complaint was referring to the construction of Nord Stream 2, thus putting

²³ Available at: https://ec.europa.eu/commission/presscorner/detail/en/MEMO_11_641 (Last access: 19.06.2022)

²⁴ Available at: https://ec.europa.eu/commission/presscorner/detail/en/IP_12_937 (Last access: 19.06.2022)

²⁵ Available at: https://ec.europa.eu/commission/presscorner/detail/en/IP_15_4828 (Last access: 19.06.2022)

²⁶ Ibid,

²⁷ Available at: <http://www.fgl-energy.com/en/news/view-commission-imposes-binding-obligations-on-gazprom-0101.html> (Last access: 19.06.2022)

²⁸ Available at: <https://www.naftogaz.com/en/news/naftogaz-podav-do-evrokomisii-skargu-schodo-zlovzhvannya-gazpromom-svoim-dominuyuchym-stanovyschem-na-evropeyskyh-gazovyh-rynkah-shlyahom-realizatsii-pivnichnogo-potoku-2> (Last access: 19.06.2022)

forward several remedies as alleviation.²⁹ Consequently, at the end of 2019, Gazprom and Naftogaz settled all the disputes during the negotiation processes in which the representative of the EU was also actively participating.³⁰

Despite the mentioned settlement, the concern about the abuse of Gazprom's dominant position has always been in an active subject of discussions, especially with the existence of such a huge geopolitical project as Nord Stream 2, even though, at first it has been halted as a part of the certification process, and lately as a consequence of the current Russia-Ukraine war. Usually, Unbundling, third-party access and tariff regulations provide the avoidance of dominance position, especially Ownership Unbundling being a common regulatory approach "to address the anti-competitive practices to which all network-bound industries are prone."³¹

However, third-party access and consequently non-discriminatory tariff cannot be guaranteed in case of Gazprom. As another step to put the pipeline into the work and thus get through to the necessary certification process, it was decided that Gazprom would have established a subsidiary "solely for the German part of the pipeline rather than transforming its existing legal form."³² That happened before Russia's invasion of Ukraine, putting aside the main question of whether Gazprom tried to obstruct the energy security of Europe.

4. Regulatory Certification process and its complications

In November 2017 the European Commission proposed to adopt the Gas directive amendment which would include the unbundling, third party access, and non-discriminatory tariff setting aiming directly to the Nord Stream 2 as well as other interconnectors.³³ From the EU perspective, it was one of the best possible ways to extend its energy rules outside of its scope.³⁴ The legal challenges and the constant threats of US sanctions followed the construction during the whole period. However, despite all the contradictions the project was completed in September 2021, leaving the certifications as the last steps.³⁵ Briefly saying, in order for Gazprom to provide gas using the Nord Stream

²⁹ Dag Mjaaland, A. M. Haga, Anne-Karin Nesdam, The Naftogaz - Gazprom Saga, debunking myths about the arbitration awards, *Arbitration Journal* by the Arbitration Association, 2021

³⁰ Ibid

³¹ Ad Hoc Arbitration between Nord Stream 2 AG and the European Union, EU Counter-Memorial on the Merits, 2021, p. 171, (690) Available at <https://pcacases.com/web/sendAttach/27447> (Last access: 19.06.2022)

³² Bundesnetzagentur press release Available at: https://www.bundesnetzagentur.de/SharedDocs/Pressemitteilungen/EN/2021/20211116_NOS2.html

³³ Katja Yafimava, Nord Stream 2: on the verge of sending gas to Europe, the oxford institute for energy studies, November 2021, p.3

³⁴ Mariam Ivanishvili, Nord Stream 2 – Single Gas Market, *Europolis*, 2020, p.6

³⁵ Paul Belkin, M. Ratner, C. Welt, Russia's Nord Stream 2 Natural Gas Pipeline to Germany, *Congressional Research Service*, December 9, 2021, p.1

2 gas pipeline, technical and regulatory certificates need to be granted.³⁶ To bring the matter to light, technical certification ensures the “pipeline’s integrity and operational safety”, while the regulatory one guarantees that the project is in compliance with the requirements of the above-mentioned amended directive.³⁷

According to sections 4(a), 4(b), and 10 et seq EnWG certification is needed to launch a gas using the pipeline Nord Stream 2. As it was announced, based on the request of the German Federal Network Agency (Bundesnetzagentur –BNetzA), “Nord Stream 2 AG submitted an application for a precautionary certification as an independent transmission system operator”.³⁸

Naturally, everyone’s attention was set on the aforementioned process, moreover PGNiG of Poland and Gas TSO of Ukraine taking part in it.³⁹ Gazprom chose to be certified as an Independent Transmission Operator (ITO) – which represents one of the three unbundling models of the amended Gas Directive. The mentioned model gives the possibility to remain a part of a vertically integrated undertaking (VIU), “provided the applicable safeguards are in place, ensuring the operator’s inability – or lack of incentive – to discriminate against third parties’ gas in favour of that of the VIU as far as access to the pipeline is concerned.”⁴⁰ Therefore, On November 16, 2021, the certification procedure for Nord Stream 2 was suspended by Bundesnetzagentur, for the main reason that a Zug based company needs to be “organised in a legal form under German law”.⁴¹

According to the mentioned Bundesnetzagentur press release, the Nord Stream 2 AG “has decided not to transform its existing legal form but instead to found a subsidiary under German law solely to govern the German part of the pipeline. This subsidiary is to become the owner and operator of the German part of the pipeline.” In addition it was implied that the process of examination would continue as it tended to be only after the compliance with the requirements of the German Energy Industry Act.

³⁶ Katja Yafimava, Nord Stream 2: on the verge of sending gas to Europe, the oxford institute for energy studies, November 2021, p.1

³⁷ Ibid, p.1,3

³⁸ Available at: <https://tass.com/economy/1306667> (Last access: 18.06.2022)

³⁹ Gas TSO of Ukraine submitted a request to take part in the Nord Stream-2 certification process, UA Transmission System Operator, 2021, Available at:<https://tsoua.com/en/news/gas-tso-of-ukraine-submitted-a-request-to-take-part-in-the-nord-stream-2-certification-process/> (Last access: 18.06.2022)

⁴⁰ Katja Yafimava, Nord Stream 2: on the verge of sending gas to Europe, the oxford institute for energy studies, November 2021, p.6

⁴¹Press release 16.11.2021, Bundesnetzagentur, available at: https://www.bundesnetzagentur.de/SharedDocs/Pressemitteilungen/EN/2021/20211116_NOS2.html (Last access: 18.06.2022)

Shortly afterwards the situation changed drastically. Not only the package of sanctions were imposed on Russia due to the intervention in Ukraine, but the future of the pipeline became highly doubtful. Even the German President Frank-Walter Steinmeier, one of the vocal voices in favour of the project, referred to the Nord Stream 2 as a “clear mistake.”⁴²

5. Legal aspects and possible outcome?

In July 2021, as a part of the US-Germany Joint agreement, the readiness to support Ukraine and maintain the European Energy security has been declared. Moreover, Germany took the responsibility to have appropriate and effective measures in case Russia “uses its energy resources as a weapon or commits further aggression toward Ukraine”.⁴³

In response of the mentioned commitment, the signed statement by several MEPs⁴⁴ was announced, indicating that "The US-Germany agreement over Nord Stream 2 is not an European agreement, but an attempt by the two countries to improve their bilateral relations and change the situation from very bad to bad".⁴⁵ Even if we put aside the real reason behind this agreement, the complications regarding its legal aspects have always remained. In particular, from the very beginning, the legal regime applicability of Nord Stream 2 was under question. According to the legal opinion of the council of the European Union, offshore parts of the Nord Stream 2 are the subject of international law, stating that EU law does not apply to the pipeline.⁴⁶ Therefore, it needs to be mentioned that the completion of the pipeline has been actively delayed for almost 2 years, especially after the adoption of an amendment of the Gas Directive in April 2019. As it was indicated afterwards, with these changes the regulation of the relevant section of the pipeline is “up to Germany through its German territorial waters”.⁴⁷

Based on the examination it could be concluded that the core purposes for the mentioned amendment represent the extension of the scope of the third Gas directive, fulfilling it by

⁴²Available at: <https://www.dw.com/en/german-president-steinmeier-admits-mistakes-over-russia-policy/a-61362153> (Last access: 19.06.2022)

⁴³ Joint Statement of the US and Germany on Support for Ukraine, European Energy Security, and our Climate Goals, Federal Foreign Office, Press release 21.07.2021

⁴⁴ Member of the European Parliament (MEP)

⁴⁵Available at: <https://www.ukrinform.net/rubric-polytics/3287657-european-parliament-releases-tough-statement-on-usgermany-agreement-on-nord-stream-2.html> (Last access: 19.06.2022)

⁴⁶ Paul Gragl, The Question of Applicability: EU Law or International Law in Nord Stream 2, review of central and east European law 44 (2019) 117-147, p. 128

⁴⁷ Kirsten Westphal, Nord Stream 2 – Germany’s Dilemma, Stiftung Wissenschaft und Politik, WP Comment 2021/C 32, 30.04.2021, <https://www.swp-berlin.org/en/publication/nord-stream-2-germanys-dilemma/> (Last access: 19.06.2022)

the remodeling of the definition of “interconnector”.⁴⁸ However, before reviewing the legal applicability of Nord Stream 2, another important aspect regarding this project should be taken into consideration. More concretely, the Principle of Solidarity, which on the one hand is a form of support between the member states as it governs their horizontal relationship and on the other hand represents the “duty of sincere cooperation, especially in terms of security of energy supply.”⁴⁹

In 2019, Nord Stream 2 AG challenged the amendment under the Energy Charter Treaty, indicating that the extension of the scope of the Gas Directive onto the import pipelines was the act of unjust treatment against the pipeline company and had “the effect of undermining the value of its investment.”⁵⁰ However, on the other side, the EU had a contra argument against it, underlining that while proceeding with the project, not all the permits were granted beforehand, thus exposing Gazprom as an “irresponsible investor”,⁵¹ as having 40 % of the pipeline completed without the necessary permission.⁵² In addition, even though Russia signed the mentioned treaty, ratification has never taken place.⁵³

As it was stated, Nord Stream 2 AG challenged the amendment before the General Court, implying its discriminatory nature.⁵⁴ However, chances for success remained low from the very beginning and the principle of solidarity could play a major role here. To draw a parallel, in the Opal case⁵⁵ Poland with Latvia and Lithuania on its side, requested the nullification of the Commission's decision, which allowed the modifications regarding the “exemption regime”. During the judgment procedure, the general court shared the position of Poland regarding the principle of Solidarity, further stating that the commission should have been evaluating the interests of the EU and other member states in parallel with its decision of modification of exemption and in case of conflict of interest, finding the balance between those interests⁵⁶. According to the research paper⁵⁷

⁴⁸ Kim Talus, Justice should not be blind to something that is obvious to everyone else – An Analysis of Advocate General Bobek’s Opinion in Nord Stream 2, European Law Blog, October 2021

⁴⁹ Paul Gragl, The Question of Applicability: EU Law or International Law in Nord Stream 2, review of central and East European law 44 (2019) 117-147, p. 121

⁵⁰ Available at Dr. Alan Riley, A Risky Case, Nord Stream 2’s Energy Charter Treaty Litigation, Center for European Policy Analysis, p.2

⁵¹ Ibid, p.3

⁵² Alan Riley, Nord Stream 2: Sanctions, Snapbacks, and Solutions, TCUP report, Ukrainian Research Institute, Harvard University, 2021, p.3

⁵³ Paul Gragl, The Question of Applicability: EU Law or International Law in Nord Stream 2, review of central and east European law 44 (2019) 117-147, p. 130

⁵⁴ Kim Talus, Justice should not be blind to something that is obvious to everyone else – An Analysis of Advocate General Bobek’s Opinion in Nord Stream 2, European Law Blog, October 2021

⁵⁵ Judgment in Case T-883/16, Poland v Commission, September 2019, p.2 <https://curia.europa.eu/jcms/upload/docs/application/pdf/2019-09/cp190107en.pdf> (Last access: 09.06.2022)

⁵⁶ Ibid

of Dr. Riley, the principle of solidarity outlined in the mentioned Opal case may be used against Gazprom in terms of Nord Stream 2.

In 2020, the application was declared inadmissible as according to the General Court it lacked the necessary criteria, such as “national implementation” of the EU directive that tended to be challenged and therefore, the “direct concern”.⁵⁸ In the mentioned case, the Advocate General Bobek gave his opinion, advising the ECJ to take applicant’s legal arguments, further stating that Nord Stream 2 “is entitled to challenge the amending directive”, as its both direct and individual concern exists.⁵⁹

Originally, due to the decision made by BNetzA, the certification process for Nord Stream 2 has been halted. On one hand, in order for the gas to start flowing through the pipelines, the operator should be certified. Hypothetically, if Russia did not take the military actions against Ukraine, the certificate may be granted until the end of 2022. In the worst-case scenario where the winter tends to be severe and there is a shortage of EU gas supply, even the granting of certification could no longer be the mandatory theme.⁶⁰

However, the consequences of Russia’s actions towards Ukraine happen to be drastic for Nord Stream 2. Not only has the project been suspended, but various sanctions have been imposed, resulting in collective redundancies by Gazprom.⁶¹ Clearly, the project has been obstructed. Recently, Gazprom updated via Telegram that the Nord Stream 2 gas pipeline could go online no earlier than 2028.⁶²

As it was implied in the “Gas supply status report” by bundesnetzagentur, “the security of supply in Germany is currently safeguarded”⁶³. Obviously, in the long term, Europe needs to find an alternate provider for gas and one of the main options considered is the increase of the supply of liquid natural gas (LNG). The importance of LNG was highlighted by Mariusz Ruszel, in his article “The Development of Global LNG Exports”, where he discussed the perspectives of such energy sources and even recommended the investment

⁵⁷ Alan Riley, Nord Stream 2: Sanctions, Snapbacks, and Solutions, TCUP report, Ukrainian Research Institute, Harvard University, 2021, p.4

⁵⁸ Kim Talus, Justice should not be blind to something that is obvious to everyone else – An Analysis of Advocate General Bobek’s Opinion in Nord Stream 2, European Law Blog, October 2021

⁵⁹ Ibid

⁶⁰ Katja Yafimava, German regulator’s decision to suspend certification of Nord Stream 2 AG: F.A.Q, The Oxford Institute for Energy Studies, November 2021, p.3

⁶¹ Nord Stream 2 terminates contracts with employees following sanctions | Euronews <https://www.euronews.com/next/2022/03/02/ukraine-crisis-nord-stream-staff#> (last access: 19.06.2022)

⁶² Gazprom, Telegram announcement, dated on May 5th, 2022, <https://t.me/gazprom/727> (Last access: 19.06.2022)

⁶³ Statement made by bundesnetzagentur, May 3, 2022 <https://www.bundesnetzagentur.de/EN/Areas/Energy/Companies/SecurityOfSupply/GasSu>

into it.⁶⁴ Taking into account the recent updates, the agreement between the EU and USA concluded in March 2022, stating that “the United States will supply 15,000 million cubic meters of liquefied gas to the EU market this year”.⁶⁵

6. Conclusion

The Nord Stream 2 has always been at the center of the constant discussions and contradictions in the Energy world. Despite the main argument such as being the benefit in the security of gas supply, the future of the gas pipeline seems highly doubtful.

The current paper materialized all the core aspects of the project, which could give one insight into its history. Like the previous occasional paper, sanctions were examined first, followed by other important aspects chronologically.

Even though analyses were conducted in terms of the market dominance position of Gazprom, the certification process, legal issues, the recent political decision made by the Russian President forever changed the outcome of the project. Europe decided to start the process of replacing the Russian gas with LNG. One could argue that the expensive side of the LNG is not attractive or affordable for the EU, however, on the other hand, the recent past shows that Gazprom used high prices and not the full capacity of pipelines anyway.

Truth to be told, the project has always been outlined as the main factor of “corrosive divisions, leaving almost no space for negotiations.”⁶⁶ Currently, it is linked to the ongoing war, happening between Russia and Ukraine.

7. Bibliography

⁶⁴ Mariusz Ruszel, The Development of Global LNG Export, book edited by Kari Liuhto, The Future of Energy Consumption, Security and Natural Gas: LNG in the Baltic Sea Region, Springer Nature, 2021. p.17

⁶⁵ Statement made by bundesnetzagentur, May 3, 2022 https://www.bundesnetzagentur.de/EN/Areas/Energy/Companies/SecurityOfSupply/GasSupply/Downloads/05_May/20220505.pdf?__blob=publicationFile&v=3 (last access: 19.06.2022)

⁶⁶ Mariam Ivanishvili, Nord Stream 2 – Single Gas Market, occasional paper, Europolis, 2020, p.1

Ad Hoc Arbitration between Nord Stream 2 AG and the European Union, EU Counter-Memorial on the Merits, 2021

Alan Riley, A Risky Case, Nord Stream 2's Energy Charter Treaty Litigation, Center for European Policy Analysis

Alan Riley, Nord Stream 2: Sanctions, Snapbacks, and Solutions, TCUP report, Ukrainian Research Institute, Harvard University, 2021

Dag Mjaaland, A. M. Haga, Anne-Karin Nesdam, The Naftogaz - Gazprom Saga, debunking myths about the arbitration awards, Arbitration Journal by the Arbitration Association, 2021

Katie McDougall, S. H. Reisinger, S. Greenwood, Update on US sanctions in respect of Nord Stream 2 and TurkStream pipelines, Norton Rose Fulbright, November 2020

Katja Yafimava, Nord Stream 2: on the verge of sending gas to Europe, the oxford institute for energy studies, November 2021

Katja Yafimava, German regulator's decision to suspend certification of Nord Stream 2 AG: F.A.Q, The Oxford Institute for Energy Studies, November 2021

Kim Talus, Justice should not be blind to something that is obvious to everyone else – An Analysis of Advocate General Bobek's Opinion in Nord Stream 2, European Law Blog, October 2021

Kirsten Westphal, Nord Stream 2 – Germany's Dilemma, Stiftung Wissenschaft und Politik, WP Comment 2021/C 32, 30.04.2021

Marco Giuli, Nord Stream 2 : Rule no more, but still divide, European Policy Centre, Sustainable Prosperity For Europe Programme Climate and Energy Platform, June 2018

Mariam Ivanishvili, Nord Stream 2 – Single Gas Market, occasional paper, Europolis, 2020

Mariusz Ruszel, The Development of Global LNG Export, book edited by Kari Liuhto, The Future of Energy Consumption, Security and Natural Gas: LNG in the Baltic Sea Region, Springer Nature, 2021

Moritz Lorenz, An Introduction to EU Competition Law, Article 102 TFEU – abuse of a dominant position, Cambridge University Press, 2013

Nord Stream 2 - Divide et Impera Again? Avoiding a Zero-Sum Game European political Strategy Center, 2018

Olivier Malhebre, U.S. Economic Sanctions Against Nord Stream 2 Under International Jurisdiction Principles, *International Law and Politics*, Vol:53:1017, 2021

Paul Belkin, M. Ratner, C. Welt, Russia's Nord Stream 2 Natural Gas Pipeline to Germany, Congressional Research Service, December 9, 2021

Paul Gragl, The Question of Applicability: EU Law or International Law in Nord Stream 2, *review of central and east European law* 44 (2019)

Jeffrey A. Meyer, second thoughts on secondary sanctions, *University of Pennsylvania Journal of International Law*, Vol. 30:3, 2009

CASE AT.39816 – Upstream gas supplies in Central and Eastern Europe, Article 9 Regulation (EC) 1/2003, Commission Decision of 24/05/2018

Judgment in Case T-883/16, Poland v Commission, September 2019 <https://curia.europa.eu/jcms/upload/docs/application/pdf/2019-09/cp190107en.pdf> (Last access: 19.06.2022)

Statement made by bundesnetzagentur, May 3, 2022 <https://www.bundesnetzagentur.de/EN/Areas/Energy/Companies/SecurityOfSupply/GasSu> (Last access: 19.06.2022)

Press release 16.11.2021, Bundesnetzagentur, available at: https://www.bundesnetzagentur.de/SharedDocs/Pressemitteilungen/EN/2021/20211116_NOS2.html (Last access: 19.06.2022)

Joint Statement of the US and Germany on Support for Ukraine, European Energy Security, and our Climate Goals, Federal Foreign Office, Press release 21.07.2021

<https://www.gazprom.com/projects/nord-stream2/>

<https://tsoua.com/en/news/gts-operator-of-ukraine-has-a-special-role-in-the-nord-stream-2-certification-process/> (Last access: 19.06.2022)

<https://www.reuters.com/business/energy/us-germany-deal-nord-stream-2-pipeline-draws-ire-lawmakers-both-countries-2021-07-21/>

[U.S., Germany strike Nord Stream 2 pipeline deal to push back on Russian 'aggression' | Reuters](https://www.reuters.com/business/energy/us-germany-deal-nord-stream-2-pipeline-draws-ire-lawmakers-both-countries-2021-07-21/) (Last access: 19.06.2022)

[Imposition of Further Sanctions in Connection with Nord Stream 2 - United States Department of State](https://www.reuters.com/business/energy/us-germany-deal-nord-stream-2-pipeline-draws-ire-lawmakers-both-countries-2021-07-21/) (Last access: 09.06.2022)

<https://www.politico.com/f/?id=0000017e-4faa-dbc8-a1ff-7fab7a270000>

[Nord Stream 2 owner contemplates insolvency following pipeline halt and sanctions – Share Talk](#) (Last access: 09.06.2022)

https://ec.europa.eu/commission/presscorner/detail/en/MEMO_11_641 (Last access: 19.06.2022)

https://ec.europa.eu/commission/presscorner/detail/en/IP_12_937 (Last access: 19.06.2022)

https://ec.europa.eu/commission/presscorner/detail/en/IP_15_4828 (Last access: 19.06.2022)

<http://www.fgl-energy.com/en/news/view-commission-imposes-binding-obligations-on-gazprom-0101.html> (Last access: 19.06.2022)

<https://www.naftogaz.com/en/news/naftogaz-podav-do-evrokomisii-skargu-schodo-zlovzhyvannya-gazpromom-svoim-dominuyuchym-stanovyschem-na-evropeyskyh-gazovyh-rynkah-shlyahom-realizatsii-pivnichnogo-potoku-2> (Last access: 19.06.2022)

<https://tass.com/economy/1306667> (Last access: 18.06.2022)

Gas TSO of Ukraine submitted a request to take part in the Nord Stream-2 certification process, UA Transmission System Operator, 2021, Available at:<https://tsoua.com/en/news/gas-tso-of-ukraine-submitted-a-request-to-take-part-in-the-nord-stream-2-certification-process/> (Last access: 18.06.2022)

<https://www.dw.com/en/german-president-steinmeier-admits-mistakes-over-russia-policy/a-61362153> <https://www.ukrinform.net/rubric-politics/3287657-european-parliament-releases-tough-statement-on-usgermany-agreement-on-nord-stream-2.html> (Last access: 19.06.2022)

Nord Stream 2 terminates contracts with employees following sanctions | Euronews <https://www.euronews.com/next/2022/03/02/ukraine-crisis-nord-stream-staff#> (last access: 19.06.2022)

Gazprom, Telegram announcement, dated on May 5th, 2022, <https://t.me/gazprom/727> (Last access: 19.06.2022)