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## Aspects of Hungary-Russia Energy Relations in the Context of European Union Law\*

### 1. Introduction

Energy is one of the dominant and most vital issues facing the world today and it will only continue to increase in importance in the years to come. This is no less true for the Member States of the European Union. When discussing matters relating to the EU's energy supply, one cannot avoid the issue of its relationship to Russia, which is a key player in the energy sector of various EU Member States. With regards to Hungary, this can particularly be seen in the area of nuclear energy and natural gas. This paper shall attempt to survey the planned expansion of the Paks Nuclear Power Plant, including its historical background and aims, with a particular focus on the response of the European Commission in relation to the Paks II project's compliance with European Union law. The other issue to be examined relates to projects involving the importation of natural gas from Russia, specifically the cancelled South Stream pipeline, and the new Turkish Stream pipeline project. Hungary supported the former, and has also

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\* The work was created under the priority project KÖFOP-2.1.2-VEKOP-15-2016-00001 titled „Public Service Development Establishing Good Governance” in cooperation with the National University of Public Service and the ‘DE-ÁJK Governance Resource Management Research Group’ of the University of Debrecen. For the description of the underlying concepts, see: T. M. HORVÁTH and I. BARTHA, *Az ágazati közszolgáltatások rendszertanáról* [The Theoretical System of Public Service Sectors] In: T.M. HORVÁTH and I. BARTHA (eds.) *Közszolgáltatások megszervezése és politikái*. [The Organization and Sectors of Public Service Delivery], Dialóg Campus, Budapest 2016. pp. 25-37

agreed to participate in the latter. Here there shall be an analysis of the legal matters involved with the South Stream project which led to its eventual demise, as well as possible issues which might arise with regards to the Turkish Stream pipeline's extension into the European Union.

### 2. Background to the Paks II project

At this point it is useful to briefly review some of the key legislation relating to the possibility of European Union Member States utilizing nuclear power. According to Article 1 of the Treaty establishing the European Atomic Energy Community, “It shall be the task of the Community to contribute to the raising of the standard of living in the Member States and to the development of relations with the other countries by creating the conditions necessary for the speedy establishment and growth of nuclear industries.”<sup>1</sup> Article 2(c) elaborates on this, stating that the Community shall “facilitate investment and ensure, particularly by encouraging ventures on the part of undertakings, the establishment of the basic installations necessary for the development of nuclear energy in the Community”. According to Article 41 of the Euratom Treaty, “Persons and undertakings engaged in the industrial activities listed in Annex II to this Treaty shall communicate to the Commission investment projects relating to new installations and also to replacements or conversions which fulfil the criteria as to type and size laid down by the Council on a proposal from the Commission.” Additionally, Article 103 states that “Member States shall communicate to the Commission draft agreements or contracts with a third State, an international organization or a national of a third State to the extent that such agreements or contracts concern matters within the purview of this Treaty.”

Hungarian and Russian cooperation in the area of nuclear energy began in 1955, with the signing of a bilateral agreement which led to the establishment of a Soviet VVER-type reactor known as the Budapest Research Reactor.<sup>2</sup> Later, on 28 December 1966, Hungary and the Soviet Union signed an intergovernmental

agreement for the building of a nuclear power plant in Hungary, and the following year Paks, a location 100 km from Budapest, was selected as the site for the plant.<sup>3</sup> The construction of the Paks Nuclear Power Plant was Hungary's largest industrial project of the 20<sup>th</sup> century.<sup>4</sup> Between 1974 and 1987 four Soviet-designed VVER-440/V213 units were installed at the Paks site.<sup>5</sup> The Paks NPP is Hungary's only nuclear power plant, belonging to the Magyar Villamos Művek Zártkörűen Működő Részvénytársaság (also known as "the MVM Group").<sup>6</sup> As of 2016, 51.3% of Hungary's electricity was generated by the Paks Nuclear Power Plant.<sup>7</sup>

Between 2032 and 2037 the Paks Nuclear Power Plant's present operational units will need to be shut down.<sup>8</sup> In 2005 the Hungarian Parliament supported a plan to extend the lives of the Paks units by a further 20 years.<sup>9</sup> Later, in 2009 it approved in principle the commencement of activities relating to the preparation for expanding the Paks Nuclear Power Plant.<sup>10</sup> This involved the granting of consent for the preparation of the site for new nuclear power plant units.<sup>11</sup> In the Hungarian government's 2011 "National Energy Strategy 2030", nuclear energy was listed as one of the key means of increasing Hungary's energy independence, and that it aimed at "the long-term preservation of nuclear energy in the energy mix."<sup>12</sup>

The Hungarian state committed to fully finance the development of two new nuclear reactors for the benefit of the entity known as Paks II (MVM Paks II Nuclear Power Plant Development Private Company Limited by Shares), which shall be the owner and the operator of the new reactors.<sup>13</sup> This involved Hungary entering into an agreement with the Russian government to build two additional 1200 MW units at the site of the Paks Nuclear Power Plant.<sup>14</sup> Specifically, the Hungarian government and the Russian state corporation Rosatom signed an intergovernmental agreement (IGA) on 14 January 2014 relating to the financing, development, constructing and commissioning of these new units.<sup>15</sup> This was later adopted by the Hungarian Parliament

under the name of Act II of 2014, coming into effect on 12 February 2014.<sup>16</sup> Additionally, Russia agreed to help Hungary finance the development of the Paks II Nuclear Power Plant through a state loan.<sup>17</sup> This is governed by a financing intergovernmental agreement, providing 10 billion euros in revolving credit to be used for designing, constructing and commissioning the new units at Paks II.<sup>18</sup> In addition to these funds, Hungary itself will provide up to 2.5 billion euros from the national budget for the financing of the Paks II development.<sup>19</sup>

In February 2014 the Hungarian government received notification from the European Commission's Directorate-General for Energy that it, in the words of the Director-General, "did not find any element that would as of itself impede the application of the Euratom Treaty in the meaning of its Article 103."<sup>20</sup> Later, in September 2015, the European Commission, after reviewing the documents submitted in relation to the Paks II project pursuant to Article 41 of the Euratom Treaty, notified Hungary that the Paks II project meets the Treaty's objectives.<sup>21</sup> However, the European Commission raised and examined two issues relating to Paks II, which were whether European Union public procurement rules had been breached, and whether the funding of the project could be considered as state aid.<sup>22</sup>

### 3. Infringement Procedure

In November 2015 the European Commission launched an infringement procedure against Hungary in relation to what it claimed was a lack of compliance with regards to public procurement rules.<sup>23</sup> Initially, the Commission claimed that the awarding of the Paks II project to Rosatom went against Directives 2004/17/EC and 2004/18/EC,<sup>24</sup> both of which embody the principles of "transparency, non-discrimination and equal treatment", concepts which have their basis in the Treaty on the Functioning of the European Union.<sup>25</sup>

Though Hungary utilized several arguments in response to the infringement procedure,<sup>26</sup> it was the so-called "technical exclusiv-

ity" argument which won over the Commission. The legislation relevant to this issue is Article 50 of Directive 2014/25/EU, named "Use of the negotiated procedure without prior call for competition". The article states that "Contracting entities may use a negotiated procedure without prior call for competition" in certain cases. Article 50(c) states that "Where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons", which, according to sub-section (ii) includes "competition is absent for technical reasons". Section C goes on to elaborate on this point, stating that such an exception "shall only apply when no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement". Hungary argued that, in this case, the awarding of the contract to Rosatom for the Paks expansion without a public procurement procedure was justified according to the above cited regulation.<sup>27</sup>

In November 2016 the infringement case against Hungary was closed.<sup>28</sup> Lucia Caudet, European Commission spokeswoman, made the statement that "Hungary has sufficiently justified that the use of the so-called technical exclusivity exemption, which means that when the technical and safety requirements of the project can only be met by one company, it can be compatible with EU laws to award the contract directly."<sup>29</sup> It is believed that a French precedent was vital in the Commission coming to its decision in favour of Hungary.<sup>30</sup> Specifically, this involved France awarding the state-controlled Areva the contract to construct the Flamanville 3 nuclear reactor.<sup>31</sup> The Commission decided, using Article 40(3) of Directive 2004/17/EC as a legal basis, that in this case, due to the technical specifications of the contract, that the French government was justified in its action to grant Areva the contract for the nuclear reactor without a public procurement procedure.<sup>32</sup>

#### 4. State Aid Investigation

On 13 March 2014 the European Commission began a preliminary investigation into the possibility of State aid in connection to the Paks II nuclear power plant's construction.<sup>33</sup> Later, the Commission also opened an in-depth investigation into the Hungarian government's plans to provide investment support for the Paks II project in November 2015.<sup>34</sup> This was according to the procedure set out in Article 108(2) of the Treaty on the Functioning of the European Union.<sup>35</sup> The Commission wished to assess the issue of "whether a private investor would have financed the project on similar terms or whether Hungary's investment constitutes state aid."<sup>36</sup> According to Article 107(1) of the Treaty on the Functioning of the European Union, "Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market."

The Commission Press Release<sup>37</sup> stated that "The European Commission has concluded that Hungary's financial support for the construction of two new nuclear reactors in Paks (Paks II) involves state aid. It has approved this support under EU state aid rules on the basis of commitments made by Hungary to limit distortions of competition."<sup>38</sup> European Commissioner for in charge of competition, Margrethe Vestager made the statement that "Hungary has decided to invest in the construction of the Paks II nuclear power plant, its right under the EU Treaties. The Commission's role is to ensure that the distortion of competition on the energy market as a result of the state support is limited to a minimum. During our investigation the Hungarian Government has made substantial commitments, which has allowed the Commission to approve the investment under EU state aid rules."<sup>39</sup> These include commitments to:

- *To avoid overcompensation of the operator of Paks II*, any potential profits earned by Paks II will either be used to pay back Hungary for its investment or to cover normal costs for the operation of Paks II. Profits cannot be used to reinvest in the construction or acquisition of additional generation capacity.
- *To avoid market concentration*, Paks II will be functionally and legally separated from the operator of the Paks nuclear power plant (the incumbent MVM Group) and any of its successors or other state-owned energy companies.
- *To ensure market liquidity*, Paks II will sell at least 30% of its total electricity output on the open power exchange. The rest of Paks II's total electricity output will be sold by Paks II on objective, transparent and non-discriminatory terms by way of auctions.<sup>40</sup>

As with the issue of public procurement and technical exclusivity, in relation to State aid an important precedent exists that was of assistance in this instance, which was the United Kingdom's subsidizing the new Hinkley Point C nuclear reactors.<sup>41</sup> After an in-depth investigation, the Commission approved the plan, as the UK government agreed to significant modifications in relation to the financing of the project which would avoid distortions of competition within the Single Market.<sup>42</sup>

Despite the European Commission having given its official approval for the Paks II project, opposition to it still exists within the European Union. In particular Austria, which has a longstanding opposition to nuclear energy,<sup>43</sup> strongly denounced the European Commission's decision, with the then Vice Chancellor Reinhold Mitterlehner saying in response to the Commission's approval of the Paks II plan that "Austria can't accept that the European Commission considers that subsidizing the construction of nuclear power plants is harmless."<sup>44</sup> Furthermore, the former Chancellor Christian Kern shortly before his electoral defeat in October 2017 announced that Austria would indeed file a lawsuit

against the Commission's approval of Paks II.<sup>45</sup> On January 24 2018 the recently elected Austrian government led by Chancellor Sebastian Kurz decided to sue the European Commission for its decision to allow the expansion of the Paks Nuclear Power Plant,<sup>46</sup> and officially lodged a complaint with the European Court of Justice on February 22.<sup>47</sup> Margrethe Vestager responded that it took such a decision by the Austrian government "very seriously" and that the Commission was prepared to defend its decision "with the arguments that are in the decision."<sup>48</sup> Hungarian Foreign Minister Péter Szijjártó stated that the action of the Austrian government would have no effect on the construction schedule of the two new units at Paks, with work planned to commence in February of this year.<sup>49</sup>

## 5. South Stream

Before exploring the issue of South Stream pipeline project, it is necessary to briefly overview the European Union's Third Energy Package, as it has a direct bearing on the subject matter under examination. The Third Energy Package is composed of two directives and three regulations.<sup>50</sup> These include Directive 2009/72/EC concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC and Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC. With regards to the Regulations, these include Regulation (EC) No 714/2009 on conditions for access to the network of cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003, Regulation (EC) No 715/2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005, and Regulation (EC) No 713/2009 establishing an Agency for the Cooperation of Energy Regulators.

The Third Energy Package has as its aim the improvement of the internal energy market's functioning and the resolution of unresolved structural problems.<sup>51</sup> This involves the unbundling of the energy sector, which refers to the separation of energy generation and

supply from network operators.<sup>52</sup> The logic behind this is that without unbundling, single companies which both generate and sell energy, while also operating transmission networks, may obstruct fair competition, which is disadvantageous for consumers due to the possibility of prices thus increasing.<sup>53</sup> In addition, the Package seeks to strengthen and safeguard the independent status and nature of energy regulators.<sup>54</sup>

Russia is the main supplier of gas to the European Union,<sup>55</sup> with Ukraine being the primary transit corridor through which it is delivered.<sup>56</sup> The major impetus behind the South Stream pipeline project was the desire to diversify its gas supply routes and seek new stable transit areas in order to export its natural gas to other parts of Europe.<sup>57</sup> Even before the present tensions between Russia and Ukraine, the former had an incentive to seek other gas supply routes to Europe which would avoid using Ukraine as a transit country.<sup>58</sup> The Russian-Ukrainian relationship in the realm of gas has often had problematic dimensions. This can be traced back to the 1990s, when there were issues relating in particular to payment and subsequent reduction in Russian supplies, in addition to Russian complaints of gas being diverted to other European countries.<sup>59</sup> A serious dispute arose in 2006, when Russia stopped gas supplies to Ukraine after the latter rejected a rise in gas prices.<sup>60</sup> The dispute led to the disruption in supply to several other countries in Europe.<sup>61</sup> Later, on January 1 2009 Russia cut its gas supplies to Ukraine, which completely came to a halt on January 7, the ultimate cause of the dispute being that by the end of 2008 the two countries were unable to agree to the rate that Ukraine should pay for the upcoming year and as to how much Ukraine would be paid by Russia in terms of gas transit fees.<sup>62</sup> This dispute led to over two weeks of gas shortages in Central and Eastern Europe.<sup>63</sup>

In 2007 a memorandum of understanding was signed between Gazprom and the Italian Eni for the South Stream pipeline's construction.<sup>64</sup> The pipeline was to begin in the Russian Krasnodar region, close to Anapa, and

was to cross the Black Sea to Bulgaria, near Varna.<sup>65</sup> From there it was to go on and transport gas to other countries in Southern and Central Europe, Hungary included.<sup>66</sup> An intergovernmental agreement was signed between Hungary and Russia for the construction of the pipeline on Hungarian territory<sup>67</sup> and was granted the status of a "national significance project".<sup>68</sup>

However, in time the project came to face major opposition from the European Commission. In June 2014 the Commission initiated an infringement procedure against Bulgaria with regards to the South Stream pipeline, alleging that the IGA relating to South Stream was in breach of the Third Energy Package, and that the tendering process for constructing the pipeline on Bulgarian territory was incompatible with EU rules relating to public procurement.<sup>69</sup> On December 4 2014 the European Commission said that the bilateral agreements for the South Stream pipeline, including the one signed between Russia and Hungary,<sup>70</sup> breached European Union law.<sup>71</sup> Klaus-Dieter Borchardt, the director for energy markets at the European Commission, said in the European Parliament that "The Commission has looked into these intergovernmental agreements and came to the conclusion that none of the agreements is in compliance with EU law", and "That is the reason why we have told these states that they are under the obligation, either coming from the EU treaties, or from the Energy Community treaty that they have to ask for re-negotiation with Russia, to bring the intergovernmental agreements in line with EU law."<sup>72</sup> Borchardt stated that one of the major problems relating to the South Stream pipeline was that in this situation Gazprom would be both the producer and supplier gas, which would go against the Third Energy Package's 'unbundling' rules, as in this case there would be simultaneous ownership of production capacity and the transmission network.<sup>73</sup> Additionally, he also mentioned that there needed to be assurance that third parties would have non-discriminatory access to the pipeline, and that Gazprom did not have the right to be the only

shipper, and that issues relating to the tariff structure needed to be properly addressed.<sup>74</sup>

In response to these developments, Russia announced the cancellation of the project, with President Vladimir Putin stating that “If Europe does not want to carry out (South Stream), then it will not be carried out”, which was later followed by Gazprom head Alexei Miller saying that “The project is closed.”<sup>75</sup>

The demise of the South Stream project cannot be separated from the difficulties that arose in relations between the European Union and Russia as a result of events that took place in Crimea and East Ukraine in 2014.<sup>76</sup> This led to the essential freezing of relations with regards to gas issues, where it even became very difficult to arrange meetings between Russia and the European Union.<sup>77</sup> The working group setup by the EU and Russia dealing with the South Stream pipeline was suspended, and EU decision-making in relation to such issues relating to Russian gas as OPAL and DG COMP was delayed.<sup>78</sup> It is believed that this inability to reach compromise on regulatory matters, within the broader context of events in Ukraine, led to the cancelling of the South Stream project.<sup>79</sup>

In response to the abovementioned difficulties that arose with regards to the construction of the pipeline, in November 2014 the Hungarian Parliament approved a law in which would have opened the way for the South Stream pipeline’s construction, which had stated that the sole requirement for the company constructing the pipeline would be obtaining the Hungary Energy Office’s approval.<sup>80</sup> After the cancellation of the project was announced, Hungarian Foreign Minister Péter Szijjártó said that “With South Stream being cancelled we now have to look for new ways, how to get new sources and new routes in Central Europe”.<sup>81</sup> He stated that Hungary wished to store more Russian gas, having suggested to Russian Energy Minister Aleksandr Novak that Hungary’s underground reservoirs could be used for this purpose.<sup>82</sup> The Foreign Minister believed that by storing more gas in Hungary it would be advanta-

geous for Hungary both economically and in terms of energy security.<sup>83</sup>

## 6. Turkish Stream

As a result of the cancellation of the construction of the South Stream pipeline, Russia proposed Turkey as an alternative partner for the construction of a new pipeline which would bring its natural gas to the Balkans and Central Europe.<sup>84</sup> Turkey is one of the major recipients of Russian gas, which it presently imports via the Blue Stream and Trans-Balkan pipelines.<sup>85</sup> On 1 December 2014 Gazprom and Botas Petroleum Pipeline signed a Memorandum of Understanding in Ankara relating to the construction of an offshore gas pipeline from Russia to Turkey across the Black Sea.<sup>86</sup> The Turkish Stream pipeline will stretch over 900 kilometers from the Russkaya compressor station close to Anapa in the Russian Krasnodar region across the Black Sea to the European part Turkey,<sup>87</sup> reaching Ipsala on the Turkish-Greek border via Lüleburgaz.<sup>88</sup> On July 5 2017 Hungary and Gazprom signed a deal in order to link the former with the Turkish Stream pipeline.<sup>89</sup> The end of 2019 has been set as the target for achieving this, and, according to Foreign Minister Szijjártó, linking up with the Turkish Stream pipeline could allow Hungary to import 8 billion cubic meters of gas per year, which is near to the total consumption of the country as a whole.<sup>90</sup>

However, after the experience of South Stream, Russia appears to be cautious when it comes to assessing the realization of the project. Russian Foreign Minister Sergei Lavrov made the statement that “The growing energy needs of Southern and South-Eastern Europe could be met by the extension of the second branch of the Turkish Stream to EU territory. Many governments of EU states have shown considerable interest in this. We are open to this, but considering the unfortunate experience of the South Stream, we will start this work only after receiving firm legal guarantees from Brussels.”<sup>91</sup> The European Commission itself has yet to take an official position with regards to the Turkish Stream pipeline extension into the territory of the European

Union, which would most likely come after specific plans and requests are put forward in this area.<sup>92</sup> However, some issues and concerns have already been raised. For example, it has been noted that any plan to extend the Turkish Stream pipeline into the territory of the European Union would mean that it would have to deal with EU regulations, including the Third Energy Package.<sup>93</sup> Furthermore, certain key figures in the EU Commission have expressed concerns. Maros Sefcovic, a Vice-President of the European Commission and leader of the “Energy Union” project has expressed doubts with regards to the pipeline’s expansion into EU territory, saying that there are unresolved differences between the EU and Russia in relation to the Third Energy Package, and he also questioned the viability of the project.<sup>94</sup> The EU Commissioner for Competition, Margaret Vestager also left open the possibility of the issue of compliance with relevant EU antitrust regulations in relation to Gazprom’s negotiations with European states potentially connected to Turkish Stream, saying that “All companies that operate in the EU market – no matter if European or not – have to play by EU rules.”<sup>95</sup>

## 7. Conclusion

Hungary’s dealings with Russia in the development of the Paks II project, as well as the plans to participate in the South Stream and Turkish Stream pipeline projects show that despite certain disagreements and tensions between the European Union and the Russian Federation with regards to various issues, there are EU Member States that feel that it is in their own vital interest to pursue and deepen their relations with Russia in certain specific areas such as energy. The case of Paks II and the gas pipeline projects illustrate very clearly that with EU membership comes certain obligations and restrictions which may at times somewhat impede completely independent action when pursuing relations with third countries such as Russia. This may also be seen when it comes to the sanctions that have been imposed on Russia as a result of events in Ukraine, where EU Member States

face certain restrictions when dealing with the former. In the case of Paks II, certain doubts and opposition with regards to the project’s compliance with EU law were able to be overcome. However, this was not the case in relation to the South Stream project, and it remains to be seen as to how the European Commission will ultimately respond to the plan to extend the Turkish Stream pipeline into the territory of the European Union.

## Notes

1 Consolidated Version of the Treaty Establishing the European Atomic Energy Community. 1 December 2009, [https://europa.eu/europeanunion/sites/europaen/files/docs/body/consolidated\\_version\\_of\\_the\\_treaty\\_establishing\\_the\\_european\\_atomic\\_energy\\_community\\_en.pdf](https://europa.eu/europeanunion/sites/europaen/files/docs/body/consolidated_version_of_the_treaty_establishing_the_european_atomic_energy_community_en.pdf)

2 Rosatom: Cooperation with Hungary, <http://rosatom-centraleurope.com/rosatom-in-country/history-of-cooperation/hu/>

3 Ibid.

4 Tamás János Katona: Nuclear Energy in Hungary. *Hungarian Geographical Bulletin* 2009. 58 (4). 244.

5 Ibid.

6 European Commission: Commission Decision of 6.3.2017 on the Measure/Aid Scheme/State Aid S.A.38454 – 2015/C (ex 2015/N) which Hungary is planning to implement for supporting the development of two new nuclear reactors at Paks II nuclear power station. Brussels, 6.3.2017, C(2017) 1486 final, 3, [http://ec.europa.eu/competition/state\\_aid/cases/261529/261529\\_1932592\\_684\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/261529/261529_1932592_684_2.pdf) 5.

7 Paks II: Why is it necessary to construct new nuclear power plant units in Hungary?, <http://www.paks2.hu/en/NuclearEnergy/RudimentsOfEngineering/Lapok/WhyIsItNecessary.aspx>

8 Ibid.

9 World Nuclear News: More power for Paks. 25 May 2007, <http://www.world-nuclear-news.org/newsarticle.aspx?id=13462>

10 László Fodor and Orsolya Bányai: Some Environmental Law Questions Related to the Extension of Paks Nuclear Power Plant. *Environmental Engineering and Management Journal*, “George Asachi” Technical University of Iasi, Romania, November 2014. Vol.13, No.11. 2758, [www.eemj.icpm.tuiasi.ro/pdfs/vol13/no11/Full/7\\_677\\_Fodor\\_14.pdf](http://www.eemj.icpm.tuiasi.ro/pdfs/vol13/no11/Full/7_677_Fodor_14.pdf)

11 Paks II Zrt: Company Information, <http://www.paks2.hu/en/PaksII/CompanyInformation/Lapok/default.aspx>.

12 Ministry of National Development: National Energy Strategy 2030, 2012, 11, 12, <http://2010-2014.kormany.hu/download/7/d7/70000/Hungarian%20Energy%20Strategy%202030.pdf>

13 European Commission: Commission Decision of 6.3.2017 on the Measure/Aid Scheme/State Aid, 3.

14 MVM Paks II: Implementation of New Nuclear Power Plant Units, at the Paks Site, Environmental Impact Assessment Study, Simplified Public Summary, 19, [http://www.paks2.hu/en/Dokumentumtarolo/SIMPLIFIED%20PUBLIC%20SUMMARY\\_EN.pdf](http://www.paks2.hu/en/Dokumentumtarolo/SIMPLIFIED%20PUBLIC%20SUMMARY_EN.pdf)

15 Paks II Zrt: Company Information, and Rothschild, Economic analysis for the Paks II nuclear power project, September 2015, 10,

- <http://www.kormany.hu/download/a/84/90000/2015%20Economic%20analysis%20of%20Paks%20II.pdf>
- 16 Rothschild op. cit. 10.
- 17 European Commission: Commission Decision of 6.3.2017 op. cit. 4.
- 18 Ibid.
- 19 Ibid.
- 20 Erdély Online: EC energy directorate vets Paks deal for Euratom Treaty compliance, 1 March 2014, <http://www.erdon.ro/ec-energy-directorate-vets-paks-deal-for-euratom-treaty-compliance/2492788>.
- 21 World Nuclear News: Hungary meets Euratom Treaty objectives for Paks II, 15 September 2015, <http://www.world-nuclear-news.org/NN-Hungary-meets-Euratom-Treaty-objectives-for-Paks-II-15091501.html>
- 22 World Nuclear News: Hungary's Paks II project clears procurement hurdle, 22 November 2016, <http://www.world-nuclear-news.org/NN-Hungarys-Paks-II-project-clears-procurement-hurdle-22111601.html>
- 23 European Commission: November infringements package: key decisions, Fact Sheet, Brussels, 19 November 2015, [http://europa.eu/rapid/press-release\\_MEMO-15-6006\\_en.htm](http://europa.eu/rapid/press-release_MEMO-15-6006_en.htm). For the nature and phases of infringement procedures in general, see: Ernő Várnay, Mónika Papp, Márton Varju, Ildikó Bartha: EU-jog a tárgyalóteremben: A tagállamokkal szembeni kötelezettségzegési eljárások. Budapest: Complex Kiadó, 2006
- 24 The European Commission proposed amendments to these two Directives in December 2011, which led to the adoption of two new Directives (Directive 2014/24/EU, which repealed Directive 2004/18/EC, and Directive 2014/25/EU, which repealed Directive 2004/17/EC) by the Council of the European Union and the European Parliament on 26 February 2014, and were officially repealed on 17 April 2017. See European Commission: Legal rules and implementation, [http://ec.europa.eu/growth/single-market/public-procurement/rules-implementation\\_en](http://ec.europa.eu/growth/single-market/public-procurement/rules-implementation_en).
- 25 Ibid.
- 26 This included that the IGA and the Implementation Agreements relating to the Paks II development fall within the exemption relating to international agreements contained in Article 22 of Directive 2014/25/EU, see European Commission, Commission Decision of 6.3.2017 op. cit. 43.
- 27 Ibid.
- 28 European Commission, State Aid: Commission clears investment in construction of Paks II nuclear power plant in Hungary, Press Release, Brussels, 6 March 2017, [http://europa.eu/rapid/press-release\\_IP-17-464\\_en.htm](http://europa.eu/rapid/press-release_IP-17-464_en.htm). The Commission itself did not publish its official decision to drop the infringement procedure against Hungary, see Sara Stefanini: UK, France blazed trail for Hungary nuclear deal, Politico, December 1 2017, <https://www.politico.eu/article/hungary-nuclear-approval-expected-thanks-to-uk-and-france-precedent/>
- 29 David M. Herszenhorn, Sara Stefanini, and Nicholas Hirst: Questions grow over Hungarian no-bid nuclear deal, Politico, 18 November 2016, <https://www.politico.eu/article/questions-grow-over-hungarian-no-bid-nuclear-deal/>
- 30 Stefanini op. cit.
- 31 Ibid.
- 32 European Commission (Matthias Petschke): Your complaint no 2007/4189 against France – direct award to AREVA by „Electricité de France” (EDF) of the reactor of the new nuclear power plant at Flamanville, Brussels, 5 December 2008, MARKT C/2/AP/mm D(2008) 64760, 2, <https://g8fip1kplyr33r3krz5b97d1-wpengine.netdna-ssl.com/wp-content/uploads/2017/01/GreenpeaceFlamanvilleCommissionLetter.pdf>
- 33 European Commission: Commission Decision of 6.3.2017 op. cit. 2.
- 34 European Commission: State Aid: Commission opens in-depth investigation into Hungarian investment support for Paks II nuclear power plant, Press Release, Brussels, 23 November 2015, [http://europa.eu/rapid/press-release\\_IP-15-6140\\_en.htm](http://europa.eu/rapid/press-release_IP-15-6140_en.htm)
- 35 European Commission: State Aid SA.38454 (2015/C) (ex 2015/N) – Hungary Possible aid to the Paks nuclear power station, Brussels, 23.11.2015, C(2015) 8227 final, 1, [http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_38454](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_38454).
- 36 European Commission: Commission opens in-depth investigation into Hungarian investment support for Paks II nuclear power plant op. cit.
- 37 The press release states that a non-confidential version of the Commission's decision will become available once the relevant confidentiality issues reach a resolution.
- 38 European Commission: State Aid: Commission clears investment in construction of Paks II nuclear power plant in Hungary, Press Release, Brussels, 6 March 2017, [http://europa.eu/rapid/press-release\\_IP-17-464\\_en.htm](http://europa.eu/rapid/press-release_IP-17-464_en.htm)
- 39 Ibid.
- 40 Ibid.
- 41 European Commission (Vestager Margrethe): Letter, Brussels, 6 July 2016, Ares(2016)3039407, 1, <https://g8fip1kplyr33r3krz5b97d1-wpengine.netdna-ssl.com/wp-content/uploads/2016/11/VestagerLetterPaksIIStateAid.pdf>
- 42 European Commission: State aid: Commission concludes modified UK measures for Hinkley Point nuclear power plant are compatible with EU rules, Press Release, Brussels, October 8 2014, [http://europa.eu/rapid/press-release\\_IP-14-1093\\_en.htm](http://europa.eu/rapid/press-release_IP-14-1093_en.htm)
- 43 Austria filed a lawsuit in 2015 with the European Court of Justice in response to the European Commission's approval of the UK government's state aid for the Hinkley Point C nuclear plant. See World Nuclear News: Austria files action against Hinkley Point project, 6 July 2015, <http://www.world-nuclear-news.org/NN-Austria-files-legal-action-against-Hinkley-Point-project-0607201502.html>
- 44 The Local: Austria fumes at Hungary's Kremlin-backed nuclear plant, 7 March 2017, <https://www.thelocal.at/20170307/austria-fumes-at-hungary-kremlin-backed-nuclear-plant>
- 45 Phys.org: Austria to sue over Hungary nuclear plant extension, 13 October 2017, <https://phys.org/news/2017-10-austria-sue-hungary-nuclear-expansion.html>
- 46 Eszter Zalan: Austria sues Commission over Hungary's nuclear plant, EUobserver, 25 January 2018, <https://euobserver.com/energy/140690>
- 47 Euractiv: Austria sues over EU approval of Hungary nuclear plant, 23 February 2018, <https://www.euractiv.com/section/politics/news/austria-sues-over-eu-approval-of-hungary-nuclear-plant/>.
- 48 Zalan op. cit.
- 49 TASS Russian News Agency: Construction of new units at Hungary's Paks NPP to begin as scheduled – foreign minister, 24 January 2018, <http://tass.com/economy/986578>
- 50 European Commission: Market Legislation, <https://ec.europa.eu/energy/en/topics/markets-and-consumers/market-legislation>
- 51 European Commission: Market Legislation, <https://ec.europa.eu/energy/en/topics/markets-and-consumers/market-legislation>
- 52 Ibid.



- 53 Ibid.
- 54 Ibid.
- 55 Eurostat: Energy Production and Imports, June 2017, [http://ec.europa.eu/eurostat/statistics-explained/index.php/Energy\\_production\\_and\\_imports](http://ec.europa.eu/eurostat/statistics-explained/index.php/Energy_production_and_imports)
- 56 Simon Pirani and Katja Yafimava: Russian Gas Transit Across Ukraine Post-2019 – pipeline scenarios, gas flow consequences, and regulatory constraints, February 2016, The Oxford Institute for Energy Studies, <https://www.oxfordenergy.org/wpcms/wp-content/uploads/2016/02/Russian-Gas-Transit-Across-Ukraine-Post-2019-NG-105.pdf>
- 57 South Stream Transport: South Stream: Energising Europe, Presentation, Brussels, 25 May 2011, 2, <http://www.gazprom.com/ef/posts/85/290063/presentation.pdf>
- 58 Luca Franza: From South Stream to Turk Stream: Prospects for Rerouting Options and Flows of Russian Gas to Parts of Europe and Turkey, Clingendael International Energy Programme, 2015, 12, [http://www.clingendaelenergy.com/inc/upload/files/CIIEP\\_paper\\_2015-05\\_web\\_1.pdf](http://www.clingendaelenergy.com/inc/upload/files/CIIEP_paper_2015-05_web_1.pdf)
- 59 Jonathan Stern: The Russian-Ukrainian gas crisis of January 2006, Oxford Institute for Energy Studies, January 16 2006, 2, <https://www.oxfordenergy.org/wpcms/wp-content/uploads/2011/01/Jan2006-RussiaUkraineGasCrisis-JonathanStern.pdf>
- 60 BBC News: Ukraine and Russia reach gas deal, 4 January 2006, <http://news.bbc.co.uk/2/hi/europe/4579648.stm>
- 61 Ibid.
- 62 BBC News: Q & A: Russia-Ukraine gas row, 20 January 2009, <http://news.bbc.co.uk/2/hi/europe/7240462.stm>
- 63 Ibid
- 64 South Stream Transport: Fact Sheet: The South Stream Offshore Pipeline, October 2013, 2, [http://south-stream-transport.com/.../pdf/.../ssttbv\\_fact-sheet-south-stream-offshore-pipeline\\_38\\_en\\_20121206\\_2%20\(1\).pdf](http://south-stream-transport.com/.../pdf/.../ssttbv_fact-sheet-south-stream-offshore-pipeline_38_en_20121206_2%20(1).pdf)
- 65 South Stream Transport: Bringing Natural Gas: The South Stream Offshore Pipeline to Bulgaria, 4, [https://www.south-stream-transport.com/media/documents/pdf/en/2013/11/ssttbv\\_bringing-natural-gas\\_en\\_20131126.pdf](https://www.south-stream-transport.com/media/documents/pdf/en/2013/11/ssttbv_bringing-natural-gas_en_20131126.pdf)
- 66 Antto Vihma and Umut Turksen: The Geoeconomics of the South Stream Project, Columbia/SIPA Journal of International Affairs, 1 January 2016, <https://jia.sipa.columbia.edu/geoeconomics-south-stream-pipeline-project>.
- 67 Gazprom: Contract signed for South Stream design in Hungary, 12 December 2013, <http://www.gazprom.com/press/news/2013/december/article180286/>.
- 68 Ibid.
- 69 Ana Stanic: EU-Russia Relations Through the Prism of EU Law, Global Energy Debates and the Eastern Mediterranean, PCC Report 2016/1, 33, <http://www.ealaw.eu/static/pdf/EU-Russia-Relations.pdf>
- 70 Intergovernmental agreements were also signed between Russia and Bulgaria, Serbia, Greece, Slovenia Croatia, and Austria. See Euractiv: South Stream victim of Crimea annexation, 23 March 2014, <http://www.euractiv.com/section/energy/news/south-stream-victim-of-crimea-annexation/>.
- 71 Euractiv: South Stream bilateral deals breach EU law, Commission says, 4 December 2013, <http://www.euractiv.com/section/competition/news/south-stream-bilateral-deals-breach-eu-law-commission-says/>
- 72 Ibid.
- 73 Ibid.
- 74 Ibid.
- 75 BBC News: Russia drops South Stream gas pipeline plan, 1 December 2014, <http://www.bbc.com/news/world-europe-30283571>
- 76 The Moscow Times: Russia Wants EU Guarantee to Continue with Turkish Stream Development, 3 November 2017, <https://themoscowtimes.com/articles/russia-wants-eu-guarantees-to-continue-with-turkish-stream-59472>
- 77 Jonathan Stern, Simon Pirani, and Katia Yafimava: Does the cancellation of South Stream signal a fundamental reorientation of Russian gas export policy, The Oxford Institute for Energy Studies, January 2015, 5, <https://www.oxfordenergy.org/wpcms/wp-content/uploads/2015/01/Does-cancellation-of-South-Stream-signal-a-fundamental-reorientation-of-Russian-gas-export-policy-GPC-5.pdf>
- 78 Ibid.
- 79 Ibid.
- 80 In this case, MVM Zrt had set up a joint venture with Gazprom, with the aim of constructing and the operating the pipeline. See Budapest Business Journal, Hungary opens the way for South Stream pipeline, 5 November 2014, [https://bbj.hu/economy/hungary-opens-the-way-for-south-stream-pipeline\\_87617](https://bbj.hu/economy/hungary-opens-the-way-for-south-stream-pipeline_87617)
- 81 Hungary Today: Hungary to Store More Russian Gas Due to Cancellation of South Stream Pipeline, 14 January 2015, <http://hungarytoday.hu/news/hungary-store-russian-gas-due-cancellation-south-stream-pipeline-37603>
- 82 Ibid.
- 83 Krisztina Than and Marton Dunai: Hungary seeks gas options after South Stream demise, Reuters, 13 January 2015, <https://www.reuters.com/article/us-hungary-energy-minister/hungary-seeks-gas-options-after-south-stream-demise-idUSKBN0KMLW20150113>
- 84 Darya Korsunskaya: Putin drops South Stream gas pipeline to EU, courts Turkey, Reuters, 1 December 2014, <https://www.reuters.com/article/us-russia-gas-gazprom-pipeline/putin-drops-south-stream-gas-pipeline-to-eu-courts-turkey-idUSKCN0JF30A20141201>
- 85 Gazprom: TurkStream, <http://www.gazprom.com/about/production/projects/pipelines/built/turk-stream/>
- 86 Gazprom: New gas pipeline towards Turkey, 2 December 2014, <http://www.gazprom.com/press/news/2014/december/article208505/>
- 87 Gazprom: TurkStream op. cit.
- 88 Hürriyet Daily News: Russian firms give Turkish Stream gas pipeline details, 2 June 2015, <http://www.hurriyetdailynews.com/russian-firm-gives-turkish-stream-gas-pipeline-details--83363>.
- 89 Euractiv: Hungary joins Gazprom pipeline, as Trump touts US LNG, 6 July 2017, <https://www.euractiv.com/section/energy/news/hungary-joins-gazprom-pipeline-as-trump-touts-us-lng/>
- 90 Ibid.
- 91 The Ministry of Foreign Affairs of the Russian Federation: Foreign Minister Sergey Lavrov's remarks at a meeting with members of the Association of European Businesses in Russia Moscow, October 31, 2017, 2085-31-10-2017, [http://www.mid.ru/en/diverse/-/asset\\_publisher/zwI2FuDbhJx9/content/vystuplenie-ministra-inostrannyh-del-rossii-s-v-lavrova-na-vstreche-s-clenami-associacii-evropejskogo-biznesa-v-rossijskoj-federacii-moskva-31-oktabra-](http://www.mid.ru/en/diverse/-/asset_publisher/zwI2FuDbhJx9/content/vystuplenie-ministra-inostrannyh-del-rossii-s-v-lavrova-na-vstreche-s-clenami-associacii-evropejskogo-biznesa-v-rossijskoj-federacii-moskva-31-oktabra-)

?\_101\_INSTANCE\_zwI2FuDbhJx9\_redirect=http%3A%2F%2Fwww.mid.ru%2Fen%2Fdiverse%3Fp\_p\_id%3D101\_INSTANCE\_zwI2FuDbhJx9%26p\_p\_lifecycle%3D0%26p\_p\_state%3Dnormal%26p\_p\_mode%3Dview%26p\_p\_col\_id%3Dcolumn-1%26p\_p\_col\_pos%3D2%26p\_p\_col\_count%3D5

92 Economics Gazette: Europe and Russia continue to speak in different languages for natural gas supplies, 8 January 2018, <http://www.economicsgazette.com/europe-russia-continue->

[speak-different-languages-natural-gas-supplies.html](http://www.economicsgazette.com/europe-russia-continue-speak-different-languages-natural-gas-supplies.html)

93 Ilgar Gurbanov: Perspective for 'Turkish Stream' Project: Possible Scenarios and Challenges, *Natural Gas World*, 21 January 2017, <https://www.naturalgasworld.com/perspective-for-turkish-stream-project-possible-scenarios-and-challenges-35401>

94 Ibid.

95 Ibid.

# JURA

A Pécsi Tudományegyetem Állam- és Jogtudományi Karának tudományos lapja



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