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# Result of arbitration between Gazprom and Gasum: contradictory statements from the companies

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On 16 November, Gazprom announced that in accordance with the award of the arbitral tribunal, the Finnish company Gasum is obliged to pay the Russian company the amount of €300 million for gas deliveries relating to the non-fulfilment of the 'take or pay' obligation. According to Gazprom, the court thus confirmed the legality of the Russian decision to withhold gas supplies to Finland when the Gasum refused to make payments in roubles. The change in the settlement mechanism resulted from a decree signed by President Vladimir Putin on 31 March this year, which obliged Gazprom's partners to pay for gas supplies in the Russian currency. To meet these requirements, among other things, buyers must set up currency and rouble accounts with Gazprombank, and payments should be made in a two-stage scheme: first, the payment is made in a foreign currency (euros or US dollars), and the funds are then converted into roubles. According to the wording of the document, recognition of the payment takes place only at the moment when the receipt is posted in the rouble account. According to Gazprom, the arbitral tribunal considered the decree introducing the 'gas for roubles' rule as a circumstance of *force majeure*.

For its part the Finnish company Gasum, in its announcement on 16 November, presented a different assessment of the decision. In its opinion, the arbitral tribunal did not state that Gasum was obligated to pay for the gas deliveries in roubles according to the procedure that was unilaterally imposed on Gazprom's contractors by the Russian authorities. The company also stated that it does not plan to resume receiving gas deliveries in the near future (Gazprom stopped deliveries to Finland in May).

Both parties said in their communiqués that the arbitral court committed them to continue talks regarding the contract in order to resolve the situation with future gas supplies.

**Commentary**

- It is difficult to assess unequivocally the content of the tribunal's decision in the dispute between Gazprom and Gasum. Awards of this type are usually not public, and the parties to the proceedings usually only communicate selected provisions to the public in terse statements. An additional difficulty in assessing the award in this case is related to the fact that both entities have offered contradictory conclusions on the key issue in dispute, i.e. the legal effects of the mechanism which Russia introduced unilaterally to regulate payments for gas supplies in roubles.

- It is possible that the arbitral tribunal is trying to avoid issuing a clear-cut award by obliging the parties to continue negotiations. The source of the dispute is the Kremlin's politically motivated decision to insist on payment in roubles, which was intended as a form of counter-sanction against EU member states imposing restrictions on Russia in connection with its attack on Ukraine. Furthermore, an unambiguous assessment of the legality of the unilaterally introduced mechanism for settling payments for Russian gas could significantly affect disputes between Gazprom and other EU counterparties. The new rules Moscow has imposed have not been accepted by companies such as PGNiG, GasTerra, Shell, Ørsted or Bulgargaz.