

Ukraine's Naftogaz calls for Nord Stream 1 EU rules derogation to be lifted

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LONDON (ICIS)—The Ukrainian gas incumbent Naftogaz has called on the European Commission and member states to revoke a derogation from EU regulation granted to Nord Stream 1 and suspend flows via the pipeline amid concerns over the reliability of Russia's Gazprom as a supplier.

In a letter sent to top EC officials this month and seen by ICIS, Naftogaz said it was imperative for the EU to review the derogation granted to Nord Stream 1 in 2020, which exempts the 55 billion cubic meter/year pipeline from complying with EU requirements for unbundling and third-party access.

Naftogaz said the exemption should be lifted because of "significant changes in the security of supply situation since 2020," including Gazprom's decision not to increase supplies to Europe in 2021 despite soaring demand and Russia's war against Ukraine since February 2022.

Nord Stream 1 was originally granted a derogation from these requirements under EU energy law partly as a result of security of supply considerations.

DEROGATION

On 17 April 2019 the European parliament and the Council adopted the directive 2019/692 amending the directive 2009/73 concerning common [rules](#) for the internal natural gas market.

The pipeline's operator, Nord Stream AG, submitted an application for derogation from the application of the primary provisions of the EU gas directive on 19 December 2019 to the German Federal Network Agency (BNetzA) after the changes to the EU gas directive were implemented into German law by the amended Energy Industry Act of the Federal Republic of Germany (EnWG).

The derogation applies to the pipeline section located on German territory, including German territorial waters and is initially valid for 20 years, retroactively from the amended EnWG's entry into force on 12 December 2019.

With the letter sent to the EC, Naftogaz as the organiser of the Russian gas transit via Ukraine is calling for a formal reassessment of the derogation, the total or at least partial suspension of flows via Nord Stream 1 and their rerouting via Ukraine.

Neither the EC nor BNetzA commented by publication time.

CONTRACTUAL TERMS

The letter comes amid Ukrainian concerns that Gazprom would seek to pay less for the shipment of gas via its territory, despite a ship-or-pay contract signed at the end of 2019, effectively requesting the Russian producer to pay for transit, even if it does not use the transmission infrastructure.

The letter notes Gazprom cannot "unilaterally relieve itself of contractual obligations."

According to the five-year agreement concluded at the end of 2019 with Naftogaz, as the organiser of the transit via Ukraine,

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