

Nord Stream II – yes or no? Political decision of a political Commission

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When the new European Commission started work in autumn 2014, the president of the Commission took great pride in calling it a 'political Commission', which will be big on big things and small on small. Whilst the EU is currently dealing with many crises, reality is that things do not come much bigger than Nord Stream II. Will this be a political Commission that stands by its principles, including respect for liberty, democracy, the rule of law and human rights? Will this Commission have the backbone to politically assess a project that threatens EU unity and its core values, undermines the Union's commonly agreed commitment to building an Energy Union and facilitates Russia's aggression against Ukraine? President Juncker's controversial visit to Russia and meeting with President Putin on 16-17 June is a test-case: will this Commission be ready to defend its commitments and principles when discussing 'economic issues'?

Gazprom and major European energy companies (Germany's E.ON and BASF/Wintershall, Austria's OMV, France's ENGIE and Royal Dutch Shell) have signed an agreement to double the Nord Stream gas pipeline's capacity, bypassing Ukraine and other Central-Eastern European countries. The project has raised serious political, energy security, economic and legal concerns across the EU.

Energy deals with Russia always have a strong political dimension. As Gazprom is not a normal commercial actor but a foreign policy arm of the Russian government, the deal is a political victory for Moscow. Firstly, Russia can use it to demonstrate that relations with the EU are normalising despite its aggression in Ukraine. This contradicts the Union's message that it is committed to pressuring Moscow and maintaining sanctions as long as the conflict continues. Secondly, Russia is using the deal to 'divide-and-rule' Europe. The EU's condemnation of Russia's actions and sanctions are worth little when member states undermine that political message by pursuing narrow national interests. Thirdly, increasing the share of Russian gas in Germany to 60% and making it a hub for Russian gas would further increase the country's dependence, giving Moscow greater leverage over the EU.

Gazprom's corruption, reputation and open mixing of commercial, political and security interests also raise serious questions for the stakeholders involved. Gazprom's top management has close links with Russian intelligence services. Nord Stream's CEO used to spy for the former East German secret service, the Stasi, and is closely associated with President Putin. How is collaboration with Gazprom and Nord Stream aligned with the declared principles and values of the EU, member states and the European companies involved in the project?

The deal sends a negative political message to Kyiv about the EU's reliability and commitment to Ukraine. Russia's aim is to bypass Ukraine by changing transportation routes for gas. For Ukraine, losing the transit revenue and increased risk of gas disruptions would be a real blow. As long as Ukraine and the affected Central-Eastern European countries do not have access to alternative routes, suppliers and sufficient reverse flows, this will be a real challenge for their energy security. Contributing to Russia's aim to destabilise Ukraine would lead to fundamental questions about the principles the EU claims to adhere to and its role in shaping regional developments.

The recipient of the gas deliveries, Germany, plays a key role in advancing the project – at the highest political level. Vice Chancellor Gabriel and Chancellor Merkel have openly promoted the project. Former Chancellor Schröder works for Nord Stream. Germany's insistence that this is purely a commercial deal is dishonest: it undermines their political commitments, made jointly with their EU partners. If the project concretises, despite strong opposition across member states and EU institutions, this will be a demonstration of the German political power in the EU, which in a snap of a finger can reduce the Union's common values and commitments into a laughing stock.

The project also conflicts with the EU's commitment to promote energy security and diversify routes and suppliers, key priorities under its Energy Union strategy. As 80% of Russian gas imports would come via this route, it would increase Europe's dependence on one route and increase Russia's possibilities to influence the market.

The deal's economic aspects should be discussed more openly as well. Building the pipeline is allegedly more expensive than using the capacity in Ukraine. And the EU's commitments and current trends for energy supply and energy use make the project's commercial viability questionable. Demand for gas will decrease as alternative energy sources become available and the use of energy changes. The International Energy Agency projects a significant fall in gas demand if the EU adheres to its vision for a low-carbon future, promoted via its climate and energy objectives. The current gas capacity from Russia is underused, and ongoing diversification efforts with new routes and suppliers for gas, including liquefied natural gas, will add to the competition. Smart investments in gas infrastructure and interconnectors would be aligned with these considerations.

Lastly, there are strong legal arguments against the pipeline. Proponents claim that as Nord Stream II lies in international waters, only connecting pipelines within the EU internal market will be subject to EU energy legislation. However, opponents argue that since it would run through member states' territorial waters, where the law of the land applies, the EU law, namely the Third Energy Package, should be applied fully. It can also be argued that under public international law Russia's invasion of Ukraine and annexation of Crimea violates the territorial integrity of another state and thus Article 2(4) of the UN Charter, and as the EU and its member states are obliged not to facilitate an annexation or the waging of aggressive war, they cannot support a project that aims to isolate Ukraine and would support Russia's military objectives. At the same time, we cannot fool ourselves: legal arguments are not neutral from politics. Due to political momentum and pressure from Russia and Germany, it is likely that the EU and the involved member states 'overlooked' legal considerations when Nord Stream I was approved and built. The question is, whether due to the changed political and security setting (as described above), the Commission now recognises that boosting Gazprom's dominance over the production, distribution, and trading of gas to Europe would be detrimental to the Union's credibility.

The European Commission's assessment of Nord Stream II is ultimately a political decision. Arguing otherwise is hypocrisy. Should President Juncker and the Commission fail to recognise the wider implications and consider it as a purely commercial project, it would be short-sighted and politically risky. A failure to adhere to the commonly agreed political and energy security commitments, due to German pressure, would raise fundamental questions about the state and future of the EU and the Energy Union.

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