



New Sanctions in the U.S. Defence Budget

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In the U.S. National Defense Authorization Act (NDAA) for 2021, finally adopted on 1 January 2021, Congress included provisions on sanctions against Turkey for its purchase of the Russian S-400 missile system and on entities involved in the construction of the Nord Stream 2 (NS2) gas pipeline. Sanctions related to the S-400 were adopted by the Trump administration 18 days before the NDAA was passed, but the law will further limit President-elect Joe Biden and his administration's latitude in relations with Turkey. The NDAA also creates an opportunity to prevent the completion of NS2, despite particularly strong support from Germany. These disputes with two important allies will be a challenge from the very beginning of the new president's term of office.

What sanctions against NS2 are included in the NDAA?

In June 2020, a group of U.S. senators [introduced a bill to amend the Protecting Europe's Energy Security Act \(PEESA\) from December 2019](#) that targeted NS2 with sanctions. These amendments expanded the list of activities related to NS2 construction that would fall under U.S. sanctions. The changes in PEESA were eventually included in NDAA 2021 but watered down: the sanctions would target, among others, insurers and service providers ([including certification services](#)) but only those "necessary or essential" for NS2 completion and operation. They will not apply to the EU, the governments of EU Member States or those of the UK, Norway, or Switzerland, or to entities connected to those governments that do not operate as a business enterprise ([meaning the sanctions will not target, for example, officials issuing permits for NS2](#)). Before imposing the sanctions, the U.S. must consult the above-mentioned countries.

What are the sanctions against Turkey?

In NDAA 2020, Congress issued a warning about the possibility of imposing sanctions on Turkey [under another law, CAATSA](#), which allows for the introduction of restrictions on entities undertaking cooperation with Russian companies. Due to Turkey's desire to integrate the S-400 systems into its defence infrastructure and the lack of action by the Trump administration, in July last year while working on NDAA 2021, Congress took up an amendment

obliging the president to impose such sanctions. [Ultimately, Trump introduced them within the scope provided in the July amendment to the defence budget as early as 14 December 2020](#), before the final adoption of NDAA 2021. Thus, the law does not oblige the president to impose further restrictions on Turkey, but states, however, that sanctions can only be lifted if the administration presents evidence to Congress that Turkey no longer is in possession of S-400 systems.

What does NDAA 2021 mean for U.S. relations with Germany and Turkey?

Although the adopted law impacts fewer entities than the amendments proposed in June 2020 by the senators, it still aims to stop NS2 by targeting key contractors. Germany will remain dissatisfied with this and will want to convince Biden (e.g., through consultations) to waive the application of the sanctions.

[The adoption of the NDAA does not significantly affect U.S.-Turkish relations, which are already in bad shape](#). However, despite the sanctions, Turkey may decide to fully launch the S-400 systems, including associated radar equipment, which the U.S. warns against. It is possible that if the Biden administration maintains this approach and imposes further sanctions, the Turkish authorities will decide to purchase additional S-400 systems from Russia

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What does this mean for the Biden administration's foreign policy?

According to PEESA, from December 2019 the U.S. president can waive the application of the sanctions against NS2, and the amendments to the NDAA that envisage consultations with allies will additionally encourage Germany to lobby for such a waiver. However, such a move would require Biden to reverse the consistent U.S. policy of opposing NS2 and submit a report to Congress explaining the reasons for the waiver and justifying it as in the U.S. national interest (which could lead to a conflict with Congress). It might be even more difficult since such a move could be seen as a concession to Russia.

Making the lifting of sanctions imposed by the Trump administration dependent on the conditions set out in the NDAA will make it difficult for Biden to freely shape his relationship with Turkey. Congress is likely to continue to play an active role in U.S. policy towards Turkey, pushing for more sanctions if it is not ready for compromise. Such

actions direct Biden policy towards limiting cooperation and putting diplomatic pressure on the Turkish authorities.

What does all this mean for Poland?

The U.S. dispute with Germany and Turkey weakens NATO cohesion, which can be detrimental to the Alliance, including Poland. However, the disputes are caused by the U.S. desire to limit Russia's influence in key EU and NATO states, whether economic (in the case of NS2 and Germany) or militarily (in the case of the S-400 and Turkey). This argument may be raised by Polish diplomacy in the event of discussions about U.S. policy and the risks associated with the construction of NS2 and the purchase by Turkey of the S-400 within the Union or Alliance forums. With regard to the functioning of the S-400 systems in the defence infrastructure of Alliance countries, Poland should take the position that it poses a threat to the security of other members due to the S-400's collection of data on combined defence systems, including F-35 multirole fighters, which are to enter service in the Polish armed forces from 2024.