

Gas pipeline to the Baltic Sea – should it come in a civilized way or under the dictate of the big and the powerful?

By Siiri Oviir

During the last decades the European Union's energy policy has been quite dispersed. No unified policy has been developed because of the opposition of a number of big states. Today this topic has become a burning issue as in addition to economic aspects political aspects have come into play. Some states back very strongly the interests of their private sector and in some cases they have even used their enterprises to reach their foreign policy aims.

We are not used to think of energy as part of real politic, but energy resources can be used to fulfil the states' ambitions, to influence leaders of other states or even to threaten them. That is why during the last couple of years energy security has become so relevant in the context of the future Russian-German gas pipeline to be built in the Baltic Sea.

The planned pipeline, which ever route it would take under the sea, will not considerably influence Estonia, my native country, given the present context of gas supplies. However, Poland and the other Baltic States as potential countries of transit would gain a lot in case the 1200 km long under- water gas pipe were built on the land. Estonia is first and foremost interested in avoiding the environmental damage to the marine environment of the Baltic Sea. Among the main sources of threat there are the sunken containers with chemical weapons that can start leaking, intensive traffic and rusty bombs lying on the seabed let alone the interaction with the technical infrastructure. As to the latter the Estlink sea cable is not the most vulnerable infrastructure object in the Baltic Sea, as the optical cable connecting Sweden and Poland has much greater relevance in this respect.

After following the dispute over the gas pipeline one cannot avoid asking the question to whom the seabed belongs. What are the states' duties and rights in connection with the sea? The Baltic Sea and also the territory under the sea have been divided between the surrounding states and are subject to international or national law and there is practically no 'open' sea left in this area. The sovereignty of coastal states applies also to their territorial waters and the seabed. The direction and the installation plan of the gas pipe will have to be approved by the coastal states of the Baltic Sea. It is also up to these states whether and to what extent to allow under water exploration, including drilling the part of the continental shelf in their territorial waters. A number of coastal states in the Baltic region have not given their consent to the above project as the full documentation has not been made available to them. There have already

been some cases in international practice where the states have not given a permission to carry out offshore exploration in their territorial waters or in their economic zone to foreign companies. The reasons vary from potential environmental damage caused by the drilling mechanisms to reluctance to share the information about the underlying national interests in a given territory.

The International Maritime Organisation has declared the Baltic Sea a vulnerable sea area yet there is no international treaty that would deal specifically with the question of environmental impact of a submarine pipeline. There are still some international agreements very close to this topic. The Espoo Convention of 1991 foresees international consultations in case of the projects with a cross-border environmental effect. The countries concerned have also the right to participate in the environmental impact assessment. This Convention has taken effect in Germany, Sweden, Finland and Estonia. Russia has signed the Convention. In addition to the rights given by this international agreement the parties have also taken an obligation to protect the environment that may prove to be difficult to fulfil unless they have a full say in the environmental matters. Considering the above the Estonian Government decided not to give permission for offshore exploration in its economic zone to the Nord Stream in 2007. In July 2008 the European Parliament requested the environmental impact assessment of the pipeline project in the Baltic Sea. In this context it remains unclear why the former Finnish Prime Minister and now Adviser to the Russian-German gas pipe project Nord Stream has expressed an opinion that the opposition of Estonia, Sweden and Poland to the project cannot undermine it and the decisions of these three states can be by-passed.

The problem of energy security will remain important both globally and in the Baltic Sea region for a long time to go and I can only hope that the states will be wise enough to avoid a situation where all parties are in conflict with each other.

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