

Western Courts Target Gazprom For Expropriations

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On October 23rd the Amsterdam District Court issued an order for the seizure of 100% of the shares of the South Stream Transport B.V. company, which is contracted to build the offshore section of the **Turk Stream Pipeline**. This legal ruling follows a 2018 award by the Stockholm Arbitration Tribunal of \$4.6 billion to Naftogaz, the (theoretically) state-owned oil and gas company of Ukraine, in a lawsuit which it had filed against Gazprom in 2014 in relation to alleged contractual violations regarding gas-transit through Ukraine. That \$4.6 billion award was later negotiated down to \$2.56 billion, but on October 23rd the Amsterdam District Court ordered the seizure of all South Stream Transport B.V. shares as a punitive measure for non-compliance with the Stockholm Arbitration Tribunal order.

Despite this development, Russian Energy Minister Aleksandr Novak said on October 27th that the construction of the Turk Stream Pipeline would be completed on schedule. The 1100-kilometre pipeline, 900 kilometres of which runs under the Black Sea to Turkey, is envisaged to begin delivering a combined total of 30 billion cubic metres of gas to Turkey and South-Eastern Europe per year, beginning in late 2019.

Russia-Turkey gas pipeline plans

Moscow and Ankara seek to develop Turkey as a transit route for Russian gas to Europe, avoiding Ukraine



Of course, this is not the first time that Russia's state-owned concerns have been targeted for plunder by a court or quasi-judicial body convened in the legal jurisdiction of a western country. In July 2014, the Permanent Court of Arbitration in The Hague issued an award of \$50 billion to former shareholders of Yukos, the oil company previously controlled by the oligarch Mikhail Khodorkovsky. Interestingly, the Amsterdam District Court, the same judicial body which has issued this latest ruling, later quashed the 2014 ruling made by the

Permanent Court of Arbitration on the grounds that the latter had no legal jurisdiction to issue such a ruling.

One thing which is perfectly clear in context is that these legal rulings are, quite blatantly, both politically and geo-politically motivated. Targetting Gazprom serves multiple geo-political functions. Firstly, the Turk Stream pipeline was devised in order to enable Russia to bypass the territory of a deeply problematic, crisis-ridden, hostile and contractually unreliable neighbour in the task of effecting gas-transit to its markets in Europe. Even before relations between Russia and Ukraine deteriorated following the February 2014 Ukrainian coup d'état, the siphoning-off of Russian gas while in transit across Ukrainian territory had been a perpetual concern for many years.

However, this goal of rendering Ukraine a geo-political irrelevancy, and therefore nobody else's problem, is precisely what western geo-strategists are invested in preventing. Ukraine has been transformed by western interests into the failed state that it is now precisely for the purpose of presenting developmental and economic challenges to Russia. Therefore, these same interests must use any counter-measures, including quasi-legal counter-measures, in order to keep Ukraine relevant. This explains the punitive court-order to freeze the shares of South Stream Transport B.V.

Another driver of this western judicial hostility, also a manifestation of current geo-political conditions, pertains to Gazprom specifically. To analyze this, we should look at the role which highly profitable state-owned concerns, Gazprom the most notable among them, play within the Russian economy and in Russian society more broadly.

In spite of maintaining quite a business-friendly tax-environment (Russia has a 13% flat income-tax rate), the Russian government nonetheless manages to maintain (and indeed, to significantly upgrade) the social system. Significant federal investments have already been made in infrastructure and in the modernization of the public healthcare sector, for example. In February, the government announced 12 major development-projects as part of the "Great Society" initiative ranging from agriculture, ecology, infrastructure, the digital economy, and the further technological modernization of public healthcare.

In a country with a 13% flat income-tax rate, revenues from state-owned companies like Gazprom make this kind of state-building and society-strengthening possible. The western alliance (and its judiciaries) understand perfectly well that financial attacks against Gazprom amount in practical terms to attacks on the Russian state, and to counter-measures to the Russian state's efforts to build the kinds of social systems which are necessary to its long-term self-defence.

Taken to its logical conclusion, from the liberal democratic perspective, the rationalization for this further degree of geo-political weaponization of "international law" would be that, as liberal democracy is believed by the western alliance to be the only political system which has any moral or political legitimacy, it therefore follows that only liberal democratic legal systems have any legal jurisdiction, and that their jurisdiction should be seen as universally extensive.

"Liberal universalism" refers to a sense of moral universality, but also (consequently) to a sense of universality of legal jurisdiction.

This mindset attempts to justify the weaponization of judiciaries, and of judicial bodies

established by international law, against all and any states which don't sign on with the liberal universalist consensus.

Of course, Russia is not the only state which is targeted by this geo-political weaponization of judiciaries. We might recall the 2012 order made by a New York court to freeze \$6.5 billion in Iranian government assets in relation to a lawsuit filed by family-members of people killed in the 9/11 attacks. The lawsuit had claimed (quite spuriously and bizarrely) that Iran had aided and abetted the 9/11 attackers, despite the obvious point that Al-Qaeda's ideology is fanatically anti-Shi'ite. One point which is interesting, considering that state-sponsored piracy has quite recently re-appeared on the high seas (Gibraltar), is that judicial structures established by "international law" are now also being quite explicitly used for the purpose of enabling what we might term "judicial piracy."

What next? Will the British government start re-issuing "letters of marque" to sea-faring privateers?

However, as with so many geo-political stratagems deployed by the governments of contemporary liberal democracies, the resulting erosion of the judiciary's independence from the political sphere completely undermines the normative and legal basis of liberal democracy itself.

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