

Dark clouds over Paks II: no approval for Hungary's state aid

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On 11 September, the Court of Justice of the European Union (CJEU) annulled the European Commission's March 2017 decision approving Hungary's provision of state aid for the expansion of the Paks nuclear power plant – a project carried out jointly with Rosatom. Austria challenged the Commission's decision as early as February 2018, but in November 2022 the EU's General Court ruled in Hungary's favour. The CJEU took a different view, concluding that the Commission should have included in its decision a prior assessment of whether the direct awarding of the contract for two new reactors to the Russian company complied with public procurement law – even though the Commission had launched a separate procedure regarding this matter in 2015 and closed it a year later without finding any irregularities. Hungary's Minister for European Union Affairs János Bóka emphasised during a government briefing that the CJEU's ruling does not state that the investment violates EU public procurement law, but merely that the Commission had failed to address this issue in its decision. He added that, for this reason, Budapest sees no legal grounds for halting the project. He also confirmed that Hungary intends to cooperate with the Commission to demonstrate that all procedures were carried out in accordance with EU law.

The CJEU's ruling obliges the European Commission to revise its approval of Hungary's financing of the Paks II expansion. This implies further delays to the project and may even lead to its eventual collapse. Since the Russian invasion of Ukraine in 2022, serious doubts have emerged over whether the project can be completed under the new international circumstances. The reopening of the approval process for state aid now adds another obstacle.

Commentary

- **The CJEU's decision is yet another in a series of obstacles hindering the progress of Rosatom's project, further delaying the prospect of its completion.** Due to various legal and political challenges, and the resulting modifications, the project is now approximately a decade behind schedule when measured against the original timeline set out in the 2014 Hungarian-Russian intergovernmental agreement. There was some progress in June this year: the United States lifted sanctions on Gazprombank, which provides financial services to Rosatom, and the German company Siemens Energy confirmed its continued involvement in the project (see '[Hungarian-Russian Paks nuclear project: a new breach in Western sanctions](#)'). Although the construction remains in its early stages – foundation work commenced in autumn 2023 – it was due to move into the next phase, with concrete placement scheduled for the first of the two new units by the end of the year. However, the need for the European Commission to reassess its approval means

that this step will be delayed by at least several months (the original approval was issued after almost two years).

- **The European Commission will now have to consider its new decision under fundamentally different international circumstances.** Since the beginning of Russia's full-scale invasion of Ukraine, the EU has been working to eliminate its energy dependence on Moscow. While the nuclear sector has so far avoided sanctions, the Commission's plan presented in May includes a proposed ban on imports of Russian nuclear fuel from 2028. The United States has also recently increased pressure for a swift move away from Russian supplies in this area. The favourable decision in 2017 was issued at a time when Hungary was not as isolated within the EU as it is today, and was preceded by intensive lobbying efforts, including from German actors (see '[Russia is ever closer to building a nuclear power plant in Hungary](#)'), which Budapest can no longer count on under current conditions. EU state aid rules have not changed. However, given the requirement set by the CJEU to include in the Commission's decision an assessment of how the contractor was selected, together with the shifting political landscape, the European Commission is less likely to grant approval under current circumstances.
- **The Hungarian government is attempting to downplay the significance of the CJEU ruling owing to its deep entanglement in the project with Russia, as well as the upcoming parliamentary elections.** So far, the authorities in Budapest have shown firm commitment to expanding the post-Soviet facility – even after Russia launched a full-scale invasion of Ukraine in 2022. At that time, Finland, the only other EU country pursuing a similar project with Rosatom, withdrew from its plans. Further delays could benefit the opposition during the spring election campaign, giving them grounds to accuse the ruling party of ineffectiveness. However, if Tisza – the main opposition force threatening Fidesz – were to intensify its criticism of the government's energy cooperation with the Kremlin, continued setbacks in the project could ultimately prove convenient for Viktor Orbán's party, as they would partially lessen the reputational burden it faces.