

THE PERCEPTION OF NORD STREAM II IN THE INTERNATIONAL ARENA

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ABSTRACT

The Nord Stream gas pipeline system is one of the most ambitious energy projects in the Baltic Sea region. It is the longest subsea pipeline system in the world designed to deliver natural gas to Germany. It is a very controversial gas pipeline system. The attitude of the European countries is very different and makes some tensions between EU member-countries. The purpose of this article is to analyze the attitudes of individual European countries towards Nord Stream II. The attention is focused not only on the countries directly involved in the project, but also on the countries of Central and Eastern Europe for which this investment is economically unfavorable (Poland) and dangerous from the geopolitical point of view (Ukraine). Moreover, the role and attitude of the USA on Nord Stream II are taken into account. It is equally important to analyze Russia's attitude on this matter and what potential effects of launching or freezing this project will have for Europe. The article also answers the question, how can Germany stop the construction of Nord Stream II? Will the suspension of the construction of Nord Stream II affect the geopolitical situation in Europe and relations between European countries? Is Germany able to minimize tensions between EU member states in connection with the construction of Nord Stream II?

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Introduction

The Nord Stream gas pipeline system is being built mainly in cooperation with Germany and Russia. It is one of the most ambitious energy projects in the Baltic Sea region. Nord Stream is the

longest subsea pipeline system in the world designed to deliver natural gas to Germany. The gas pipeline route is divided into three main parts – Russian, maritime and German. The length of the

Nord Stream II is 1,200 km. Gas from the Yamal Peninsula is delivered to Vyborg via the internal pipeline system of Russia, and from here to Greifswald in Germany via the sea route. In Greifswald the pipeline is connected with local energy gas infrastructure. If the project is successfully completed, the capacity of the four Nord Stream lines will be 110 bcm of gas per year¹. The gas pipelines pass through the economic zones and territorial waters of five countries: Russia, Sweden, Finland, Denmark and Germany. The route of the gas pipelines was discussed several times and it was changed due to the special status of the Baltic Sea. According to the International Maritime Organization, the Baltic Sea has the status of a "particularly sensitive sea zone"². Therefore, before its construction began, Russia appealed to the governments of the region's countries to issue all the necessary permits. The final route of the pipelines was planned taking into account environmentally sensitive areas, areas where munitions from the Second World War and chemical weapons may be located, shipping routes and exclusive economic and fishing areas, and recreational zones. Despite obtaining all building permits, this gas pipeline system seemed controversial from the very beginning, not only from an ecological point of view, but also economically and politically. The attitude of the European countries was divided even when the construction of the first two lines of Nord Stream began.

Meanwhile, in the period between the construction of Nord Stream I and Nord Stream II, significant geopolitical changes

took place in Central and Eastern Europe – the annexation of Crimea in 2014, the war in Donbas, and the unstable situation in Belarus (2020), which further divided the EU countries in this matter. Currently, the completion of the construction of Nord Stream II is questionable and has a very great political significance, because since its completion the fate of many countries of Central and Eastern Europe, primarily Belarus and Ukraine, has been decided.

The EU countries' attitude towards the Nord Stream II

The construction of Nord Stream II shared the opinions of the EU member states. The supporters of the project are the states and energy companies directly involved in the project, including: German Wintershall and Uniper, British-Danish Royal Dutch Shell, French Engie, Austrian OMV. In addition, after long deliberation, Sweden and Finland expressed support for the project, as well as Belgium and the Netherlands, which are not directly involved in the implementation of the project³.

Nine EU member states and Ukraine are against the implementation of Nord Stream II. Poland and Lithuania believe that the project directly threatens their interests and security and actively support the statement of the European Commission on the freezing of the project and they are making efforts to strengthen their own energy security⁴. Moreover, the Czech Republic, Slovakia, Estonia, Latvia, Hungary, Romania and Croatia are against Nord Stream II and the strengthening of Russia's position in the EU energy sector. In 2016, these countries sent a letter to the President of the European Commission, Jean Claude Juncker, in which they

¹ Nord Stream II, <https://www.nord-stream2.com/media/documents/pdf/pl/2017/04/nsp2-espoo-report-nts-pol.pdf>

² D. Pyć, *Morskie obszary chronione na morzu otwartym*, <http://journals.pan.pl/Content/114262/PDF/document%20-%202019-10-05T120452.336.pdf>

³ "Nord Stream II" Project, http://bintel.com.ua/en/article/blog09_18_2/, accessed: 06.10.2020.

⁴ Ibidem.

opposed the Nord Stream II construction and stated that the project would generate “geopolitical potentially destabilizing consequences”⁵ and would create threats to the energy security of Central and Eastern Europe⁶. Leaders of Central and Eastern Europe expressed concern that Nord Stream II could become a political instrument in the hands of Russia, which could lead to the shutdown of gas supplies to the countries of Eastern Europe, while maintaining the flow of gas to the countries of Western Europe⁷.

a) Germany’s attitude

In order to justify the construction of Nord Stream II, Germany presents the following arguments:

- Nord Stream II is an economic project that is initiated by European energy companies;
- the construction of Nord Stream II will help to ensure stable gas supplies to the European market and increase energy security⁸;
- the pipeline system leads to economic savings by eliminating transit fees (transit countries such as Ukraine, Belarus, the Baltic states and Poland will be eliminated);
- higher operating pressure of the offshore pipeline leads to lower operating costs (eliminating the need to build expensive intermediate pumping stations)⁹.

Accordingly, Berlin does not support unilateral extraterritorial sanctions on US trade on Nord Stream II. Germany’s drive to complete Nord Stream II has created tension on the Berlin-Washington line. The Donald Trump administration has warned European energy companies involved in the Nord Stream II project about possible gigantic economic sanctions¹⁰. In order to ease the tensions around Nord Stream II, Germany is trying to convince the US, but also other opponents of the Russian-German gas pipeline, that Germany will need additional amounts of gas due to the abandonment of coal and nuclear energy. One cannot but agree with this, but it is a short-term perspective. However, in the long term, Germany will need only 18% of Nord Stream II gas¹¹. The rest of the gas will be allocated to other European countries and delivered south via the newly constructed Opal and Eugal pipelines¹². They are an alternative to the existing gas pipelines that run through Belarus, Poland and Ukraine. Expanding the alternative pipeline system will not only eliminate transit countries, but will

⁵ A. Sytas, *EU leaders sign letter objecting to Nord Stream-2 gas link*, <https://uk.reuters.com/article/uk-eu-energy-nordstream/eu-leaders-sign-letter-objecting-to-nord-stream-2-gas-link-idUKKCN0W11YV>, accessed: 10.11.2020.

⁶ M. Sisu Vicari, *Od czasów Reagana do Nord Stream II. Jak rosyjskie projekty dzieliły Europę*, <https://biznesalert.pl/od-czasow-reagana-do-nord-stream-2-jak-rosyjskie-projekty-dzielily-europe/>, accessed: 10.11.2020.

⁷ A. Rettman, *Eastern EU leaders to warn Juncker on Nord Stream II*, <https://euobserver.com/foreign/132726>, accessed: 20.11.2020.

⁸ *Od czasów Reagana do Nord Stream 2. Jak rosyjskie projekty dzieliły Europę*, <https://biznesalert.pl/od-czasow-reagana-do-nord-stream-2-jak-rosyjskie-projekty-dzielily-europe/>

⁹ https://pulaski.pl/wp-content/uploads/2019/05/Raport_NordStream_TS-1.pdf

¹⁰ At the end of 2019, AllSeas, a company registered in Switzerland with partly Dutch capital, suspended its participation in the project. The company was engaged in laying the second line of Nord Stream in the Danish part, near the island of Bornholm. *Szwajcarska spółka AllSeas zawiesza budowę Nord Stream 2. To pierwszy efekt amerykańskich sankcji nałożonych w ubiegłym tygodniu na firmy biorące udział w konstruowaniu gazociągu biegnącego po dnie Bałtyku*, <https://www.euractiv.pl/section/energia-i-srodowisko/news/szwajcarska-spolka-zawiesza-budowe-nord-stream-2/>, accessed: 22.11.2020; In addition, in August 2020, the Russian private company MRTS, which was the largest Russian specialist in subsea works, withdrew from the project. P. Orlikowski, *Nord Stream II. Wykonawcy uciekają z budowy*, <https://www.money.pl/gospodarka/nord-stream-2-wykonawcy-uciekaja-z-budowy-6540045058779265a.html>, accessed: 22.11.2020.

¹¹ T. O’Donnell, *Nord Stream II: Berlin-Washington Mutual Intransigence Shows Transatlantic Divide on Russia*, https://www.aicgs.org/2020/10/nord-stream-2-berlin-washington-mutual-intransigence-shows-transatlantic-divide-on-russia/#_edn9, accessed: 22.11.2020.

¹² Nel, *The North European Natural Gas Pipeline*, <https://www.nel-gastransport.de/en/our-network/the-north-european-natural-gas-pipeline/>, accessed: 22.11.2020.

also increase the share of Russian gas in the European market and enhance Germany's role in the EU, making Berlin the new distribution center for Russian gas to Europe¹³. To ease tensions with Washington, Berlin has announced the construction of two LNG import terminals, which will provide the necessary infrastructure for US companies to sell LNG and diversify gas supplies to Germany¹⁴. It was a kind of compromise proposal, in return for the lifting of the sanctions under Nord Stream II¹⁵. However, as it turned out, the purpose of building the two smaller LNG terminals was to provide fuel for ships and heavy trucks, and this had nothing to do with balancing dependence on Russian gas¹⁶.

The Nord Stream II project divides not only the EU, but also German politicians. The biggest critics of Nord Stream II are deputies of the Christian Democrats (including Norbert Röttgen, Bernd Fabritius, Christoph Bergner, Michael Fuchs and Manfred Weber) and the Green party¹⁷. Manfred Weber, chairman of the center-right European People's Party, believes

that the proposed pipeline is a threat to the EU's foreign and security policy, increases dependence on Gazprom, and may have negative consequences for Central and Eastern Europe, especially Ukraine¹⁸. Norbert Roettgen, the head of the German Bundestag's foreign affairs committee, expressed his firm opposition to the further construction of the Nord Stream II gas pipeline in an interview for the weekly *Der Spiegel*. He called on the European Union to impose sanctions on Nord Stream II and to take a firmer stance, as in his opinion the EU's reaction to Russia is too weak¹⁹. Bernd Fabritius (CSU) believes that Germany should take into account Poland's concerns about Nord Stream II. In his opinion, Russia is still far from regaining the position of a reliable partner, so he believes that independence in European energy supplies should be promoted²⁰. Also, Christoph Bergner (CSU) believes that Germany should not give cause for concern to neighboring countries such as Poland, as the cohesion of the European Union is more important than relations with Russia²¹.

b) The Scandinavian countries' attitude

The attitude on Nord Stream II of the Scandinavian countries is ambiguous. On the one hand, states refrain from ap-

¹³ T. O'Donnell, *Nord Stream II: Berlin-Washington Mutual Intransigence Shows Transatlantic Divide on Russia*, https://www.aicgs.org/2020/10/nord-stream-2-berlin-washington-mutual-intransigence-shows-transatlantic-divide-on-russia/#_edn9, accessed: 22.11.2020.

¹⁴ J. Wettengel, *Germany and US attempt to smooth tensions over Nord Stream II with LNG*, <https://www.cleanenergywire.org/news/germany-and-us-smooth-tensions-over-nord-stream-2-lng>, accessed: 22.11.2020.

¹⁵ For the first time, the proposal to build two LNG terminals sounded at the end of 2019, but then the American side thanked this proposal and at the same time explained that the construction of LNG terminals would not affect the US sanctions against Nord Stream II. G. Chazan, "Germany offered €1bn for gas terminals in exchange for US lifting NS2 sanctions," <https://www.ft.com/content/3d028b63-31da-450e-ae73-13b25ecd0032>, accessed: 22.11.2020.

¹⁶ T. O'Donnell, *Nord Stream II: Berlin-Washington Mutual Intransigence Shows Transatlantic Divide on Russia*, https://www.aicgs.org/2020/10/nord-stream-2-berlin-washington-mutual-intransigence-shows-transatlantic-divide-on-russia/#_edn9, accessed: 22.11.2020.

¹⁷ K. Frymark, A. Ciechanowicz, *Marzenie o normalizacji. Niemcy wobec Rosji*, https://www.osw.waw.pl/sites/default/files/komentarze_225_0.pdf, accessed: 22.11.2020.

¹⁸ C. Oliver, *Top German MEP joins foes of controversial Nord Stream II pipeline*, <https://www.ft.com/content/ba24e8ac-0e27-11e6-ad80-67655613c2d6>, accessed: 22.11.2020.

¹⁹ *Röttgen fordert sofortigen Baustopp bei Nord Stream II*, <https://www.spiegel.de/politik/deutschland/nord-stream-2-norbert-roettgen-fordert-baustopp-wegen-nowitschok-anschlag-auf-alexej-nawalny-a-310e268f-6dc2-45ad-89b9-0d47b3b68671>, accessed: 20.11.2020.

²⁰ *Unions-Außenpolitiker kritisieren deutsche Pipeline-Pläne*, <https://www.spiegel.de/wirtschaft/soziales/nordstream-2-cdu-aussenpolitiker-kritisiert-pipeline-plaene-a-1068744.html>, accessed: 22.11.2020.

²¹ *Unions-Außenpolitiker kritisieren deutsche Pipeline-Pläne*, <https://www.spiegel.de/wirtschaft/soziales/nordstream-2-cdu-aussenpolitiker-kritisiert-pipeline-plaene-a-1068744.html>, accessed: 22.11.2020.

plying the rules of national law and the law of the sea to block the gas pipeline so as not to worsen relations with Germany, on the other – they are under pressure from the USA, Central and Eastern European states, and also under pressure from individual opposition parties in their own countries, which support the opponents of the pipeline construction.

Initially, the Swedish side was restrained in its opinions on the project, for two reasons: first, the demand for natural gas in Sweden is very low (approx. 4% of domestic consumption) and is covered in 20% from domestic sources and 80% from imports from Denmark, so Sweden has no business ties with Gazprom; second, locating natural gas storage facilities in the Swedish ports of Karlshamn and Slite in Gotland would bring financial dividends²². The Swedes were forced to take a firmer stance on Nord Stream II by the visit of Joe Biden in August 2016, who said that the Nord Stream II pipeline involving Russia and several European energy companies was a “bad deal”²³.

Currently, Sweden, Denmark and Finland are counting on the European Commission to present an assessment of the compliance of the construction of the Nord Stream II gas pipeline with the third energy package²⁴. Moreover, Stockholm

and Copenhagen are calling for a common EU political position based on an assessment of the project's relevance to EU energy and climate policy objectives and EU security policy interests²⁵.

As far as maritime law is concerned, Sweden and Finland, in the context of Nord Stream II, had few arguments in favor of blocking Nord Stream II in their exclusive economic zones, since there is freedom to lay pipelines. On the other hand, Denmark could apply its maritime law and block the project for security reasons around Bornholm. However, after much deliberation, Denmark issued a permit for the construction of the pipeline in October 2019, with numerous reservations given the protection of the environment, flora and fauna of the Baltic Sea²⁶.

the amendment to the directive will not stop the construction of Nord Stream II, but will most likely delay its implementation and use. Until Nord Stream II is brought into line with EU law and the Commission approves its application, gas will not be able to flow even after the construction is completed. A. Łoskot-Strachota, *Nowelizacja dyrektywy gazowej – unijne prawo problemem dla Nord Stream II*, <https://www.osw.waw.pl/pl/publikacje/analizy/2019-02-21/nowelizacja-dyrektywy-gazowej-unijne-prawo-problemem-dla-nord-stream>, accessed: 22.11.2020.

²² J. Gotkowska, P. Szymański, *The Nordic countries on Nord Stream II: between scepticism and neutrality*, <https://energypost.eu/nordic-countries-nord-stream-2-scepticism-neutrality/>, accessed: 29.11.2020.

²³ Biden: Nord Stream 2 pipeline is a “bad deal” for Europe, <https://www.reuters.com/article/us-energy-europe-usaid/USKCN1101AP>, accessed: 29.11.2020.

²² Gotkowska, P. Szymański, *The Nordic countries on Nord Stream II: between scepticism and neutrality*, <https://energypost.eu/nordic-countries-nord-stream-2-scepticism-neutrality/>, accessed: 29.11.2020.

²³ Biden: Nord Stream 2 pipeline is a “bad deal” for Europe, <https://www.reuters.com/article/us-energy-europe-usaid/USKCN1101AP>, accessed: 29.11.2020.

²⁴ Initially, the European Commission claimed that it was not able to ban the construction of Nord Stream II, even if it considered that it did not contribute to the implementation of the EU's energy policy goals in terms of increasing energy security, because it was formally an initiative of a Russian company financially supported by companies from Western Europe. In 2018, the European Commission proposed amendments to the gas directive. The aim of the changes is to clarify the provisions of European energy law for all gas pipelines (onshore and offshore) to and from third countries, up to the border of EU jurisdiction, regardless of their origin. Most likely,

²⁶ *Nord Stream 2 Granted a Construction Permit by Denmark*, <https://www.nord-stream2.com/media-info/news-events/nord-stream-2-granted-a-construction-permit-by-denmark-139/>, accessed: 29.11.2020. Denmark had serious grounds to block the construction of Nord Stream II in its territorial sea southeast of Bornholm. In this region, Danes have complete freedom to authorize the laying of pipelines. Then it would be necessary to delineate a new route of the gas pipeline in the exclusive economic zone of Denmark or Sweden. This would complicate matters considerably as there is a heavily used shipping lane in the Danish and Swedish EEZs north of Bornholm, which would make pipe-laying difficult. On the other hand, to the south of the island, the Polish and Danish EEZs are not separated - the construction of a gas pipeline in this area would be associated with international legal controversies and an extension of the entire process. J. Gotkowska, P. Szymański, *The Nordic countries on Nord Stream 2: between scepticism and neutrality*, <https://energypost.eu/nordic-countries-nord-stream-2-scepticism-neutrality/>; accessed: 29.11.2020. See more about *Conditions: Permit for Nord Stream 2 Natural Gas Pipelines*, https://ens.dk/sites/ens.dk/files/OlieGas/permit_nord_stream_2.pdf

c) Poland's attitude

Regardless of the political divisions within Poland, the position of all political parties towards Nord Stream II is unambiguous and is considered a threat to the Polish state. At the beginning of the construction of Nord Stream II, a member of the European Parliament from PiS Anna Fotyga wrote a letter to the European Commission, in which she outlined 10 threats associated with the construction of the gas pipeline. These threats are still relevant today. As the letter makes clear, Nord Stream II cannot be built for the following reasons:

- Undermines the long-term efforts of the European Union to achieve energy independence from Russia by supporting significant additional investment;
- Russia does not bear any consequences for the aggression in Ukraine and Georgia;
- It ignores individual EU countries (Central and Eastern European countries) and allied countries (Ukraine), and undermines long-term alliances and European solidarity;
- Increases Germany's dependence on energy imported from Russia and strengthens Moscow's position, which favors political blackmail against the government in Berlin;
- Threats the further spread of political corruption and money laundering mechanisms used by Gazprom and its affiliates in European countries;
- May lead to an escalation of military tension in the Baltic Sea and reduce NATO's freedom of action in the region, while increasing Russian intelligence capabilities in the Baltic Sea basin and restricting freedom of navigation;
- Contribute to effective co-financing by European companies of Russian hybrid and conventional warfare operational capabilities, which Russia is actively using against the EU;
- Imposes American sanctions on Russia and against European companies participating in the project, which negatively affects relations between the United States and the European Union in general;
- Contests the principles of the EU energy union, in particular the principles of the third energy package;
- It causes serious threats and challenges to the environment in the Baltic Sea region²⁷.

In addition, the construction of Nord Stream II will reduce the role of Poland as a transit country. It threatens Warsaw's plans to become a hub for alternative LNG supplies to the EU and threatens the construction of the Baltic Pipe²⁸. Poland is making every effort to stop the completion of the project. The Office of Competition and Consumer Protection (OCCP) demands that the completion of Nord Stream II be stopped. On October 6, 2020, the president of the Office of Competition and Consumer Protection imposed a fine of over PLN 29 billion on Gazprom and over PLN 234 million for the 5 remaining companies participating in the construction of the pipeline and ordered the parties to terminate the contracts concluded to finance Nord Stream II²⁹. The basis for calculating the fine was the completion of the antitrust proceedings on the compli-

²⁷ *Interpelacje, 11 lipca 2018 r. Pytanie wymagające odpowiedzi pisemnej P-003817-18 do Komisji art. 130 Regulaminu. Anna Elżbieta Fotyga (ECR)*, https://www.europarl.europa.eu/doceo/document/P-8-2018-003817_PL.html, accessed: 2011.2020.

²⁸ Russian gas from Nord Stream II is a formidable competition. However, another threat is also Germany's declaration to build two LNG terminals in the near term, which is also not in favor of the Polish side.

²⁹ M. Marszałkowski, *UOKiK nakłada 29 mld złotych kary na Gazprom za budowę Nord Stream II. Jest reakcja Rosji*, <https://biznesalert.pl/polska-uokik-gazprom-karand-stream-2-gaz-energetyka/>, accessed: 15.11.2020.

ance of the plans to establish a consortium responsible for the construction and operation of the Nord Stream II gas pipeline. The joint venture was established with the participation of five western companies and Gazprom without the required consent of the President of OCCP³⁰. The investigation showed that six companies had entered into a number of agreements to finance Nord Stream II despite their refusal to establish a joint venture³¹. The President of OCCP did not recognize any mitigating circumstances, as in his opinion the actions of six companies had a negative impact on competition on the natural gas market in Poland. The launch of Nord Stream II will jeopardize the continuity of natural gas supplies to Poland, and an increase in gas prices that will be charged to Polish consumers is also highly likely³².

Members of the European Parliament have repeatedly expressed their opinion on stopping the construction of Nord Stream II, stressing that the profits from the sale of energy resources to Europe finance Russia's aggressive foreign policy towards its neighbors³³.

US attitudes to the Nord Stream II

The USA is also speaking on the side of Central and Eastern European countries. One of the few things Congressional Democrats and Republicans agree on is that the Nord Stream II pipeline carries a potential threat to EU unity³⁴.

³⁰ *Nord Stream II - maksymalne kary Prezesa UOKiK*, https://www.uokik.gov.pl/aktualnosci.php?news_id=16814, accessed: 11.11.2020.

³¹ M. Marszałkowski, UOKiK...

³² *Ibidem*.

³³ M. Marszałkowski, *Europosłowie przeciwko budowie Nord Stream II*, <https://biznesalert.pl/europoslowie-budowa-nord-stream-2-list-europa-energia-zysk-polityka-energetyka/>, accessed: 22.11.2020.

³⁴ M. Gebauer, R. Nelles, R. Neukirch, R. Pfister, M. Pitzke, A. Sarovic, *Joe Biden Sets Out to Make America Great Again*, <https://www.spiegel.de/international/world/end->

Washington's main arguments are:

- the project does not meet the EU's goal of energy diversification,
- hinders the diversification of suppliers and delivery directions,
- adversely affects the energy security of Europe,
- it diminishes Ukraine's role as a transit state and deprives it of revenues from transit³⁵.

Support for the sanctions was not only bilateral. Against the construction of Nord Stream II was voiced by the geopolitically oriented Senate committees on foreign affairs and the armed forces, which indicates that the sanctions were not limited only to the intention to sell LNG to Germany instead of Russian gas, but were of geostrategic importance. The sanctions imposed on Nord Stream II favored the signing of a new gas transit agreement with Ukraine before the expiry of the previous one in early 2020³⁶. The Russian Federation initially announced that it did not intend to extend the contract, but the delay in the construction of Nord Stream II forced such a step. In addition, due to the fact that the fate of Nord Stream II is still not fully known, in October 2020, Russian Gazprom asked the Ukrainian Naftogaz for the reservation of new gas transmission capacities in Ukraine for an additional fee. Such an attitude of Gazprom may mean that the

[of-an-era-joe-biden-sets-out-to-make-america-great-again-a-56829f65-9989-4313-8cc3-624aeb49d8d0](https://www.whitehouse.gov/the-press-office/2020/10/29/201029-announcing-new-sanctions-against-russia), accessed: 29.11.2020.

³⁵ *Od czasów Reagana do Nord Stream II. Jak rosyjskie projekty dzieliły Europę*, <https://biznesalert.pl/od-czasow-reagana-do-nord-stream-2-jak-rosyjskie-projekty-dzielily-europe/>, accessed: 29.11.2020.

³⁶ Under the agreement, the Ukrainian gas pipeline system has been contracted for five years to transport gas to the EU on a swing or pay basis. Transit volumes are 65 bcm per year in 2020, and 40 bcm per year for the next four years. *Контракт про транзит газу: Кабмін опублікував текст протоколу зустрічі*, https://economy.24tv.ua/kontrakt_pro_tranzit_gazu_kabmin_opublikuvav_tekst_protokolu_zustrichi_n1252533, accessed: 29.11.2020.

company is afraid of problems with the launch of Nord Stream II³⁷.

Moreover, it is in the US interest to reduce Russia's role in the European gas market as this will allow it to export larger volumes of LNG and keep Germany and Europe from becoming overly dependent on Russian gas³⁸. The 2017 Act on Countering Russian Influence in Europe and Eurasia (CRIEEA, PL 115-44, Title II) says that the US policy is to "oppose the Nord Stream II gas pipeline, given its negative impact on the energy security of the European Union, development of the gas market in Central and Eastern Europe and energy reforms in Ukraine"³⁹. In December 2018, the House of Representatives passed H. Res. 1035, which calls for the liquidation of Nord Stream II and the imposition of sanctions on this project⁴⁰. The Protecting Europe's Energy Security Clarification Act, signed in 2019 by President Donald Trump, introduced possible penalties for companies for involvement in the construction of Nord Stream II. Such American actions resulted in the immediate withdrawal of the company All Seas Group SA, which was responsible for laying Nord Stream II pipes, from the project. In June 2020, two US senators from different political factions presented a bill that extends sanctions to the Russian Nord Stream II gas

pipeline. New sanctions would prevent ships from obtaining the insurance and technical certificates required to operate in Danish waters. This would limit the maneuver for Russians who are looking for an alternative after the withdrawal of All Seas. Russia sees an opportunity to solve the problem by using its own pipe-laying vessel Akademik Cherskiy. It is not yet clear if it will be able to complete the project. The ship is currently located in Mukran, Germany's key logistics port for Nord Stream II. According to the Berliner Zeitung report, work is underway to build a new pipe loading ramp⁴¹. In addition, the Russian barge Fortuna is anchored in Mukran, without which, according to the Russians, it is impossible to complete the pipe-laying process. A key provision of the newly proposed sanctions is an attack on the entities (so-called "classification societies") providing certification services for Nord Stream II, which may be even more effective than previously approved sanctions imposed on pipe-laying vessels. Russians may not be able to replace foreign classification societies as such certification should be carried out by an independent third party⁴².

Danish law requires companies building offshore infrastructure to use ships equipped with the DP system to avoid ammunition and chemical weapons left on the seabed after World War II. However, the Fortuna does not have a DP system and may pose a threat in the waters of the Baltic Sea⁴³. The new sanctions "may require Nord Stream II AG to

³⁷ Газпром замовив додаткові потужності для транзиту газу українською ГТС, <https://www.naftogaz.com/www/3/nakweb.nsf/0/4AEBFB1276965787C22585EA005A920E?OpenDocument&year=2020&month=09&nt=Новини>, accessed: 29.11.2020.

³⁸ М. Жолквер, *Нові санкції США проти "Північного потоку-2"*. Що кажуть у Берліні, <https://www.dw.com/uk/нові-санкції-сша-проти-північного-потуку-2-що-кажуть-у-берліні/a-53840688>, accessed: 29.11.2020.

³⁹ *Countering America's Adversaries Through Sanctions Act, Public Law 115-44-Aug. 2, 2017*, <https://www.govinfo.gov/content/pkg/PLAW-115publ44/pdf/PLAW-115publ44.pdf>

⁴⁰ H. Res. 1035. *In the House of Representatives, U.S., December 11, 2018*, <https://www.congress.gov/115/bills/hres1035/BILLS-115hres1035h.pdf>

⁴¹ D. Flatley, D. Khrennikova, U.S. *Targets Insurers In Latest Round of Nord Stream 2 Sanctions*, <https://www.bloombergquint.com/business/nord-stream-2-sanctions-to-be-included-in-u-s-defense-bill>, accessed: 29.11.2020.

⁴² J. Harper, *Danish nod gives Nord Stream 2 gas pipeline fresh traction*, <https://www.dw.com/en/danish-nod-gives-nord-stream-2-gas-pipeline-fresh-traction/a-54086532>, accessed: 29.11.2020.

⁴³ Ibidem.

find a certification agency that is ready to be sanctioned". The Joe Biden administration did not change the US attitude on Nord Stream II and the sanctions introduced by Donald Trump in 2019 are still in force⁴⁴. The Americans do not agree with the European Commission's thesis that the project cannot be stopped legally and they plan to extend the sanctions to cover all entities, including European companies, that support the Nord Stream II project. The US administration started a dialogue with German business, warning them of the negative consequences of the new restrictions⁴⁵.

In connection with the announcement of the introduction of additional restrictions on Nord Stream II, tensions on the Berlin-Washington line remain. German and Russian officials say the project will be completed. However, the costs of delaying the project are growing every day, and opinions about its future differ significantly. If the political lobby still gives the project a chance, the statements of entrepreneurs interested in the project are not so optimistic. In addition, organizations (companies, ports, officials, insurers) participating in Nord Stream II, fearing sanctions, may require Germany to guarantee a sanction or bankruptcy in connection with the suspension of Nord Stream II after its possible completion.

The Ukrainian attitude on Nord Stream II

Although Ukraine is not a member of the European Union, the construction of Nord Stream II directly affects its economic interests. If Nord Stream II is completed, approximately 80% of Rus-

sian gas will be delivered to Europe via one route to Western European markets. The consequences for Central and Eastern Europe will be opposite, it will have a negative impact on the countries of the region and will put Ukraine in an extremely difficult situation, exposing it to further Russian aggression, high political costs and an increase in military threats not only to Ukraine or Belarus, but also to the Baltic states⁴⁶.

For Ukraine, Nord Stream II is a serious threat both economically and geopolitically. Ukraine earns around USD 2-3 billion a year on transit, which is around 2% of its GDP. Eliminating Ukraine from the supply chain of Russian gas to Europe will not only reduce revenues to the Ukrainian budget, but will also provide the Russian Federation with much greater opportunities to expand the scale of military aggression. Theoretically, Ukraine and the European Union could make Nord Stream II a bargaining chip. The European Union could impose a number of requirements that would be necessary for the launch of Nord Stream II, including not only the aforementioned adaptation of the pipeline to EU law, but also the de-occupation of Crimea and the withdrawal of Russian troops from the Donbas as a condition for launching Nord Stream. The current political situation in Ukraine adversely affects the international authority of Ukraine and causes that it is not perceived in the international arena as a reliable partner.

The importance of Ukraine for the EU in the near future (after A. Merkel's era) will depend on the effectiveness of reforms, but also on the quality of energy cooperation. A key factor in maintaining the significant role of Ukraine on the Euro-

⁴⁴ B. Grabowska, *Co dalej z Nord Stream II?*, <https://warsawinstitute.org/pl/co-dalej-z-nord-stream-2/>, accessed: 29.11.2020.

⁴⁵ W. Jakóbiak, *Razem przeciwko Nord Stream II źle, osobno jeszcze gorzej*, <https://biznesalert.pl/nord-stream-2-polityka-unia-europejska-usa-niemcy-rosja-sankcje-energetyka-gaz/>, accessed: 29.11.2020.

⁴⁶ *Judy Asks: Should Germany Dump Nord Stream II? Can it?*, <https://carnegieeurope.eu/strategieurope/76597>, accessed: 29.11.2020.

pean gas market will be the maintenance of physical gas transmission from Russia via Ukraine to the EU⁴⁷. The launch of Nord Stream II and the end of A. Merkel's rule threatens to destabilize the political situation in Ukraine, moreover, it threatens the national security of the state and may even contribute to Russia's aggression on the southern regions of Ukraine in order to gain access to the North Crimean Canal. The successful completion of Nord Stream II will marginalize Ukraine's importance for the EU.

The Russian interest on the Nord Stream II

For Russia, the Nord Stream gas pipeline system represents not only an economic but also a geopolitical interest. The completion of this investment will allow Russia to maintain its influence in Central and Eastern Europe and increase its revenues from the sale of natural gas. In addition, the Russian Federation will obtain new tools of blackmail and pressure on Ukraine and Belarus to prevent their rapprochement with the EU and NATO. The recent events in Belarus do not fill Russians with optimism and undermine the credibility of Belarus as a reliable partner and justify the need to build gas infrastructure, ignoring Ukraine and Belarus⁴⁸. Currently, Russia's dependence on gas transit through Ukraine and Belarus is a significant limitation of Moscow's ability to subjugate these countries⁴⁹. Completion of Nord Stream II and Turk Stream would completely change

the strategy of Russian gas supplies to Europe and would allow Russia to abandon the Soviet-era transmission system running through Belarus and Ukraine⁵⁰. By launching Nord Stream II, Russia will effectively monopolize gas supplies to the EU from the east and increase its economic and political influence over the European Union. Under the pretext of protecting the security of Nord Stream I and II, Moscow will strengthen its military presence in the Baltic region – one of the main centers where Russia and NATO interests meet. Moreover, the different attitude of European countries to the Nord Stream II project only deepens the differences within NATO and the EU and undermines the unity of their opinions towards Russia, which effectively plays in favor of the Kremlin⁵¹.

Can Germany stop construction of the Nord Stream II?

Germany can to stop the construction of Nord Stream II on the following ways:

1. Withdraw the permits to operate the pipeline. The construction permits for Nord Stream II were issued by two institutions – the Stralsund Regional Mining Authority – which approved work plans in German territorial waters along the continental shelf, and the Federal Maritime and Hydrographic Agency, which issued permits to extend the waters of Germany's exclusive economic zone. Withdrawal of the permits in both cases would make it possible to file a lawsuit against Germany under the Energy Charter Treaty, which protects the investment in question from discrimination. Compensation as a result of such legal

⁴⁷ A. Łoskot-Strachota, *Wiecej Unii, mniej Rosji. Transformacja zasad przesyłu gazu w Europie Środkowej i Południowo-Wschodniej*, https://www.osw.waw.pl/sites/default/files/komentarze_354.pdf, accessed: 22.11.2020.

⁴⁸ T. O'Donnell, *Nord Stream II: Berlin-Washington Mutual Intransigence Shows Transatlantic Divide on Russia*, https://www.aicgs.org/2020/10/nord-stream-2-berlin-washington-mutual-intransigence-shows-transatlantic-divide-on-russia/#_edn9, accessed: 22.11.2020.

⁴⁹ Ibidem.

⁵⁰ Ibidem.

⁵¹ "Nord Stream II" Project, http://bintel.com.ua/en/article/blog09_18_2/, accessed: 06.10.2020.

- proceedings can even amount to the cost of the pipeline itself: around 9,5 billion euros⁵².
2. Oversee the Nord Stream II case in court due to environmental NGO lawsuits. Environmental NGOs can challenge issued Nord Stream II building permits in court. Environmental organizations say environmental impact assessments for permitting permits should take into account new scientific findings showing that methane spills contributing to global warming are much greater than previously thought. According to the Greens, the construction of Nord Stream II should be suspended until the completion of the review⁵³.
 3. To issue a domestic restriction on imports of Russian gas. The German Law on Foreign Trade and Payments allows restrictions on foreign trade "in order to guarantee the essential security interests of the Federal Republic of Germany or to prevent disturbance of the peaceful coexistence of nations"⁵⁴. This could be used on the Nord Stream II pipeline as well as on the already operational Nord Stream I. At national level, a German court could lift such a ban on insufficient justification or if the measures were deemed to constitute a disproportionately severe response. It is also unclear at EU level whether Germany can stop gas flows to Europe on its own, or whether such restrictive measures are reserved exclusively to the EU under Art. 215 of the Treaty on the Functioning of the European Union⁵⁵.
 4. Allow US sanctions to halt the construction of Nord Stream II. There is no specific risk to Germany if it simply does not fight the US sanctions already in place.
 5. Insist on sanctions at EU level. This is the unlikely and most dangerous option. The European Council would have to vote unanimously to introduce sanctions. Germany's pro-pipeline position has so far been seen as the main drag. However, if Berlin changed its mind and other EU members whose companies are involved in the project followed suit, the project could be blocked. The sanctions at EU level would also need to be sufficiently substantiated by evidence to be considered a proportionate response and avoid being rejected by the EU courts.
 6. Refuse the final permit to operate the gas pipeline due to non-compliance with the requirements. Even if Germany or the EU do not take further action to stop Nord Stream II, there will still be many challenges in obtaining an operating license. If the Russians manage to complete the construction, they will be forced to find a company that is ready to withstand US sanctions in order to conduct a final inspection. Gazprom also needs to comply with the EU's second revised gas directive and separate gas sales from pipeline operation. The European Commission has already warned Gazprom against taking steps that would be seen as technical workarounds, such as transferring ownership of the pipeline to a Gazprom subsidiary⁵⁶.

⁵² *6 ways Germany could kill the Nord Stream II pipeline*, <https://www.politico.eu/article/6-ways-germany-could-kill-the-nord-stream-2-pipeline/>, accessed: 22.11.2020.

⁵³ *Ibidem*.

⁵⁴ *Foreign Trade and Payments Act. (Außenwirtschaftsgesetz – AWG) of 6 June 2013*, https://www.gesetze-im-internet.de/englisch_awg/englisch_awg.html, accessed: 22.11.2020.

⁵⁵ *The Treaty On The Functioning Of The European Union*, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF>

⁵⁶ *6 ways Germany could kill the Nord Stream 2 pipeline*, <https://www.politico.eu/article/6-ways-germany-could-kill-the-nord-stream-2-pipeline/>

But all these steps can be very unpopular and bring negative consequences. Parliamentary elections are approaching in Germany and the decision to withdraw from Nord Stream II may cause an internal political crisis. Moreover, Germany is aware that Russia can use energy as an instrument to support its own financial and political interests, and may interfere in the course of the election campaign in Germany in 2021⁵⁷. In 2018, Chancellor Merkel announced that she would end her career with the general election in autumn 2021⁵⁸. Merkel's announcement that she was leaving politics heralded the end of an entire era and weakened Germany's role to some extent. If the issue of Nord Stream II is not resolved by September 2021, the new German chancellor will have a difficult task – to oppose the energy war with Moscow, or to watch Moscow finally tighten Europe in a gas clamp and thus significantly weaken it⁵⁹.

Conclusions

Europe imports gas not only from Russia, but in order to ensure an appropriate level of competition on individual domestic markets, a properly developed transmission infrastructure (gas pipelines, compressor stations, interconnectors) is needed, which will connect with various suppliers. Its expansion and maintenance require significant investments. The emergence of huge volumes of Russian gas in the EU will stop the diversifi-

cation works as Russia will use dumping prices, discouraging individual countries from incurring large costs related to the construction of gas infrastructure⁶⁰.

Blocking Nord Stream II will change the geopolitical balance of power in Europe, strengthen competition on the gas market and introduce new players to the market. Both external and internal competition will take place on the European gas market, which will favor the development of the gas market. Competition on domestic gas markets will increase in the context of LNG supplies, not only Western European countries will compete, but also Central and Eastern Europe. Poland (Świnoujście terminal), Lithuania (a floating terminal in Klaipėda) and Croatia (the emerging terminal on the island of Krk) will increase their import capacity⁶¹. Ukraine and Germany could become a gas hub. At the same time, the role of Germany would then not be dominant as before⁶².

The geographic location of the countries of Central and Eastern Europe differs from Western or Southern Europe, which prevents the expansion of individual elements of energy infrastructure (for example LNG terminals). The high demand for gas from a single supplier makes the countries of Central and Eastern Europe dependent on Russian supplies. The construction of Nord Stream II will only deepen this dependence. Regardless of the western or eastern side of the gas supply to Central and Eastern Europe, it will be Russian gas. Transmission routes through Ukraine and Belarus are a shorter and a cheaper option.

kill-the-nord-stream-2-pipeline/, accessed: 22.11.2020.

⁵⁷ Kamil Frymark, Polityczna jesień w Niemczech. SPD przechodzi do ofensywy, <https://www.forbes.pl/opinie/wybory-parlamentarne-w-niemczech-2021-kto-zastapi-merkel/94hsjyr>, accessed: 22.11.2020.

⁵⁸ C. Strack, *Piąta kadencja Merkel? „Ona już podjęła decyzję”*, <https://www.dw.com/pl/piąta-kadencja-merkel-ona-już-podjęła-decyzję/a-53455665>, accessed: 22.11.2020.

⁵⁹ I. Paliy, *And again about Nord Stream 2: how Russia lobbies its gas interests in Europe*, https://petrimazepa.com/uk/i-znovu-pro-pivnichniy-potik_2_yak-rosiya-lobiyue-svoi-gazovi-interesi_v-evropi, accessed: 22.11.2020.

⁶⁰ *Dlaczego niby Polska ma protestować przeciwko Nord Stream II?*, <https://www.energetyka24.com/dlaczego-niby-polska-ma-protestowac-przeciwko-nord-stream-2>, accessed: 22.11.2020.

⁶¹ Ibidem.

⁶² Д. Науменко, *Війна за транзит: як зменшити небезпеку „Північного потоку-II”*, <https://www.eurointegration.com.ua/experts/2019/05/7/7095697/>, accessed: 22.11.2020.

The blocking of Nord Stream II offers a chance to reduce dependence on Russian gas supplies and gives a chance for new smaller players to appear on the European gas market, thus increasing their own energy security and reducing Russian gas monopoly in Central and Eastern Europe. The final blockade will guarantee peace and security in the region and will minimize tensions between EU member-states.

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