

EUROPEAN PARLIAMENT

2004



2009

Committee on Petitions

2007/2118(INI)

14.3.2008

DRAFT REPORT

on the environmental impact of the planned gas pipeline in the Baltic Sea to link up Russia and Germany (Petitions 0614/2007 and 0952/2007)
(2007/2118(INI))

Committee on Petitions

Rapporteur: Marcin Libicki

CONTENTS

	Page
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION	3
EXPLANATORY STATEMENT	10

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the environmental impact of the planned gas pipeline in the Baltic Sea to link up Russia and Germany (Petitions 0614/2007 and 0952/2007)
(2007/2118(INI))

The European Parliament,

- having regard to Petition 0614/2007,
- having regard to Petition 0952/2007,
- having regard to the communication from the Commission to the European Parliament and the Council concerning the Thematic Strategy on the Protection and Conservation of the Marine Environment (COM(2005)0504),
- having regard to the Sixth Environmental Action Programme of the European Community,
- having regard to Council Directive 97/11/EC amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment¹ and Directives 92/43/EEC and 79/409/EEC forming the NATURA 2000 legislative package²,
- having regard to its resolution of 16 November 2006 on a Thematic Strategy on the Protection and Conservation of the Marine Environment³,
- having regard to its resolution of 16 November 2006 on a Baltic Sea Region Strategy for the Northern Dimension⁴,
- having regard to the Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki Convention),
- having regard to the recommendations of the Helsinki Commission (HELCOM), and in particular Recommendation 17/3 of 12 March 1996 describing the requirement to conduct an environmental impact assessment and consultation with states that may suffer the adverse impact of a proposed project,
- having regard to the Convention on Environmental Impact Assessment in a Transboundary Context of 25 February 1991 (Espoo Convention),
- having regard to the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters of 25 June 1998 (Aarhus Convention)

¹ OJ L 73, 14.3.1997,p.5.

²

³ OJ C 314E, 21.12.2006,p.

⁴ OJ C 314E, 21.12.2006,p.330.

- having regard to the United Nations Convention on the Law of the Sea (UNCLOS),
 - having regard to the precautionary principle, which European Court of Justice case law includes among the general principles of the *acquis communautaire* and which forms one of the aspects of sustainable development under European and international law,
 - having regard to the principle of good governance, which constitutes one of the general principles of European law,
 - having regard to the activities of the European Parliament’s Baltic Europe Intergroup,
 - having regard to the proposals of the public hearing of 29 January 2008,
 - having regard to Decision No 1364/2006/EC of the European Parliament and of the Council of 6 September 2006 laying down guidelines for trans-European energy networks and repealing Decision 96/391/EC,
 - having regard to the Baltic Sea Action Plan adopted at a meeting of Baltic States Environment Ministers held in Krakow on 15 November 2007,
 - having regard to Article 10 of the Treaty establishing the European Community, which imposes on Member States a duty of loyalty towards the Community,
 - having regard to Rule 192(1) of the Rules of Procedure,
 - having regard to the report of the Committee on Petitions and the opinions of the Committee on Foreign Affairs and the Committee on Industry, Research and Energy (A6-0000/2008),
- A. whereas the Baltic Sea is a basin bordered by as many as eight European Union Member States, and 80% of its shore is European Union territory,
- B. whereas concern for the Baltic marine environment is one of the principal tasks of the Union’s Northern Dimension, as repeatedly confirmed by Commission communications and Parliament resolutions,
- C. whereas the Union is especially committed to environmental protection, including marine environment protection,
- D. whereas in proceedings before the European Court of Justice the Commission has repeatedly confirmed that environmental protection is one the Community’s key objectives, and the Court has recognised the Community’s competence in the area of protection and conservation of the marine environment,
- E. whereas the precautionary principle regards appropriate preventive action as essential where there is a reasonable likelihood of a threat to the environment,
- F. whereas the particular vulnerability of the Baltic Sea to environmental threats has been confirmed by the International Maritime Organisation, which has recognised it as an ‘extremely vulnerable area’,

- G. whereas the Baltic Sea is today one of the world's most polluted maritime areas and in particular the concentration of hazardous substances both in its waters and in its living organisms remains unnaturally high,
- H. whereas the Baltic Sea is a typical inland sea as well as a shallow sea area and, together with the Black Sea, has the longest cycle of water exchange with the global ocean, at approximately 30 years,
- I. whereas a number of factors, including long water retention times, the stratified water column and the extensive, industrialised catchment area, make the Baltic Sea especially environmentally vulnerable,
- J. whereas a further significant environmental risk factor is the existence of approximately 80 000 tonnes of munitions dumped on the Baltic seabed after World War II, containing toxic substances such as sulphur yperite, nitrogen yperite, lewisite, Clark I, Clark II and adamsite, which represent a hazard both to the Baltic marine environment and to human life and health,
- K. whereas munitions containers continued to be dumped by a number of states from 1945 until the late sixties,
- L. whereas, moreover, the munitions containers are in a critical condition, their corrosion having been estimated at 80%, and their exact location cannot be determined,
- M. whereas, at the same time, the Baltic Sea Action Plan adopted on 15 November 2007 in Krakow requires states bordering on the Baltic to ensure safe storage of old stocks of chemicals and devices containing hazardous substances,
- N. having regard to the potential impact of a major breakdown of the gas pipeline on the Baltic marine environment and on states bordering on the Baltic, and in particular the threat to the biosphere resulting from reduced oxygenation levels and the supersaturation of sea water with the escaping gas,
- O. having regard to the potential fire hazard and the risk of loss of buoyancy and the sinking of vessels resulting from a breakdown of the gas pipeline,
- P. whereas the construction of the North European Gas Pipeline will result in a technogenic impact on an undersea lane 1 200 km long and approximately 2 km wide, with an area of 2 400 km², which will thus become the largest undersea construction site in the world,
- Q. whereas Article 123 of the United Nations Convention on the Law of the Sea, which forms an integral part of the *acquis communautaire*, requires states bordering semi-enclosed seas to cooperate with each other in the exercise of their rights and in the performance of their duties and to coordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment,
- R. whereas Article 2(1) of the Espoo Convention requires the Parties, either individually or jointly, to take all appropriate and effective measures to prevent, reduce and control significant adverse transboundary environmental impact from proposed activities,

- S. whereas Article 12 of the HELCOM Convention requires the Contracting Parties to take all measures in order to prevent pollution of the marine environment of the Baltic Sea Area resulting from exploration or exploitation of the seabed or from any associated activities,
- T. whereas the proposed route of the North European Gas Pipeline will traverse areas included in the NATURA 2000 programme and which Council Directive 92/43/EEC classifies as special protection areas,
- U. whereas Article 6(2) of Council Directive 92/43/EEC requires Member States to take appropriate steps to avoid the deterioration of natural habitats and the habitats of species in special protection areas,
- V. whereas Article 6(3) of Council Directive 92/43/EEC requires Member States to undertake an appropriate assessment of the implications of any plan or project not directly connected with or necessary for the management of a conservation site, but likely to have a significant effect thereon, in view of the site's conservation objectives;
- W. whereas under Article 6(3) of Council Directive 92/43/EEC only in the light of the conclusions of the above assessment shall the competent authorities agree to the plan or project and after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public,
- X. whereas the proposed gas pipeline would be the longest dual subsea gas pipeline in the world, as well as the shallowest one, which makes it especially vulnerable to potential damage,
- Y. whereas Decision 1364/2006/EC included the North European Gas Pipeline among priority projects of European interest,
- Z. whereas every large-scale engineering structure erected in sea waters must, due to the associated risks, be subject to particularly thorough and comprehensive analysis and environmental impact assessment which, to produce reliable results, must cover at least one full growing season which in the case of some species could be as long as two years, which is much longer than the six-month study period proposed by the investor,
- AA. whereas pursuant to the Espoo Convention every project of this kind should be preceded by an analysis of its alternatives, including in particular implementation costs and environmental safety, in this case an analysis of overland routes for the gas pipeline,
- BB. whereas Article 1 of the Aarhus Convention requires each Party to guarantee the rights of access to information, public participation in decision-making and access to justice in environmental matters,
- CC. having regard to the legal requirements relating to the preparation of an accurate environmental impact assessment, taking into account all the above hazards,
- DD. having regard further to the need to analyse the terrorist threat and the capability for effective counteraction,

1. Supports the proposal contained in the European Parliament's resolution of 16 November 2006, that the EU's future marine strategy must result in binding supranational obligations which might involve common commitments in third countries;
2. Expresses its resolute opposition to regarding large-scale transboundary projects planned for the Baltic Sea area, which is a common asset of the states bordering the Baltic Sea, as matters of bilateral relations between states;
3. Expresses its conviction that projects of this kind should be subjects of common interest and concern for the whole European Union;
4. Calls, therefore, on the Commission and the Council to make a full commitment to analysing the environmental impact of the construction of the North European Gas Pipeline, particularly in situations involving the considerations requiring a Commission opinion, as specified in Article 6(4) of Council Directive 92/43/EEC;
5. Regrets the Commission's failure to accept the proposal contained in Parliament's resolution of 16 November 2006 concerning the preparation of environmental impact assessments of proposed projects by the Commission, while reiterating its call for the preparation of such an assessment;
6. Expresses its concern at the project timetable adopted by Nord Stream, whose implementation will prevent a thorough analysis of the results of the EIA by interested states, non-governmental organisations and HELCOM experts;
7. Points out that dozens of months of work in an area of up to 2 400 km², requiring the use of a large number of vessels and other equipment, represents a serious threat to biodiversity and to the number of habitats in the region;
8. Regrets the absence of a precise definition of the extent of interference with the seabed required to bury the pipeline, which could have a critical impact on the benthic environment;
9. Expresses profound concern at the reports that before commissioning the gas pipeline the investor intends to use a highly toxic compound known as glutaric aldehyde, which it is then planning to release into the Baltic, an action that would result in a major environmental disaster with irreversible consequences; simultaneously calls on the Commission and the Council to take immediate action to prevent this scenario from taking place;
10. Emphasises that the construction and operation of the Gas Pipeline on the Baltic seabed will threaten many species of fish and birds as well as the existence of a population of porpoises numbering only 600, which are a species unique to this geographical region;
11. Finds that in addition to declaring the protection of the marine environment of the Baltic Sea to be a key component of the Northern Dimension of the EU, Community institutions must take specific action with respect to this largest-ever Baltic Sea project;

12. Emphasises that alternative gas pipeline routes, which do not disturb the marine environment, should be analysed first, and notes that it is possible to run such routes to the Russian border overland, solely through European Union Member States;
13. Calls on the Commission to undertake such an analysis in a dialogue with interested states, the investor, the Helsinki Commission and with the participation of interested NGOs;
14. Supports the Swedish Government's Decision of 12 February 2008 refusing to grant Nord Stream AG permission to build the gas pipeline due to significant procedural and substantive shortcomings and in particular the lack of an analysis of an alternative route and of the option of abandoning the construction of the pipeline;
15. Supports the position of the Lithuanian Parliament of 27 March 2007 pointing to the need to suspend the implementation of large-scale infrastructure projects in the Baltic Sea until an in-depth analysis of alternative solutions has been carried out together with independent and comprehensive environmental impact assessments;
16. Regrets the fact that the Green Paper 'Towards a future Maritime Policy for the Union' pays no attention to the problem of large-scale projects such as subsea pipelines;
17. Regrets that in the legal instruments and communications concerning marine strategies initiated by it, the Commission usually passes over the problem of subsea pipelines, which is crucial from the point of view of both environmental protection and the EU's energy security;
18. Reiterates, therefore, its call in its resolution of 16 November 2006 for the proposal of a mandatory mechanism for negotiation between Member States and its insistence that the Council take action at international level to develop mandatory environmental impact assessments in relations between the EU and third countries;
19. Expresses its belief that routing the North European gas pipeline through EU territory would enable it to meet the strategic and economic objectives set out in Decision 1364/2006/EC whilst avoiding extensive environmental damage;
20. Calls on the Council and Commission to use every legal means at their disposal to prevent the construction of the North European gas pipeline on the scale proposed by the investor;
21. Calls on the Commission in particular to ensure compliance with the provisions of the documents referred to above, the Convention on the Law of the Sea, the HELCOM Convention, the Espoo Convention, the Aarhus Convention, Directives 85/337/EEC, 97/11/EC, 92/43/EEC and 79/409/EEC, as well as Article 10 of the EC Treaty and the precautionary principle and the principle of sustainable development, and to initiate proceedings under Article 226 of the EC Treaty in the event of failure to comply with the above obligations;
22. Calls on the Commission in particular to take resolute action in line with the principle of good governance, which recognises that decision-making bodies with wide discretion are

required to carry out a timely analysis of the actual state of affairs and, where necessary, obtain expert opinion to prevent an arbitrary decision being made;

23. Instructs its President to forward this resolution to the Commission, the Council and the governments of the Member States.

EXPLANATORY STATEMENT

Last year the European Parliament received petitions supported by almost 30 000 European Union citizens, mainly from the Baltic States, expressing concern at the planned construction of a gas pipeline from Russia to Germany passing under the Baltic Sea. They believe that the project poses a threat to the natural environment and could be contrary to European Union law.

In deference to the large number of petitioners and the scale of the problem, the Committee on Petitions, which examines petitions from citizens relating to Community activities on behalf of the European Parliament, decided unanimously to draw up a report on the impact of the planned pipeline on the natural environment of the Baltic Sea.

In view of the multifaceted nature of the problem, which, in addition to the issue of environmental protection, also concerns the Union's energy security and other international issues, two competent parliamentary committees (the Committee on Foreign Affairs and the Committee on Industry, Research and Energy) have drawn up their own opinions.

The unprecedented level of interest in the project and its potentially powerful impact on fundamental areas of EU activity, in particular public health, environmental protection and energy security, as well as an increase in gas prices which would ultimately be borne by consumers, provided an incentive for an in-depth examination of the problems related to this venture. With this in view, the European Parliament held a public hearing at which all parties and interest groups were present and expressed their points of view.

After examining the various opinions and assessments and after hearing the participants in the public hearing, your rapporteur is convinced that the European Union must treat this project with the utmost caution and concern, since it poses a direct threat to the environment of the Baltic Sea basin as a whole. The problem has a genuine European dimension since it seriously affects eight European Union countries, namely Germany, Sweden, Finland, Latvia, Lithuania, Estonia, Denmark and Poland. The rapporteur therefore calls on the Council and Commission to use all available legal means to prevent the construction of the Northern European gas pipeline on the scale proposed by the investors. Your rapporteur firmly believes that routing the northern gas pipeline overland through EU territory will make it possible to meet the strategic and economic objectives set out in Decision 1364/2006/EC, while at the same time averting the serious threat to the environment and an increase in prices that would have to be borne by consumers.

Your rapporteur is gravely concerned that in recent months, in virtually all the Baltic countries, expert agencies, government bodies responsible for the environment and representatives of environmental associations have examined the fundamentals of the project and concluded that it would pose serious threats to the environment, including:

1. Damage to Natura 2000 areas;
2. Danger of disturbing German chemical weapons dumps from World War II, mines, unexploded bombs and sunken vessels, particularly in the Gulf of Finland and in areas along the route of the planned pipeline;

3. The unprecedented size of the construction zone (2400 km² - the same size as the Grand Duchy of Luxembourg), in a sea such as the Baltic, which is relatively small and enclosed;
4. The threat of large-scale pollution from the discharge into the Baltic Sea of thousands of tons of chemicals (aldehydes) needed to clean the pipeline before it enters into service.

The environmental risks set out in detail by various experts at the public hearing are confirmed by the opinions and the viewpoints of other organisations which have approached Members of Parliament, including Nordic Greenpeace, which forwarded a statement expressing its concern and opposition to the planned Nord Stream pipeline and expressing support for the overland option.

Your rapporteur cannot accept the viewpoint that a project affecting the Baltic seabed is a bilateral matter for Germany and Russia. Protection of the Baltic Sea environment is one of the most important tasks facing the so-called Northern dimension of the EU, and one which is addressed in a series of Community resolutions and legal instruments dealing with this issue.

In this connection, the European Union has a duty to devote special care to the Baltic Sea environment, not forgetting also the need for solidarity, energy security and consumer protection. There have been cases where European institutions have reacted firmly to inter-state projects with dubious effects on the environment where these ultimately affected only one state. It is hard to imagine that the EU institutions will treat lightly a case which in practice affects one third of its Member States and its only enclosed sea.

It should be stressed in particular that the investors took no account of the need first of all to examine alternative routes for the gas pipeline which would not damage the marine environment, bearing in mind that the possibility exists for a land route running from the Russian border and passing solely through European Union countries. In this connection, your rapporteur urges the Commission to undertake such an analysis, as part of a dialogue with the countries concerned, the investors and the Helsinki Commission and with the participation of interested NGOs.

Your rapporteur supports the decision of 12 February 2008 by the Government of the Kingdom of Sweden refusing to grant the company Nord Stream AG permission to build the pipeline because of significant substantive and procedural shortcomings and, in particular, the failure to submit any study of alternative routes or the option of abandoning the construction of the pipeline.

Your rapporteur also supports the position adopted by the Parliament of the Republic of Lithuania on 27 March 2007, pointing to the need to suspend large-scale infrastructure projects in the Baltic until detailed studies of alternative options have been undertaken together with independent and comprehensive environmental impact assessments.

The rapporteur also takes note of the decision of 21 September 2007 by the Government of Estonia refusing Nord Stream permission to carry out underwater studies in its exclusive economic zone.

Your rapporteur also wishes to draw attention to the problem of covering the cost of damage

caused during the construction and use of the pipeline and the cost of dismantling it at the end of its period of operation.

Apart from looking at environmental questions, we also need to consider the opinions of leading experts and European media, who speak of an increase in investment costs of up to 20 billion euro and anticipate considerable delays in the building schedule caused by the need for extensive studies and consultations at political and social level. In their opinion, even if the project is completed within a number of years, after taking exceptional security measures and paying compensation for damage to Natura 2000 protected areas, the enormous cost is bound to affect European gas prices, particularly German consumers and the companies building the pipeline. These experts believe that the costs involved would be several times greater than the cost of a land-based alternative.