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## THE CLASH FOR THE NORD STREAM 2. 5 MYTHS ABOUT RUSSIA'S STRUGGLING WITH THE PROJECT REVEALED

### **Abstract:**

*The basis of the article is an analysis of the economic viability of the Nord Stream 2 (NS2) investment in the long term and at the same time verification of the beliefs that have arisen around the implementation of this project. Opinions that NS2 is a strictly political project, too costly; and on top of that knowing efforts of European countries to systematically reduce the consumption of hydrocarbons; not needed – are quite widespread. Further obstacles to the NS2 project seem to reinforce this view. Meanwhile, the analysis of the details of the entire situation and the practice of the functioning of international legal rules shows that the Russian side has more arguments, greater determination and, in the long term, much greater benefits from the implementation of the project. During the research and further analyses, five statements-myths were revealed and refuted. These myths concern the excessive capacity of the new gas pipeline, the impact of the new gas directive on Gazprom's monopoly practices, the reaction of Western countries participating in the project, the possibility of forcing Russia to maintain gas transit through Ukraine, and last but not least, the European Union's (EU) negotiating position towards Russia regarding gas imports. The study of the source texts also revealed two unexpected arguments in the form of NS2 being an element supporting the fight to reduce emissions in Europe, and as a barrier against the EU's growing dependence on gas imports from the United States. Thus, in the current clash of supporters and opponents of the NS2 project, Russia seems to be winning 5-0. Therefore, the final part contains conclusions for the future for EU countries, including Poland.*

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**Introduction**

The Russian project to build the Nord Stream 2 gas pipeline might have, in the opinion of its authors, seemed like an ideal plan. After the rapid implementation and commissioning of the Nord Stream 1 project and bypassing the European Union's regulations on the liberalization of the energy market, NS2 was to be implemented in the same way and thus double the gas transmission capacity from Russia to Germany, omitting transit countries. This, in turn, would provide several benefits that go far beyond the financial aspects. In addition to the 2,000 km shorter and cheaper road to Europe, Russia would gain new cards in the 'gas game'.

First of all, it could partially or even eliminate the need for transit through Poland and Ukraine, and this would worsen the already poor negotiating position of these countries as regards the supply of Russian gas. Losing the status of transit countries, Poland and Ukraine would only become end-users, with little impact on the prices of the raw material supplied to them. This threat could be used both for occasional pressure on a given country, under the threat of reducing transit, and for punishing a rebellious country with complete elimination of transit. The whole project would increase Russia's dominance on the European energy market, giving this country a privileged position about domestic entities obliged to apply the rules and practices of the liberalized energy sector.

Meanwhile, the NS2 aroused a lot of controversy from the very beginning. From the moment the project was announced; shortly after the annexation of Crimea and the imposition of international sanctions on Russia; through the momentum with which it was planned; followed by the route, which also interfered with the natural environment of the Baltic Sea; opposition from some EU Member States and lengthy court disputes, and finally followed by the threat of destabilization of the European energy market.

This time, however, the European Union was not surprised. The tedious preparations for the adoption of the new gas directive began, and further difficulties started to accumulate before NS2. The project, the implementation of which, technically speaking, could take less than 2 years, was still not completed 6 years after its announcement. During this time, not only did the costs of carrying out the investment go up but also the directions of economic development of the entire EU were corrected. Climate policy and a low-emission (ultimately zero-emission) economy have become important priorities

in planning the economic development of the EU, which had consequences also for gas imports to Europe.

From the latter perspective, the project seemed not only too big and too expensive but also anachronistic, out of step with the times. Russia has previously missed two important changes in the area of gas extraction and distribution, namely the shale revolution and the possibility of transporting gas in liquefied form as LNG. As a result, she suffered huge losses. All the more, the opinion that NS2 is another example of acting not only late but also against the surrounding reality, was gaining in importance.

Given the above controversy, five key hypotheses formulated by opponents of NS2 were analyzed. These are; gas pipeline capacity in the context of forecasts of declining gas demand in Europe until 2050; the functioning of the new gas directive aimed at controlling the use of NS2 infrastructure; the acting of Western European countries as investment shareholders; the possibility of influencing Russia by the EU and the United States in terms of maintaining gas transit through Ukraine; and finally, the operation of the principle of energy solidarity and European strategic autonomy in practice. This article presents the verification results which seem to confirm the arguments of the Russian side. Moreover, with the passage of time and the progress of the implementation of the NS2 project, Russia's position grows systematically.

### **Myth #1. Nord Stream 2 is too big and far too expensive for the investment to be considered profitable from an economic point of view**

Nord Stream 2 is a twin project to the Nord Stream two-pipe northern gas pipeline constructed in 2010-2012. The route of both projects is also very similar, except for the starting point – for the prototype, it is the port of Vyborg, and for NS2 it is the port of Ust-Luga (see Map 1). To fully assess the momentum of the NS2 investment, it is necessary to look at the cumulative parameters of both projects. The existing northern gas pipeline is approx. 1 222 km long and it is also the longest sea gas pipeline in the world. The capacity of both lines is 55 billion cubic meters (bcm), which places this pipeline among the largest facilities of this type. Meanwhile, two more lines, which are the subject of the NS2 project, will double this capacity to a record 110 bcm after commissioning<sup>2</sup>. Taking into account the fact that all-natural gas exports from Russia to Europe in 2019 amounted to approximately 180 bcm<sup>3</sup>, it

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<sup>2</sup> A. Akbari, T. H. Moazen, *Nord Stream 2 and the strategic balance of power*, “Petroleum Business Review”, 2019, <[https://pbr.put.ac.ir/article\\_115496\\_d0c4aba2a1d94454167419297296b0f9.pdf](https://pbr.put.ac.ir/article_115496_d0c4aba2a1d94454167419297296b0f9.pdf)> (30.06.2021).

<sup>3</sup> See: *PJSC Gazprom Annual Report 2019*, p. 18, <<https://www.gazprom.com/f/posts/72/802627/gazprom-annual-report-2019-en.pdf>> (30.06.2021).

can be assessed that this investment is strategic, and may in the future be the main source of natural gas transport from Russia to Europe. On the other hand, several questions can also be asked about the economic viability of the project, especially in the context of increasing implementation costs and the extended period of return on investment.

*Map 1. Nord Stream and Nord Stream 2 routes.*



Source: *PJSC Gazprom Annual Report 2017*,  
 <<https://www.gazprom.com/f/posts/60/709300/gazprom-annual-report-2017-eng.pdf>>  
 (30.06.2021).

While the first Nord Stream project, the sea part of which was initially estimated at EUR 7.4 billion, was finally implemented for a higher amount of EUR 8.8 billion, with no delays in implementation<sup>4</sup>, the situation in the case of NS2 is different. While still at the planning stage, the cost of the offshore part of the NS2 project was estimated at EUR 9.5 billion. Gazprom became the main shareholder with a 50% stake. The missing half was provided equally by the following entities in the form of preferential loans: German Uniper (10%) and Wintershall (10%), British Royal Dutch Shell (10%), Austrian OMV (10%)

<sup>4</sup> *PJSC Gazprom Annual Report 2011*, p. 11, <<https://www.gazprom.com/f/posts/60/591327/annual-report-2011-eng.pdf>> (30.06.2021).

and French Engie (10%)<sup>5</sup>. In addition, the project also includes the construction of onshore gas pipelines: in Russia, supplying gas from West Siberia to the port in Ust-Luga, and in Germany, transporting gas further to the hub in the Austrian Baumgarten. Their cost was estimated at approx. EUR 6 billion<sup>6</sup>. The NS2 project without the onshore part does not exist as being the middle part of a larger project it would lead “from nowhere to nowhere”<sup>7</sup>. Therefore, when speaking precisely about the costs of the entire project, which is the mapping of a new route for the transport of Russian gas to Europe, it is worth bearing in mind the total costs of the individual sections.

Let's go back to the sea part of NS2, estimated at EUR 9,5 billion, though. The designers of the 3rd and 4th strand of the northern gas pipeline probably did not take into account the avalanche of obstacles that flooded the project presented and signed by shareholders in 2015. Russia's negative perception in Europe after the annexation of Crimea; American sanctions imposed, inter alia, on the Russian energy sector<sup>8</sup>; court battles of countries opposing the project (including Poland); the poisoning of Alexei Navalny<sup>9</sup> as well as changes in the route of NS2, in connection with the Danish-Polish agreement on the

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<sup>5</sup> A. Goldthau, *Assessing Nord Stream 2: regulation, geopolitics & energy security in the EU, Central Eastern Europe & the UK*, European Centre for Energy and Resource Security, 2016, p.7 <<https://www.asktheeu.org/en/request/7115/response/23365/attach/2/Goldthau%20July%202016.pdf>> (30.06.2021)

<sup>6</sup> In 2018, information appeared that the Russian part of the gas pipelines supplying NS2 alone will cost, according to information from Gazprom, approx. EUR 22 billion. See: A. Kublik, *Gazprom ujawnił astronomiczne koszty lądowej części Nord Streamu 2*, <<https://wyborcza.biz/biznes/7,177151,22904222,gazprom-ujawnil-astronomiczne-koszty-ladowej-czesci-nord-stream.html?disableRedirects=true>> (30.06.2021)

<sup>7</sup> P. Przybyło, *The real financial costs of Nord Stream 2 – economic sensitivity analysis of the alternatives to the offshore pipeline*, Warsaw 2019, p. 6, <[https://pulaski.pl/wp-content/uploads/2019/05/Raport\\_NordStream\\_TS-1.pdf](https://pulaski.pl/wp-content/uploads/2019/05/Raport_NordStream_TS-1.pdf)> (30.06.2021).

<sup>8</sup> After the annexation of Crimea, the United States was systematically imposing sanctions on Russia and the Russian energy sector. PEESA sanctions on the NS2 project were imposed in 2020, which resulted in several contractors withdrawing from the NS2 construction project. A year later, in January 2021, Congress voted to extend the PEESCA sanctions, but the Joe Biden administration, more open to improving relations, withdrew in May 2021 from imposing new sanctions, deeming them counterproductive. See: R. Formuszewicz, Sz. Kardaś, A. Łoskot-Strachota, *The dispute over Nord Stream 2: the stances and the outlook*, <<https://www.osw.waw.pl/en/publikacje/osw-commentary/2021-03-10/dispute-over-nord-stream-2-stances-and-outlook>> (30.06.2021).

<sup>9</sup> The poisoning of Alexei Navalny for some time stiffened Germany's position towards the Russian investment partner. However, measures were aimed at a temporary moratorium on the completion of construction or certification of the pipelines rather than the abandonment of the project. At the same time, these would be multilateral arrangements with the participation of the EU or the United States and not an independent decision of Germany. See: R. Formuszewicz, Sz. Kardaś, A. Łoskot-Strachota, *op. cit.*

delimitation of the sea border from 2018<sup>10</sup>; pandemic situation and temporary suspension of the project triggered by waiting for additional environmental analyses<sup>11</sup> – they were all supposed to completely torpedo the project, however, failed. Nevertheless, they prevented the project from being completed on time, i.e. by the end of 2019<sup>12</sup>. This date was of key importance not only due to the economic account but also due to the ending of the gas transit contract with Ukraine. This thread will be described in more detail later in the paper (see myth #4).

At the time of this publication, the project was still incomplete. Indeed, the pipes of thread number 3 were fully laid in June, but they were not welded<sup>13</sup>. It is estimated that 95-98% of the project was implemented<sup>14</sup>. Such a long delay in the implementation of the project probably had to significantly increase its costs, and perhaps even question the viability of its continuation. Meanwhile, analyst Artem Tuzov, executive director of the capital market department at Univer Capital, estimated that the costs of building the gas pipeline increased by approx. EUR 1.7 billion<sup>15</sup> which, considering the scale of difficulties encountered by the project, is a relatively low amount.

The construction phase of NS2 is a foregone conclusion, but a new battle is looming on the horizon - the certification process, without which the gas pipeline will not be able to start. Experts estimate that this process may take several months or even years before the rules for using the gas pipeline are brought into line with EU law. This is another big risk for this investment. And finally, it is worth adding two types of costs, which also make up the project: physical preparation of the Baltic seabed for pipe laying, thus removing World

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<sup>10</sup> See: A. Łoskot-Strachota, *Dania opóźnia budowę Nord Stream 2*, <<https://www.osw.waw.pl/pl/publikacje/analizy/2019-03-29/dania-opoznia-budowe-nord-stream-2>> (30.06.2021).

<sup>11</sup> Denmark has been delaying approval for the construction of Nord Stream 2 in its territorial waters since 2017, and the final decision was made in December 2019. See: M. Marszałkowski, *Duńska komisja odwoławcza odrzuciła apelację ws. trasy Nord Stream 2*, <<https://biznesalert.pl/dania-odwolanie-apelacja-nord-stream-2-gaz-energetyka/>> (30.06.2021).

<sup>12</sup> *PJSC Gazprom Annual Report 2017*, p. 52, <<https://www.gazprom.com/f/posts/60/709300/gazprom-annual-report-2017-eng.pdf>> (30.06.2021).

<sup>13</sup> On June 4, 2021, Russian President Vladimir Putin announced the completion of the construction of the third NS2 branch and readiness to fill it with gas. This shows the determination of the Russian side to complete the project. See: *Putin soobshhil o zavershenii prokladki trub pervoj niti "Severnogo potoka – 2"*, <<https://ria.ru/20210604/truby-1735629676.html>> (30.06.2021).

<sup>14</sup> J. Wiech, *USA nakładają nowe sankcje na Nord Stream 2, ale rezygnują z kluczowego uderzenia*, <<https://www.energetyka24.com/usa-nakladaja-nowe-sankcje-na-nord-stream-2-ale-rezygnuja-z-kluczowego-uderzenia>> (30.06.2021).

<sup>15</sup> See D. Czyżewski, *Przez opóźnienie, koszt budowy Nord Stream 2 ogromnie wzrósł. W grę wchodzi miliardy*, <<https://www.energetyka24.com/przez-opoznienie-koszt-budowy-nord-stream-2-ogromnie-wzroslo-w-gre-wchodza-miliardy>> (30.06.2021).

War II missiles, dumped chemicals, chemical ammunition and other items accumulated there in the past decades; and also higher costs of decommissioning the NS2 gas pipeline in the future than in the case of onshore gas pipelines<sup>16</sup>.

An important element of the NS2 project profitability assessment is the payback period and forecasts of natural gas demand in Europe for the next decades. And the latter show a downward trend. While in 2018 the International Energy Agency (IEA) estimated Europe's demand for natural gas in 2040 at 592 bcm, in 2019 these estimates were changed to 557 bcm, and a year later they were reduced by another 21 bcm to the level of 536 bcm. If only the EU countries are included in these forecasts, the demand for gas in 2040 will be only 329 bcm. This is related to the energy transformation of economies and the increasingly ambitious goals of the EU in the field of low-carbon emissions and the use of renewable energy sources (RES). At the same time, IEA experts estimate that the potential increase in energy demand in the EU, caused by the decline in the use of coal and nuclear energy, will be covered by RES rather than by natural gas. Demand forecasts are therefore not overly optimistic, already in 2030 the demand for gas in the EU will be 8% lower than in 2019<sup>17</sup>.

However, this does not discourage supporters of gas imports to Europe, as, according to EIA forecasts, own production of natural gas in the European Union will decline even faster. From the level of around 120 bcm in 2019, it is expected to drop to only 40 bcm in 2040. Already in 2030, the EU will be 90% dependent on gas imports. If we take into account the whole of Europe (including Norway), then the production forecast for 2040 increases to 90 bcm. Nevertheless, such a value can be achieved assuming further intensive investments in extraction, otherwise, there may be a decrease in production by as much as 250 bcm, i.e. by 90%<sup>18</sup>.

The European Union adjusts its goals on an ongoing basis following the adopted European Green Deal<sup>19</sup> and the implemented climate policy. Both the liquefied gas (LNG) and renewable energy infrastructure are under development. And two decades is a long period, so further adjustments to the long-term forecasts of natural gas production and consumption in the EU can be expected.

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<sup>16</sup> P. Przybyło, *op. cit.*, p. 14.

<sup>17</sup> S. Elliott, *IEA slashes 2040 European gas demand forecast by further 21 Bcm*, <<https://www.spglobal.com/platts/en/market-insights/latest-news/natural-gas/101320-iea-slashes-2040-european-gas-demand-forecast-by-further-21-bcm>> (30.06.2021).

<sup>18</sup> S. Elliott, *IEA cuts 2040 EU gas demand forecast by further 22 Bcm*, <<https://www.spglobal.com/platts/en/market-insights/latest-news/natural-gas/111319-iea-cuts-2040-eu-gas-demand-forecast-by-further-22-bcm>> (30.06.2021).

<sup>19</sup> *The European Green Deal*, <[https://ec.europa.eu/info/sites/default/files/european-green-deal-communication\\_en.pdf](https://ec.europa.eu/info/sites/default/files/european-green-deal-communication_en.pdf)> (30.06.2021).

Taking into account the overall investment costs of NS2, the existence of alternative onshore gas pipelines through which gas can be transported from Russia to Germany, and the forecasts for declining demand for natural gas in European Union countries – the view that the construction of NS2 is a very risky project, much too large and much too expensive quickly gained a dominant position among experts. Meanwhile, the Russian side does not seem to share this position, having its perspective.

The Russian strategy of gas exports to Europe is largely based on the Falin-Kwiciński doctrine, which assumes pressure in the area of energy in the countries of Central and Eastern Europe, instead of a military presence<sup>20</sup>. For decades, secret, bilateral gas contracts, with different levels of gas prices, depending on the country's better or worse political relations with the Kremlin were used. This made it possible to effectively isolate or even antagonize individual countries against each other.

Under the conditions of the functioning of the principle of energy solidarity, Russia has not changed its strategy too much and is also 'successful' in 'playing' European countries. The NS2 project itself shows the divergent attitude of individual EU members: from enthusiasm and high openness to cooperation with Russia, i.e. in the case of Germany, Austria, but also France, through neutral countries, e.g. Denmark, to countries strongly warning against excessive dependence on Russian suppliers that lose economically on the NS2 project, such as Poland, Lithuania or the Baltic States. Ukraine is at the end of this scale, which has been in open conflict with Russia since the annexation of Crimea and the war in Donbas. Russia does not seem to fully believe in the effectiveness of the European principle of energy solidarity, because practice clearly shows that the economic or political interest of a given country or group of countries has an advantage over it. This capital cannot be overestimated for Russia, allowing it to continue a rather effective strategy and reap benefits, mainly political, which often gain an advantage over economic aspects in the actions of this country. Thus, even the increased costs of the project do not necessarily cancel it from the Russian perspective. As long as NS2 allows maintaining or even increasing political influence, it can be still seen as a profitable project.

The same applies to declarations on reducing the demand for energy resources and transitioning to a zero-emission economy or achieving climate neutrality by 2050 – as stated in the European Green Deal<sup>21</sup>. As long as individual member states themselves question these assumptions, as did

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<sup>20</sup> M. Zaniewicz, *Nowa geopolityka gazociągów w Europie Środkowo-Wschodniej*, <<https://warsawinstitute.org/pl/nowa-geopolityka-gazociagow-w-europie-srodkowo-wschodniej-2/>>, (30.06.2021).

<sup>21</sup> *The European Green Deal*, *op. cit.*

Hungary and Poland<sup>22</sup> until recently, the Russian side may continue its strategy of increasing natural gas exports to Europe. The Russian authorities find it easier to depreciate the importance of the EU's environmental declarations, as Russia itself is not very actively involved in reducing global emissions. Green technologies were treated in this country as a threat to the strategy of extensive hydrocarbon exploitation since the 1990s. The timeliness of this approach is confirmed by the provisions of the National Economic Security Strategy of 2017<sup>23</sup>. Natural gas is more environmentally friendly than crude oil, so even in the era of transformation of economies towards ecological neutrality, the Russian belief that there is a high demand for gas in Europe seems to be unwavering.

And finally, the most progressive scenario, which assumes an effective limitation of both natural gas consumption in Europe and the potential influence of Russia. It turns out that the existing NS2 infrastructure, even if it is not fully used for gas transmission, does not have to be wasted. It can be used to pump other raw materials, i.e. hydrogen, which is emerging as a very promising instrument for the decarbonisation of various areas of the economy. Cooperation in the field of hydrogen import, especially green hydrogen, is a new potential source of extensive cooperation between Germany and Russia. Dialogue in this regard was strongly intensified by both countries in 2020<sup>24</sup>. Russian hydrogen exports to Europe will likely become as strategic as gas exports.

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<sup>22</sup> Until 2020, the leaders of both countries spoke out in opposition to the European Green Deal, emphasizing nuclear energy (Hungary) and coal (Poland), and blocking in June 2019, together with the Czech Republic and Estonia, the provision on achieving climate neutrality in the EU by 2050 in the document summarizing the European Climate Summit. Currently, the position of these countries is evolving towards support and cooperation within the EGD. See: T. Bielecki, *Polska zablokowała ugodę UE w sprawie klimatu*, <<https://www.dw.com/pl/polska-zablokowa%C5%82a-ugod%C4%99-ue-w-sprawie-klimatu/a-49289822>> (30.06.2021); D. Hejj, *Héjj: Polak, Węgier – dwa bratanki. Czy do neutralności klimatycznej?*, <<https://biznesalert.pl/polska-wegry-neutralnosc-klimatyczna-energetyka-klimat-srodowisko/>> (30.06.2021); M. Mikowski, M. Zdziera, M. Rudy, *Duda: Gospodarka energetyczna Polski oparta na węglu wymaga głębokiego przekształcenia*, <<https://www.bankier.pl/wiadomosc/Duda-Gospodarka-energetyczna-Polski-oparta-na-weglu-wymaga-glebokiego-przekształcenia-8104949.html>> (30.06.2021)

<sup>23</sup> S. Karaganov, *Turning to Nature: Russia's New Environmental Policy in "Green" Transformation of the Global Economy and Politics*, National Research University – Higher School Of Economics, 2021, p. 13, <[https://eng.globalaffairs.ru/wp-content/uploads/2021/04/report\\_turning-to-nature.pdf](https://eng.globalaffairs.ru/wp-content/uploads/2021/04/report_turning-to-nature.pdf)> (30.06.2021).

<sup>24</sup> Sz. Kardaś, M. Kędzierski, *A hydrogen alliance? The potential for German-Russian cooperation in hydrogen energy*, <<https://www.osw.waw.pl/en/publikacje/osw-commentary/2021-03-03/a-hydrogen-alliance-potential-german-russian-cooperation>> (30.06.2021).

The three arguments on the Russian side cited above, and especially the last one, showing the great perspective of the NS2 project, seem to refute myth 1, which undermines its economic rationality.

### **Myth #2. The new 2019 gas directive of the European Parliament and the Council (EU) is an effective tool to counteract NS2 monopolization**

The second myth revealed in the course of the conducted research is the belief that EU law, and especially the new gas directive of 2019<sup>25</sup>, will be able to protect the European market from monopolizing NS2 in the hands of Russia. This project is a kind of test to what extent the liberalization of the energy market in the EU has been successfully implemented.

The basis for the liberalization of the energy market and, at the same time, the energy security of the EU countries is the Third Energy Package (TPE) adopted in 2009, which entered into force in 2011<sup>26</sup>. One of the main provisions of TPE was the separation of the producer and operator roles and the introduction of specific implementation tools for the single energy market - the so-called network codes. This practice gave rise to numerous legislative acts, including ordinances, which precisely regulated individual aspects of not only the energy market but also the gas market, including the procedure for reporting infrastructure investments<sup>27</sup>. Thus, the liberalization of the energy market in the EU is slowly becoming a fact both in theory and in practice.

Nevertheless, even the extensive EU regulations were not able to adequately address the investments of non-EU countries, such as Russia. Although the Nord Stream 1 gas pipeline built before the introduction of the regulations is fully used by Gazprom, this does not apply to its onshore branch – the OPAL gas pipeline, running through Germany. The European Commission originally agreed in 2016 to apply an exemption to Gazprom, however, following a complaint by Poland and two more judgments: the General Court of the European Union on May 20, 2020<sup>28</sup>, and the Court of

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<sup>25</sup> *Directive (EU) 2019/692 of the European Parliament and of the Council of 17 April 2019*, <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0692>> (30.06.2021).

<sup>26</sup> A. Kułaga, *Bezpieczeństwo gazowe Polski w kontekście polityki bezpieczeństwa energetycznego Unii Europejskiej*, p. 126, <<https://depotuw.ceon.pl/bitstream/handle/item/3299/2100-DR-NOB-176177.pdf?sequence=1>> (30.06.2021).

<sup>27</sup> *Ibidem*, pp. 126-130.

<sup>28</sup> *General Court of the European Union, Press Release No 62/20*, Luxembourg, 20 May 2020, <<https://curia.europa.eu/jcms/upload/docs/application/pdf/2020-05/cp200062en.pdf>> (30.06.2021).

Justice of the European Union (CJEU) in July 2021<sup>29</sup>. Gazprom can only use 50% of the capacity at the Brandov point, i.e. 12,5 bcm. Gas transmission through the OPAL gas pipeline was already reduced by 50% in 2020. Surplus gas pumped by Nord Stream 1 was redirected to the EUGAL gas pipeline, the inland extension of NS2 on German territory<sup>30</sup>. So when the NS2 project appeared in 2015, in November 2017 the European Commission proposed the preparation of a new gas directive that would protect the interests of the European side in the use of gas pipelines of third countries not only on land but also in territorial waters of the EU (including the case of Germany)<sup>31</sup>.

The draft of the new directive aroused controversy from the very beginning. In addition to the division into supporters and opponents of the NS2 project, there was a division related to the increased role of the European Commission in the jurisdiction over gas pipelines about the individual Member States. Throughout 2018, during the presidencies of Bulgaria and Austria in favour of the project, the draft directive was in principle suspended, despite calls from countries for its adoption. Work began again in early 2019 with the start of the Romanian Presidency. Finally, on May 23, 2019, the new gas directive was adopted as amended, in a relaxed version compared to the original plans, and the international sanctions against NS2 delayed the project so much that it was not completed before the directive was adopted, and was therefore covered by it<sup>32</sup>.

The 2019 gas directive is the first document confirming the jurisdiction of the EU institutions over the NS2 gas pipeline running on the seabed. Of course, it is about the part that runs through the territorial waters of Germany, i.e. about 22 km from the coast. And it is Germany, by the new directive, that will have a decisive role in the interpretation and implementation of its provisions. For example, they can derogate from such provisions as ownership unbundling, transparent transmission tariffs or third party access to the gas pipeline for up to 20 years with the possibility of extension from the provisions of the Russian partner. In turn, changing this type of decision will require other EU countries to obtain a CJEU judgment, which may take up to several years<sup>33</sup>.

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<sup>29</sup> Court of Justice of the European Union Press Release No 129/21, Luxembourg, 15 July 2021, Judgment in Case C-848/19 P Germany v Poland, <<https://curia.europa.eu/jcms/upload/docs/application/pdf/2021-07/cp210129en.pdf>> (15.07.2021).

<sup>30</sup> A. Łoskot-Strachota, *Łoskot-Strachota: Gazprom będzie próbował wyjść z impasu wyroku TSUE ws. OPAL*, <<https://biznesalert.pl/gazprom-rosja-nord-stream-gaz-opal-energetyka/>> (30.06.2021).

<sup>31</sup> A. Łoskot-Strachota, *The gas directive revision: EU law poses problems for Nord Stream 2*, <<https://www.osw.waw.pl/en/publikacje/analyses/2019-02-21/gas-directive-revision-eu-law-poses-problems-nord-stream-2>> (30.06.2021).

<sup>32</sup> *Ibidem*.

<sup>33</sup> B. Bieliszczyk, Sz. Zaręba, *Nowelizacja dyrektywy gazowej a Nord Stream 2 – konsekwencje prawne i polityczne*, "Bulletin of the The Polish Institute of International

Possible irregularities in the application of the new gas directive by Germany are substantiated by the fact that so far the country has not correctly implemented the original gas directive of 2009. The European Commission noticed this fact only in 2015. In turn, the proceedings before the CJEU, in this case, were initiated only in 2018<sup>34</sup> and were still pending until the publication was published.

Again, the perspective of the Russian side seems to diverge from the negative scenario outlined. Indeed, the new directive complicates and hinders the implementation of the investment in its original form, but again, contrary to the expectations of its opponents, it does not eliminate its benefits. The aforementioned directive, as already mentioned, is softer than the original proposal, and the fact that it is Germany – Russia's main economic partner for the NS2 project and not only – will have a decisive influence on the practice of applying the gas directive, is rather optimistic among the Russian authorities.

However, different scenarios are considered. From the most obvious one, i.e. selling the raw material to Germany on the high seas, approx. 22 km from the coast, i.e. outside EU territorial waters, to partial implementation of the provisions of the directive. The latter variant, used in small sections, will make it difficult for Gazprom to apply monopoly practices, but will not eliminate them. Judging by the statements of Russian politicians, the option of selling on the high seas is currently being heavily considered<sup>35</sup>.

Summarizing this thread. No directive will stop Gazprom's monopoly practices about EU member states, as long as there are such large discrepancies in the positions of individual EU members, there will be slowness in adopting subsequent legal acts, and individual countries will have so much freedom in interpreting adopted legal acts. Undoubtedly, EU law, the principle of energy solidarity and other concepts liberalizing the energy market in the EU are a step behind the practice of large corporations pursuing their interests in Europe. This statement debunks Myth 2.

### **Myth #3. If the gas directive limits Russia's access to 50% of NS2's capacity, the investment will not pay off for a long time**

At the moment when the NS2 investment is completed and, most likely, nothing will stand in the way of it, the next stage of launching the pipeline is gaining importance, namely meeting the requirements of EU law. On August 25, 2021, the Higher National Court in Düsseldorf dismissed the request of Nord Stream AG company for a derogation from the provisions of the Third

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Affairs” No. 88 (1836), <[https://pism.pl/publikacje/Nowelizacja\\_dyrektywy\\_gazowej\\_a\\_Nord\\_Stream\\_2\\_konsekwencje\\_prawne\\_i\\_polityczne\\_](https://pism.pl/publikacje/Nowelizacja_dyrektywy_gazowej_a_Nord_Stream_2_konsekwencje_prawne_i_polityczne_)> (30.0068.2021).

<sup>34</sup> *Ibidem*.

<sup>35</sup> See: *V Rossii otvetili na zajavlenie deputata Rady o "Severnom potoke — 2"*, <<https://ria.ru/20210813/potok-1745598480.html>> (31.08.2021).

Energy Package. This is another defeat of Gazprom in German courts in this case. In practice, this means that NS2 will be covered by several rules which are unfavourable to the Russian monopoly<sup>36</sup>. Two requirements play a special role. The first one defines that the investor of the gas pipeline cannot manage it and supply it with the raw material at the same time. The second one, especially often quoted, states that Gazprom must leave 50% of the gas pipeline's capacity at the disposal of third parties from the EU<sup>37</sup>. Since the first condition will most likely be met as a result of the use of Gazprom's complicated ties with numerous subsidiaries spread across Europe<sup>38</sup>, it is worth paying attention to the second condition.

Russia is currently unable to meet this requirement. Technically, only gas supplied by Gazprom is connected to a gas pipeline in Russia. In addition, no other company in this country has a gas export license. In the short term, until this issue is resolved, the full transmission capacity of the new gas pipeline may not be fully used<sup>39</sup>.

There is also another solution at stake – obtaining the so-called exemption, as for this procedure there is no requirement that the gas pipeline would have to be built before May 23, 2019. In this case, the exemption may be granted by the German regulator Bundesnetzagentur (BNA). However, he is required to consult his analogues in countries affected by the investment. In the case of Poland, it would be the Office of Competition and Consumer Protection (UOKiK). The decision made by BNA in this matter is subject to control by the European Commission (EC)<sup>40</sup>.

If all these actions fail, the final scenario will have to be considered, i.e. the release of 50% of the gas pipeline to third parties from the EU. Meanwhile, several large EU countries, such as Germany, the Netherlands, Austria and France, are directly involved in the project or favourably inclined to purchase gas from Russia. If such countries get access to the NS2 transmission capacity released by Gazprom, then they will very likely buy the raw material also from Gazprom. It will be indirect support for this investment, its ROI, and also its

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<sup>36</sup> W. Kwinta, *Spółka Nord Stream nie dostanie pełnej mocy gazociągu. Porażka Rosji*, 26.08.2021, <<https://inzynieria.com/paliwa/wiadomosci/62152,spolka-nord-stream-nie-dostanie-pelnej-mocy-gazociagu-porazka-rosji>> (31.08.2021).

<sup>37</sup> I. Trusewicz, *Nord Stream 2 ma być gotowy we wrześniu*, <<https://energia.rp.pl/surowce-i-paliwa/29751-nord-stream-2-ma-byc-gotowy-we-wrzesniu>> (30.06.2021).

<sup>38</sup> On June 11, 2021, an application was submitted by Nord Stream for certification in the ITO (independent transmission operators) model. This is a preferential model that allows a vertically integrated enterprise to maintain ownership of the transmission networks. See: W. Kwinta, *op. cit.*

<sup>39</sup> *Ibidem*

<sup>40</sup> J. Zalewski, *Nord Stream 2 już blisko mety*, 25.08.2021, <<https://www.pb.pl/nord-stream-2-juz-blisko-mety-1125596>> (31.08.2021).

interests<sup>41</sup>. So the argument number three of the opponents of NS2 also seems to be a myth, verified in favour of Russia.

#### **Myth #4. The European and American sides can force Russia to continue gas transit through Ukraine at the price of consent to NS2**

One of the key elements of the ‘political puzzle’ in the context of NS2 is the question of Ukraine. After 2014, this country became the main opponent of Russia's policy in the area of gas exports and not only. Already before, Russian-Ukrainian relations about gas trade were very tense<sup>42</sup>. However, it was only the conflict and violation of the integrity of Ukraine's borders, in connection with the annexation of Crimea and the war in Donbas, that became a flashpoint in the relations between both countries. This situation prompts both sides to take radical measures and implement the threats that have been repeated over the years.

Ukraine, for its part, practically overnight accomplished an extraordinary thing – it emerged from relatively high dependence on Russian gas supplies, ceasing to buy gas from Gazprom. It became possible thanks to the so-called virtual reverses, which were allowed in the new Ukrainian-Russian transit agreement of 2019. As a result, Ukraine buys Russian gas, not from Russia, but Germany, saving at the same time on its transport<sup>43</sup>.

This is not the end of the moves, because Ukraine is also an important transit country. The gas pipelines that run through its territory have a capacity of as much as 110 bcm. So far, Gazprom has never used the full capacity of the infrastructure, and at a record low point, in 2014, the transported volume decreased to the level of only 62,2 bcm. By 2019, proceeds from transit fees from Russia accounted for around USD 3 billion, or almost 10% of the Ukrainian GDP<sup>44</sup>. It is worth noting that these were one of the higher rates, especially compared to the transit fees that Gazprom paid for Poland or Belarus at the same time<sup>45</sup>.

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<sup>41</sup> I. Trusewicz, *op. cit.*

<sup>42</sup> So-called ‘turning off the tap’ for Ukraine in 2009. See: J. Malczyk, *8 marca Gazprom zakreści kurki Ukrainie?*, <[https://www.money.pl/archiwum/wiadomosci\\_agencyjne/pap/artykul/8;marca;gazprom;zakreci;kurki;ukrainie,50,0,430386.html](https://www.money.pl/archiwum/wiadomosci_agencyjne/pap/artykul/8;marca;gazprom;zakreci;kurki;ukrainie,50,0,430386.html)> (30.06.2021).

<sup>43</sup> M. Marszałkowski, *Ukraina przestawiła się całkowicie na wirtualny rewers gazu*, <<https://biznesalert.pl/ukraina-gaz-wirtualny-rewers-gaz-zapotrzebowanie-gazprom-energetyka/>> (30.06.2021).

<sup>44</sup> M. Zaniewicz, *Walka na śmierć i życie. Bez tranzytu rosyjskiego gazu Ukraina nie przetrwa?*, <<https://energetyka24.com/walka-na-smierc-i-zycie-bez-tranzytu-rosyjskiego-gazu-ukraina-nie-przetrwa>> (30.06.2021).

<sup>45</sup> In 2021, fees for 1000 cubic meters sent per 100 km amounted to USD 2,7 in Ukraine, USD 1,75 in Belarus, and USD 1 in Poland. In Western Europe the rates are USD 3,5 and above. See: J. Frączyk, *Miliardy przechodzą Polsce koło nosa. Za tranzyt rosyjskiego gazu*

The fact that the NS2 gas pipelines and those running through Ukraine influence each other may be evidenced, for example, by the fact that as early as three days after the announcement of the CJEU judgment invalidating the EC's decision of 2016, according to which the OPAL gas pipeline could be fully used by Gazprom, 6% increase in the amount of gas pumped through Ukraine was observed<sup>46</sup>. According to the original assumptions, the NS2 gas pipeline was to be ready by the expiry of the transit agreement with Ukraine on December 31, 2019, constituting an important argument in possible negotiations of a new agreement. However, this did not happen due to the sanctions. Russia was forced to negotiate a new transit agreement. Its value is USD 7 billion over 5 years, or approximately USD 1,4 billion annually until 2024, compared to USD 40 billion of the total budget<sup>47</sup>. Although this is a significant amount, its lack, should Russia completely abandon gas transit through Ukraine after 2024, probably will not 'bring this country to its knees'.

The opponents of NS2 pinned great hopes on the decisive reaction of the United States to the planned investment. However, they turned out to be exaggerated. Joe Biden withdrew sanctions against Nord Stream AG even before negotiations with Berlin on this matter. In a joint statement by representatives of the United States and Germany on July 21, 2021, the de facto easing of US policy towards Russia was sealed at the price of improving relations with Germany. A decisive reaction and sanctions were announced, but only in the event of Russia's aggressive behaviour towards Ukraine, but the details of these actions have not been specified. About Ukraine, it was decided to invest, but in renewable energy projects, not gas-fired ones. At the declaratory level, Germany also offered three things: support in negotiating a new gas transit agreement between Russia and Ukraine; ensuring that EU legal regulations will be applied to the German part of the NS2 project; and greater commitment to its part to the Three Seas Initiative<sup>48</sup>.

Thus, the United States has agreed, at the price of waiving sanctions, that it is Germany, which is currently benefiting from gas trade with Ukraine, to be the factor of pressure on Russia to continue gas transit through Ukraine. It

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*bierzemy "grosze"*, <<https://businessinsider.com.pl/wiadomosci/tranzyt-rosyjskiego-gazu-ile-gazprom-placi-polsce/cqxbv3n>> (30.06.2021).

<sup>46</sup> M. Zaniewicz, *O co chodzi z wyrokiem Trybunału Sprawiedliwości UE ws. OPAL?*, <<https://energetyka24.com/o-co-chodzi-z-wyrokiem-trybunalu-sprawiedliwosci-ue-ws-opal-analiza>> (30.06.2021).

<sup>47</sup> Sz. Kardaś, W. Konończuk, *Temporary stabilisation: Russia-Ukraine gas transit deal*, <<https://www.osw.waw.pl/en/publikacje/osw-commentary/2019-12-31/temporary-stabilisation-russia-ukraine-gas-transit-deal>> (30.06.2021).

<sup>48</sup> R. Formuszewicz, A. Łoskot-Strachota, S. Matuszak, *Deal between Germany and the US on Nord Stream 2*, <<https://www.osw.waw.pl/en/publikacje/analyses/2021-07-22/deal-between-germany-and-us-nord-stream-2>> (31.08.2021).

would be against the interests of Germany. On the other hand, Germany will certainly fulfil another condition – investing in renewable energy sources in the Ukrainian economy – as this demand is in line with Germany's economic priorities.

The transmission capacity of NS2 is not able to replace the entire capacity of the gas pipelines running through Ukraine, but in conjunction with both TurkStream<sup>49</sup> lines, it already is. Thus, NS2 is a shorter and cheaper alternative to transit via Ukraine. Here is an argument that is very important from the EU's point of view, although in the mouths of representatives of the Russian concern it seems to be bizarre. It's about the ecological argument. A shorter route means less energy and hence reduced emissions accompanying the transmission<sup>50</sup>. Moreover, the infrastructure in Ukraine is already quite worn out, which increases the risk of failure. Quite unexpectedly, Russia may become an ally of the EU in the fight for a better climate in Europe. It may also continue gas transit through Ukraine, but under much better conditions than before. The last obstacle, in the form of the threat of US sanctions under Biden's administration, was overcome. And the initiative is and will be on the Russian side, thus confirming the debunking of myth number 4.

#### **Myth #5. European energy solidarity is a legal construct, not an abstract idea**

And finally, the last – fifth argument, often raised by opponents of the NS2 project. European energy solidarity is not an abstract idea, as Russian representatives used to treat it when implementing gas policy, but a legal construct, the validity of which has been confirmed by a court judgment<sup>51</sup>.

The principle of energy solidarity is part of a broader idea which is the European strategic autonomy (ESA). In short, ESA stands for the ability of the EU to react independently to various types of crises and threats, and one of its

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<sup>49</sup> TurkStream (formerly Turkish Stream) - Gazprom's investment in southern Europe parallel to NS2. The first thread was officially opened on January 8, 2020, the second thread is still under construction. The planned total capacity of both lines of the pipeline is 31,5 bcm. See: M. Perzyński, *Turkish Stream tworzy dylemat dla lokalnych rynków gazu*, <<https://biznesalert.pl/osw-turkish-stream-rynki-gazu-europa-energetyka/>> (30.06.2021).

<sup>50</sup> M. Sommer, *Nord Stream 2. Rosyjski gaz nie pomoże klimatowi*, <<https://serwisy.gazetaprawna.pl/ekologia/artykuly/8086592,nord-stream-2-ue-polityka-klimatyczno-energetyczna.html>> (30.06.2021).

<sup>51</sup> *Court of Justice of the European Union Press Release No 43/21 Luxembourg, 18 March 2021, Advocate General's Opinion in Case C-848/19 P Germany v Poland*, <<https://curia.europa.eu/jcms/upload/docs/application/pdf/2021-03/cp210043en.pdf>> (30.06.2021).

key aspects is energy security<sup>52</sup>. It is not difficult to prove that the NS2 project is in contradiction with the assumptions of the EU energy policy, especially its basic priority, which is the diversification of supply sources and liberalization of the entire sector. However, the impact of NS2 on ESA is not so obvious. Some researchers emphasize the positive role of NS2 in alleviating the growing dependence on the United States. Thus, NS2 may be an alternative not only to gas pipelines running through Ukraine or Poland but also to American liquefied natural gas (LNG)<sup>53</sup>.

The launch of NS2 will weaken American influence on the European continent. Donald Trump's administration seemed to be aware of the negative consequences of such developments, and therefore actively counteracted the creation of the gas pipeline, imposing further sanctions (see myth #1). In turn, the administration of Joe Biden, as already mentioned above, after negotiations with Germany, decided not to introduce sanctions, accepting that the gas pipeline would be built, and to give priority in negotiations with Gazprom to Germany – a country that is a shareholder of the entire project.

However, the ESA is more than just a rule of thumb. The EU is aware that in the event of any threat, the most powerful weapon it can offer is the unity and solidarity of the entire structure. Initially, it mainly related to security and defence. And NS2 is one of those moments where EU representatives must decide whether the ESA will also apply to more comprehensive foreign policy objectives and the protection of its fundamental interests. In the case of the NS2 project, two conflicting interests compete with each other – German and Polish (and also Ukrainian). Which one is more important? From the perspective of the EU authorities and the United States, cutting the project off and weakening Germany would not be a strategic move, because it is German leadership that guarantees the fundamental values of the EU, and can protect Poland and other countries of Central and Eastern Europe from Russia's attempts<sup>54</sup>. On the other hand, from Germany's perspective, NS2 supports ESA, directing Russian gas towards Europe instead of Asia. Thus, it enables many countries of the continent to renegotiate unfavourable gas contracts based on the take or pay principle. In addition, natural gas from Russia may also be a pillar of European economies' policy to abandon coal<sup>55</sup>.

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<sup>52</sup> This idea appeared at the end of 2013 as a conclusion of the European Council, and then was included in the 2016 EU Global Strategy. See: Ł. Maślanka, *Rozpoznanie walką: autonomia strategiczna UE w polityce Francji*, <[https://pism.pl/publikacje/Rozpoznanie\\_walka\\_autonomia\\_strategiczna\\_UE\\_w\\_polityce\\_Francji](https://pism.pl/publikacje/Rozpoznanie_walka_autonomia_strategiczna_UE_w_polityce_Francji)> (30.06.2021).

<sup>53</sup> A. Akbari, T. M. Moazen, *op. cit.*

<sup>54</sup> E. Rumer, *Opposition to Nord Stream 2 Makes No Sense for America or Europe*, <<https://carnegieendowment.org/2018/08/12/opposition-to-nord-stream-2-makes-no-sense-for-america-or-europe-pub-77038>> (30.06.2021).

<sup>55</sup> A. Akbari, T. M. Moazen, *op. cit.*, p.3

Thus, both supporters and opponents of NS2 have valid arguments on their side, and establishing a common EU position on this project seems to be a distant prospect for the time being<sup>56</sup>. That is why, despite the court ruling and the existence of increasingly effective legal acts and institutions, Russia still manages to divide European countries relatively easily. Thus, it refutes myth number 5.

### **Main conclusions**

The work presents the results of analyzes that allowed verification and debunking 5 myths related to the implementation of the NS2 project.

The capacity of the pipeline is not too high, even in the context of forecasts of declining demand for gas in Europe, because it can take over the transmission from other, more worn-out gas pipelines, and ultimately also transport other raw materials, i.e. hydrogen. The new gas directive as adopted does not provide EU institutions with control over the use of the gas pipeline, and the risk of its monopoly by Gazprom remains high. European countries, and especially those co-financing NS2, may want to buy gas from Russia as part of their allocations to use the infrastructure of the new gas pipeline, which will run counter to plans to become independent from Russia and diversify gas supplies to Europe. The possibility of putting pressure on Russia to maintain transit through Ukraine in the long term seems to be exhausted, hence the efforts to redirect the negotiations to other paths, i.e. investments in renewable energy sources in Ukraine. Finally, energy solidarity in the EU and European strategic autonomy are rules that are only just gaining legal validation and, in practice, sometimes losing out to economic interests.

Research confirms that even the most perfect legal rules and transparent procedures will not function properly if there are no goodwill, trust and partnership relations between all interested parties. It is this fact that Russia is trying to take advantage of, striving with full determination not only to finalize the investment but also to use it further according to its vision, contrary to the idea of a liberal EU market. Given the unhurried decisions of the European side, adopting the relaxed versions of the proposed legal acts, the Russian side has no difficulty in finding new legal loopholes that allow it to bypass the rules of the energy market and the laws in the EU, which lag behind the everyday practice. This is happening with the tacit support of the large countries of the community, the partners of the project. This is short-sighted thinking because only taking control over the functioning of the NS2 gas pipeline and forcing the

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<sup>56</sup> J. Wettengel, *Gas pipeline Nord Stream 2 links Germany to Russia, but splits Europe*, <<https://www.cleanenergywire.org/factsheets/gas-pipeline-nord-stream-2-links-germany-russia-splits-europe>> (31.08.2021).

application of liberal market rules within it will allow the EU to achieve two strategic goals at the same time. The first is to oppose the growing influence of the United States, exporting LNG to Europe, and the second is to put an effective dam on the plans of Russian domination in Europe and the use of monopolistic practices by Gazprom. Success on both fronts will allow the EU to build and strengthen ESA.

The lack of unanimity and transparency of the EU as regards the approach to cooperation with Russia on gas imports also translates into the attitude towards supporting the idea of further gas transit through Ukraine. Despite numerous declarations of support of a political nature, it is economically unprofitable e.g. for Germany, which is systematically building its position as a gas hub for the entire region of Europe. If additionally, Russia argues that transit through Ukraine is more expensive, the infrastructure is very outdated and the process causes increased CO<sub>2</sub> emissions to the atmosphere, it will be difficult for the European side to justify its further support for the continuation of this direction of gas supplies.

The passing of this stage in the history of Russian gas supplies to Europe seems to be understood by all sides, including Ukraine itself; which is intensively preparing to compensate for the effects of a complete cessation of the transit of Russian gas after 2024<sup>57</sup>, and Germany, which is effectively directing the subject of international negotiations on Ukrainian transit to the area of renewable energy development in this country. This is very beneficial from the German perspective, but it may also prove to be a better alternative for Ukraine than the struggle to return to the position of a transit country and the earlier status quo. In this context, it is worth it for other countries in the region, including Poland, to join the initiative to develop renewable energy technologies in Ukraine.

Finally, there is also the issue of civilization progress. The development of technology and the potential for cooperation in the field of Russian hydrogen exports to Europe are also favourable factors that could extend the Russian divide and rule policy about the EU. All the more necessary is the cohesion and solidarity of the members of the European community and the tightening of intra-EU law. The question is how quickly Europe, torn by numerous interests: economic (Russian gas is still cheaper and European companies can lobby effectively); legal (effective application of directives); political (various, bilateral relations between EU countries and Russia); ecological (NS2 is more ecological than transit through Ukraine, although it violates the unique environment of the Baltic flora and fauna); and geopolitical (at the same time opposing the influence of the United States and Russia) – will be finally able to

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<sup>57</sup> M. Marszałkowski, *Ukraina przygotowuje się na przerwę przesyłu gazu z Rosji po 2025 roku*, <<https://biznesalert.pl/ukraina-rosja-gazprom-ogtsu-naftogaz-gaz-energetyka/>> (30.06.2021).

go on the offensive and dictate the rules of strategic raw material trade on its territory. This issue should be the subject of further research.

### **Additional conclusions for Poland and other countries actively opposing NS2**

The countries that may lose the most by opening a new connection to transport gas from Russia to Europe have been protesting against the project itself from the outset. And although it was not possible to stop it, its implementation has certainly slowed down, and the EU institutions, under pressure from, inter alia, the Polish side<sup>58</sup>, is more and more efficient in ensuring transparency and the principles of liberal gas trade in the EU.

Completion of the construction of the gas pipeline opens up new fields for supervision and control by EU member states. It is about both the process of certification of the gas pipeline and its subsequent operation, including in particular the separation of the roles of the operator and distributor and fair access to the infrastructure for third parties. EU mechanisms are maybe not the fastest but seem to be becoming more effective over time. Therefore, not only Poland or the Baltic countries, but also countries such as Slovakia, the Czech Republic and Denmark, are recommended to continue the construction of infrastructure for gas purchases from alternative suppliers<sup>59</sup>, as well as to intensify the current activities in the field of control and demand to comply with EU law and implementation of the arrangements. as part of the European Green Deal.

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<sup>58</sup> J. Libereiro, S. Grobe, *Nord Stream 2: MEPs and US pressure Germany to stop Russia pipeline*, <<https://www.euronews.com/2021/01/27/nord-stream-2-eu-parliament-and-biden-administration-pressure-germany-to-stop-russia-pipel>> (30.06.2021).

<sup>59</sup> See e.g. Baltic Pipe, LNG terminal in Świnoujście, Floating Storage and Regasification Unit in Zatoka Gdanska, new system connections with Ukraine, the Czech Republic and Slovakia More: B. Sawicki, *Inwestycje gazowe idą naprzód. Połączenie z Ukrainą i Czechami pozostaje w tyle*, <<https://biznesalert.pl/inwestycje-gazowe-w-polsce-gazociagi-gaz-energetyka/>> (30.06.2021).

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