NORD STREAM 2 – PRESIDENT OF THE OFFICE OF COMPETITION AND CONSUMER PROTECTION MAY IMPOSE A EUR 50 MILLION FINE ON GAZPROM

* **The President of the Office of Competition and Consumer Protection (UOKiK) initiated proceedings against Gazprom for lack of cooperation during an anti-trust investigation.**
* **For failure to provide information, Gazprom is liable to a fine of EUR 50 million, independent of any consequences that may arise from proceedings concerning a concentration of undertakings without the consent of the President of the Office.**

**[Warsaw, 3 June 2020]** Gazprom’s case concerns [proceedings concerning the construction of Nord Stream 2](https://www.uokik.gov.pl/news.php?news_id=14323). In 2018, UOKiK brought charges of financing construction of the gas pipe line without a legally required permit against six companies. Those are undertakings which belong to international groups : Gazprom from the Russian Federation, Engie Energy from Switzerland, as well as four companies from the Netherlands: Uniper, OMV, Shell and Wintershall.

At the beginning of 2020, the President of the Office requested Gazprom to provide documents relevant to the case. The request pertained to contracts concluded between a subsidiary of Gazprom and other companies financing the construction of Nord Stream 2. These were primarily gaseous fuel transmission, distribution, sale, supply and storage agreements. Despite the obligation to cooperate with the Office, the company did not provide this information.

“*Law is clear and applies equally to all of us, however Gazprom refused to provide documents relevant to our investigation on several occasions. Gazprom cannot operate above the law and, for that reason, I have initiated proceedings against the company to impose a fine for failure to provide information during the pending investigation. According to the law, the company is liable to a financial penalty of up to EUR 50 million,*” explains Tomasz Chróstny, President of the Office of Competition and Consumer Protection.

If a transaction has an impact on the domestic market or a capital group achieves a certain level of turnover on that market – even a foreign undertaking is under an obligation to report the transaction to the national anti-trust authority and respond to its requests. Those obligations are rooted in the provisions of EU law on the Polish Act on Competition and Consumer Protection is based.

**Fine imposed on Engie Energy in 2019**

Gazprom is another company which refused to cooperate with the Office in the course of proceedings regarding the unlawful establishment of a company financing Nord Stream 2. [Last year, a PLN 172 million fine was imposed on Engie Energy](https://www.uokik.gov.pl/news.php?news_id=15941), as it failed to provide the Office information regarding gaseous fuels, including transmission, distribution, sale, deliver and storage agreements.

“*It is particularly reprehensible that large, international corporations do not comply with the applicable laws. If the lack of cooperation was intended to slow down the Office in its investigation, I can say that the companies did not achieve their goal. We already have adequate evidence and are nearing the end of our investigation in the case concerning concentration without approval*,” says Tomasz Chróstny, President of the Office.

**Nord Stream 2 case in the Office of Competition and Consumer Protection – the story of an anti-trust investigation**

In 2015, the Office received an application filed by six companies for approval to create a joint venture **responsible for the construction and operation of Nord Stream 2. In 2016, the Office voiced its concerns regarding the concentration,** in which it noted that the planned transaction [could lead to the restriction of competition and presented its reservations](https://www.uokik.gov.pl/news.php?news_id=12477) . The companies withdrew their application, which in practice meant that they were [prohibited to perform a merger.](https://www.uokik.gov.pl/news.php?news_id=12511) **Meanwhile, not long after information that the would-be parties to the transaction have signed an investment financing agreement started to appear in the media. Therefore,** [proceedings against Gazprom and its five trading partners](https://www.uokik.gov.pl/news.php?news_id=14323) **regarding the execution for a transaction without obtaining approval from the Office of Competition and Consumer Protection were initiated.**

For violating the prohibition against concentration without obtaining approval from the Office of Competition and Consumer Protection, the companies are liable to a fine equal of up to 10 percent of their annual turnover. In addition, if the concentration was implemented and it is no longer possible to restore competition on the market, the President of the Office may order the total or partial disposal of the company’s assets and shares granting control over the company, and even the dissolution of the company over which the companies concerned hold control.