

# Russia's Replacement: Kazakhstan as Europe's Risky but Crucial New Oil Supplier Amidst EU Sanctions and Embargoes on Russian Oil

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## INTRODUCTION

As of December 20, 2022, Germany pledged to refrain from all purchases of Russian oil in 2023 in light of Russia's invasion of Ukraine and subsequent European Union (EU) sanctions on Russian oil imports, despite a lack of sanctions on the Druzhba pipeline in particular.<sup>1</sup> The pipeline, running from the Russian heartland through Ukraine and Belarus and owned by Moscow-based pipeline transport company Transneft, is the second-longest oil pipeline in the world and has provided crucial Russian oil supplies to central Europe since 1964.<sup>2</sup> Poland followed Germany's lead by refusing to renew a contract for Russian oil – a contract which expired in January 2023 – but uncertainty surrounding the origin of a replacement oil supplier continued to brew.<sup>3</sup>

As of early 2023, it was anticipated that Kazakhstan would step in to supplement European crude oil supplies and take over the Druzhba pipeline.<sup>4</sup> This plan was solidified by the summer when Germany and Kazakhstan struck an oil deal on June 20.<sup>5</sup> Although the refineries signing the contract are technically still owned by a Russian company, they have been under a

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<sup>1</sup> Petra Sorge & Alex Longley, *Germany Says It Won't Be Buying Russian Oil at All in 2023*, BLOOMBERG (Dec. 20, 2022), <https://www.bloomberg.com/news/articles/2022-12-20/germany-says-it-won-t-be-buying-russian-oil-at-all-in-2023> [<https://perma.cc/8DDB-LEW2>].

<sup>2</sup> Tom Wilson, *The Soviet pipeline that keeps Europe hooked on Moscow's oil*, FINANCIAL TIMES (Mar. 15, 2022), <https://www.ft.com/content/865ee6bd-673e-4810-8726-6f7e007d5d0a> [<https://perma.cc/LGS7-L3KV>].

<sup>3</sup> *Russia's Transneft receives Polish and German requests for oil*, REUTERS (Dec. 20, 2022), <https://www.reuters.com/business/energy/russias-transneft-receives-polish-german-requests-oil-tass-2022-12-20/> [<https://perma.cc/72NG-5EA3>].

<sup>4</sup> Vusala Abbasova, *Kazakhstan to Supply Oil to Germany via Russia's Pipeline*, CASPIAN NEWS (Jan. 14, 2023), <https://caspiannews.com/news-detail/kazakhstan-to-supply-oil-to-germany-via-russias-pipeline-2023-1-14-0/> [<https://perma.cc/TLR8-WUFT>].

<sup>5</sup> *Germany Secures a Deal to Get Kazakh Oil for Crude-Starved Refinery*, Bloomberg News (June 20, 2023), <https://www.bloomberg.com/news/articles/2023-06-20/germany-secures-a-deal-to-get-kazakh-oil-for-crude-starved-schwedt-oil-refinery> [<https://perma.cc/4REY-FCXV>].

German government trusteeship since September 2022.<sup>6</sup> The real trouble that underlies these seemingly suitable Kazakh alternatives to Russian oil include the fact that the oil itself is still Russian, and that seemingly friendly undertones in the relationship between Kazakhstan and Russia dilute any real negative incentives that would come to Russia as a result of the sanctions and embargoes related to Russian oil.<sup>7</sup> Kazakh leaders initially tried to distance themselves from Russia in light of the invasion of Ukraine.<sup>8</sup> However, by November 2023, Kazakhstan's President spoke fondly of a proposed increase in the volume of Russian natural gas transported by Kazakh pipelines: "We are interested in making full use of our transit potential and are ready to further increase the volume of Russian gas transportation."<sup>9</sup> Potentially related to severe domestic gas shortages,<sup>10</sup> this expression of willingness and perhaps even eagerness to deal in oil with Russia poses a threat to the integrity of international efforts to sanction Russia via the energy sector. Practical issues also arise in light of Kazakhstan's minimal oil infrastructure, casting doubt on the plausibility of having Kazakhstan replace a major oil supplier like Russia.<sup>11</sup>

This article provides an overview of the challenges of replacing Russian oil sources with Kazakh sources, including geopolitical tensions, limited infrastructure with which to support a newly thriving oil industry, and EU sanctions on Russian oil being limited in their reach.

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<sup>6</sup> Michał Kędzierski, *Kazakhstan is set to supply oil to Germany*, OSW CENTRE FOR EASTERN STUDIES (June 23, 2023), <https://www.osw.waw.pl/en/publikacje/analyses/2023-06-23/kazakhstan-set-to-supply-oil-to-germany> [<https://perma.cc/YS6T-BLUP>].

<sup>7</sup> See *Kazakhstan ready to transport more Russian gas, oil - Kazakh President*, REUTERS (Nov. 7, 2023), <https://www.reuters.com/world/asia-pacific/kazakhstan-ready-transport-more-russian-gas-oil-kazakh-president-2023-11-08/> [<https://perma.cc/K46X-WT8Z>] (hereinafter "*Kazakhstan Ready*").

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Kazakhstan has serious shortage of gas - Minister of Energy*, AKIPRESS (Nov. 9, 2023), [https://akipress.com/news:741772:Kazakhstan\\_has\\_serious\\_shortage\\_of\\_gas\\_-\\_Minister\\_of\\_Energy/](https://akipress.com/news:741772:Kazakhstan_has_serious_shortage_of_gas_-_Minister_of_Energy/) [<https://perma.cc/7VJ7-2KJL>].

<sup>11</sup> See The Jamestown Foundation, *Kazakhstan Can't Fill the Void Left by EU Oil Embargo On Russia*, OILPRICE.COM (Jan. 11, 2023), <https://oilprice.com/Energy/Crude-Oil/Kazakhstan-Cant-Fill-The-Void-Left-By-EU-Oil-Embargo-On-Russia.html> [<https://perma.cc/4C8D-FLPM>] (showing that Kazakhstan's Caspian Pipeline Consortium ("CPC") suffered four shortages in 2022).

Following that is an outline of a few possible solutions for these challenges, including (1) implementing additional EU sanctions against Russia, (2) diversifying Kazakh oil export routes, and (3) building national gas reserves in Europe.

## RUSSIA AS A ONCE-CRUCIAL SUPPLIER OF OIL FOR EUROPE

Russia has long been an immensely important supplier of oil and gas for Europe.<sup>12</sup> As of December 5, 2022, Russia was the world's largest oil exporter, and Europe "has always been one of [Russia's] largest export destinations."<sup>13</sup> In 2021, the EU imported 83% of its natural gas, which it used primarily for power, heating generation, and household necessities.<sup>14</sup> Russia supplied EU countries with 40% of their natural gas in 2021.<sup>15</sup> Germany was the largest importer, importing 56.2 billion cubic meters of gas from Russia, and Poland imported 10.5 billion cubic meters from Russia.<sup>16</sup> By August 2022, following the invasion of Ukraine, Russia was supplying EU countries with only 17% of their natural gas<sup>17</sup> and was exporting 115,000 fewer barrels of oil per day than at the start of 2022.<sup>18</sup>

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<sup>12</sup> Anna Cooban, *US has replaced Russia as Europe's top crude oil supplier*, CNN BUSINESS (Mar. 28, 2023), <https://www.cnn.com/2023/03/28/energy/eu-us-oil-imports-overtake-russia/index.html> [<https://perma.cc/32X2-UTU9>].

<sup>13</sup> Jackie Northam, *What to know about the West's new efforts to slash Russia's oil revenue*, NPR (Dec. 5, 2022), <https://www.npr.org/2022/12/02/1139477837/russia-oil-revenue-sanctions-price-cap-g7-eu-import-ban> [<https://perma.cc/6USG-H3ND>].

<sup>14</sup> *Infographic – Where does the EU's gas come from?*, EUR. COUNCIL & COUNCIL OF THE EUR. UNION (Feb. 7, 2023), <https://www.consilium.europa.eu/en/infographics/eu-gas-supply/#:~:text=In%20August%202022%2C%20Russia's%20share,the%20US%2C%20Qatar%20and%20Nigeria> [<https://perma.cc/2XPG-RJ4K>].

<sup>15</sup> Jake Horton & Daniele Palumbo, *Russia sanctions: What impact have they had on oil and gas imports?*, BBC (Jan. 26, 2023), <https://www.bbc.com/news/58888451> [<https://perma.cc/UF55-KYX4>].

<sup>16</sup> Horton & Palumbo, *supra* note 15.

<sup>17</sup> *Id.*

<sup>18</sup> *Oil Market Report – August 2022*, INTERNATIONAL ENERGY AGENCY (Aug. 2022), <https://www.iea.org/reports/oil-market-report-august-2022> [<https://perma.cc/D9NU-T2EX>] ("Russian oil exports fell by 115 kb/d in July to 7.4 mb/d, from about 8 mb/d at the start of the year.").

The Russian invasion of Ukraine prompted a variety of sanctions against Russia,<sup>19</sup> including a ban on Russian oil imports. As of May 31, 2022, EU leaders agreed to ban 90% of Russian oil by the end of the year.<sup>20</sup> The EU embargo covered only Russian oil brought in by sea, “allowing a temporary exemption for imports delivered by pipeline.”<sup>21</sup> The EU’s ban on most seaborne imports of Russian oil<sup>22</sup> morphed into a “prohibition to import crude oil from Russia, whether by pipeline or via maritime transport.”<sup>23</sup> The EU, alongside the United States, Australia, and other nations, imposed a \$60 price cap on oil sold by Russia to the rest of the world intending to “limit Russia’s ability to fund its war in Ukraine”<sup>24</sup> in addition to the embargo. A parallel goal of this price cap was to prevent disruptions in oil supplies that could cause higher prices for consumers of gas and oil worldwide.<sup>25</sup>

By December 29, 2022, Germany and Poland had pledged to stop buying Russian oil by the end of the year.<sup>26</sup> Poland was “ready for [a] Russian oil ban,” and had “secured alternative oil supplies via its partnership with Saudi Aramco.”<sup>27</sup>

## KAZAKHSTAN AS RUSSIA’S REPLACEMENT IN THE EUROPEAN OIL MARKET

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<sup>19</sup> *EU restrictive measures against Russia over Ukraine (since 2014)*, EUR. COUNCIL & COUNCIL OF THE EUR. UNION (last updated Jan. 8, 2024), <https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-russia-over-ukraine/#sanctions> [<https://perma.cc/T3UJ-HBAE>].

<sup>20</sup> Leila Fadel & Rob Schmitz, *European Union leaders agree to ban 90% of Russian oil by the end of 2022*, NPR (May 31, 2022) <https://www.npr.org/2022/05/31/1102097085/european-union-leaders-agree-to-ban-90-of-russian-oil-by-the-end-of-2022> [<https://perma.cc/HH54-LQ2Q>].

<sup>21</sup> *Id.*

<sup>22</sup> Sorge & Longley, *supra* note 1.

<sup>23</sup> Council Regulation 2022/2474 of Dec. 16, 2022, Amending Regulation (EU) No 833/2014 Concerning Restrictive Measures in View of Russia’s Actions Destabilising the Situation in Ukraine, art 17, 2022 O.J. (L 322).

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> Alaric Nightingale, *Poland, Germany’s Plans for Russia Oil Pivot Start to Take Shape*, BLOOMBERG LAW (Dec. 29, 2022), [https://www.bloomberglaw.com/product/trade/bloomberglawnews/international-trade/XAH0R8EC000000?bc=W1siU2VhcmNoICYgQnJvd3NlIiwiaHR0cHM6Ly93d3cuYmxvb2liZXJnbGF3LmNvbS9wcm9kdWN0L3RyYWRLI3NIYXJjaC9yZXN1bHRzLzc1NWU1Mjc4MDAxODRlMwVmMGlyN2M4OGVIMDcwY2U0I1d--33c9274128a0b0b08fbdda86028f0926c2b4fbc1&bna\\_news\\_filter=international-trade&criteria\\_id=755e527800184e1ef0b27c88ee070ce4](https://www.bloomberglaw.com/product/trade/bloomberglawnews/international-trade/XAH0R8EC000000?bc=W1siU2VhcmNoICYgQnJvd3NlIiwiaHR0cHM6Ly93d3cuYmxvb2liZXJnbGF3LmNvbS9wcm9kdWN0L3RyYWRLI3NIYXJjaC9yZXN1bHRzLzc1NWU1Mjc4MDAxODRlMwVmMGlyN2M4OGVIMDcwY2U0I1d--33c9274128a0b0b08fbdda86028f0926c2b4fbc1&bna_news_filter=international-trade&criteria_id=755e527800184e1ef0b27c88ee070ce4) [<https://perma.cc/NKA7-GKYU>].

<sup>27</sup> Alan Charlish, *Poland ready for Russian oil ban, says minister*, REUTERS (Dec. 29, 2022) <https://www.reuters.com/business/energy/poland-ready-russian-oil-ban-says-minister-2022-12-29/> [<https://perma.cc/52PX-MWGJ>].

Who would replace Russia as Europe’s preeminent oil supplier following the EU’s sanctions on Russia, international price caps on Russian oil,<sup>28</sup> and pledges from numerous nations<sup>29</sup> to stop importing Russian oil? Germany turned to Kazakhstan, who has been feeding crude oil into the Druzhba pipeline in order to act as a primary oil supplier for central Europe.<sup>30</sup> Use of the pipeline requires approval from Russia’s Energy Ministry.<sup>31</sup> According to the Federal Ministry for Economic Affairs and Climate Action of Germany, the plan was feasible, and it is “permissible to use the Druzhba for Kazakh crude” even under current sanctions.<sup>32</sup> Poland, on the other hand, sought German support “to slap EU sanctions on the Polish-German section of the Druzhba crude pipeline” as of December 29, 2022.<sup>33</sup> Doing so would allow Warsaw to “abandon a deal to buy Russian oil [in 2023] without paying penalties.”<sup>34</sup>

Both Germany and Poland began receiving Kazakh oil via the Druzhba pipeline.<sup>35</sup> Russia’s Transneft stated that oil shipments from Kazakh to Germany, which were exempt from Western sanctions on Russian oil imports, would begin through the Druzhba pipeline in February 2023.<sup>36</sup> Transneft had agreed to a contract to supply Germany with 20,000 tonnes of Kazakh oil

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<sup>28</sup> Uliana Pavlova, *Putin bans Russian oil exports to countries that imposed price caps, Kremlin says*, CNN BUSINESS (Dec. 27, 2022), <https://www.cnn.com/2022/12/27/energy/russia-oil-ban/index.html#:~:text=The%20United%20States%2C%20Canada%2C%20the,month%20banned%20imports%20by%20sea> [https://perma.cc/ZV3E-37JX].

<sup>29</sup> *Factbox: Who is buying Russian crude oil and who has stopped*, REUTERS (May 31, 2022) <https://www.reuters.com/business/energy/who-is-still-buying-russian-crude-oil-2022-03-21/> [https://perma.cc/P28K-Q8Y9] (“Australia, Britain, Canada and the United States have imposed outright bans on Russian oil purchases, while Group of Seven (G7) nations, including Japan, committed to ban or phase out imports of Russian oil on May 8.”); *see also G7 seeks two price caps for Russian oil products*, REUTERS (Jan. 10, 2023), <https://www.reuters.com/business/energy/g7-seeks-two-price-caps-russian-oil-products-2023-01-10/> [https://perma.cc/RYQ8-UWHE] (explaining plans by the Group of Seven coalition to set two price caps on Russian refined products in February 2023).

<sup>30</sup> Nightingale, *supra* note 26.

<sup>31</sup> Nightingale, *supra* note 26.

<sup>32</sup> Nightingale, *supra* note 26.

<sup>33</sup> Charlish, *supra* note 27.

<sup>34</sup> Charlish, *supra* note 27.

<sup>35</sup> *Russia to ship 20,000 tonnes of oil from Kazakhstan to Germany via Druzhba pipeline in Feb*, REUTERS (Jan. 31, 2023), <https://www.reuters.com/business/energy/russia-ship-20000-tonnes-oil-kazakhstan-germany-via-druzhba-pipeline-feb-2023-01-31/> [https://perma.cc/3HGF-9QB8] (hereinafter “20,000 tonnes”).

<sup>36</sup> *Id.*

in February,<sup>37</sup> and the TASS news agency said that Transneft had also supplied 500,000 tonnes of oil to Poland via the Druzhba pipeline.<sup>38</sup> Although the Druzhba is exempted from sanctions, “Germany’s refineries in Leuna and Schwedt, connected to the pipeline, have not ordered any Russian crude” for 2023.<sup>39</sup>

As of February 27, 2023, Russian Transneft said that it had started pumping oil from Kazakhstan to Germany via Poland through the Druzhba pipeline.<sup>40</sup> However, Transneft stopped deliveries to Poland due to incomplete paperwork, leaving Polish consumers cut off from the oil supplies for the second half of February.<sup>41</sup> Other Kazakh oil imports flowing through the Druzhba continued as normal, reaching nations such as Slovakia and the Czech Republic.<sup>42</sup>

The exportation of oil from Kazakhstan to central Europe is crucial not just for EU countries in dire need of crude oil supplies, but also for Kazakhstan, a historically close ally of Russia.<sup>43</sup> Kazakhstan has not recognized Russia’s annexation of chunks of Ukrainian territory,<sup>44</sup> and as of November 2023 has adhered to sanctions imposed against Russia by both the EU and the United States.<sup>45</sup> However, Kazakhstan has generally remained close to Russia since the fall of the U.S.S.R.<sup>46</sup> And Russia, aware of the importance of cooperation with Kazakhstan amidst

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<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> Alexander Marrow and Marek Strzelecki, *Russia starts pumping Kazakh oil to Germany, flows to Poland halted*, REUTERS (Feb. 27, 2023), <https://www.reuters.com/markets/commodities/russias-transneft-says-incomplete-paperwork-halted-oil-poland-tass-2023-02-27/> [<https://perma.cc/8SHU-QJN2>].

<sup>41</sup> Marrow & Strzelecki, *supra* note 40.

<sup>42</sup> *Id.*

<sup>43</sup> Ruxandra Iordache, *Critical for Kazakhstan to pursue oil export options outside of Russia, investor says*, CNBC (Mar. 1, 2023), <https://www.cnbc.com/2023/03/01/kazakhstan-must-pursue-oil-export-options-outside-of-russia-investor.html> [<https://perma.cc/8KPT-SS3Z>].

<sup>44</sup> *Exxon warns of Russia risks to its \$2.5 billion Kazakhstan income*, EURACTIV (Feb. 23, 2023), <https://www.euractiv.com/section/central-asia/news/exxon-warns-of-russia-risks-to-its-2-5-billion-kazakhstan-income/> [<https://perma.cc/9NS3-W6YX>].

<sup>45</sup> Lynne O’Donnell, *Kazakhstan’s Leader Makes Neutrality an Art*, FOREIGN POLICY (Nov. 7, 2023), <https://foreignpolicy.com/2023/11/07/kazakhstan-russia-west-europe-balancing-act/> [<https://perma.cc/GR4S-RRFB>].

<sup>46</sup> EURACTIV, *supra* note 44.

widespread tensions, has tried to sustain a relationship with the bordering nation.<sup>47</sup> Since Russia's full-scale invasion of Ukraine, Kazakhstan has been attempting to balance its ties with Russia and Western nations,<sup>48</sup> but concerns continue to grow about the nation's heavy reliance on Russian cooperation with Kazakhstan.<sup>49</sup> Fears of oil supply disruptions are especially high since approximately 95% of Kazakh oil runs through Russian territory.<sup>50</sup> These oil flows were disturbed in 2022 as a result of the invasion, and ExxonMobil – a major player in the oil market<sup>51</sup> – speculated that “it is possible that the transportation of Kazakhstan oil through the CPC [Caspian Pipeline Consortium] pipeline could be disrupted, curtailed, temporarily suspended, or otherwise restricted” if “Russia takes countermeasures in response to existing sanctions related to its military actions in Ukraine.”<sup>52</sup>

## ANALYSIS

### *Infrastructural Challenges of Replacing Russian Oil Sources*

A range of technical, infrastructural, and political challenges have plagued the pivot from Russian oil to Kazakh oil. The Kazakh government has put major infrastructural changes into motion since 2010<sup>53</sup> and increased investment in oil projects,<sup>54</sup> but a lack of private terminals in Kazakhstan means that development in the petroleum industry needs to be fast-tracked in order to make the pivot a success.<sup>55</sup> Semurg Invest, a Kazakh infrastructure investor, “has been

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<sup>47</sup> See *Putin visits Kazakhstan, part of his efforts to cement ties with ex-Soviet neighbors*, ASSOCIATED PRESS NEWS (Nov. 9, 2023), <https://apnews.com/article/putin-russia-kazakhstan-central-asia-4b45a92f8ce4dc7d33b51aa1dacd946f> [<https://perma.cc/BJ3Q-9E9D>].

<sup>48</sup> *Id.*

<sup>49</sup> Iordache, *supra* note 43.

<sup>50</sup> See Iordache, *supra* note 43.

<sup>51</sup> See Iordache, *supra* note 43.

<sup>52</sup> Iordache, *supra* note 43.

<sup>53</sup> Iordache, *supra* note 43.

<sup>54</sup> *Oil & Gas Equipment and Services*, International Trade Administration (Sept. 2, 2022), <https://www.trade.gov/country-commercial-guides/kazakhstan-oil-gas-equipment-and-services> [<https://perma.cc/25DN-BBN6>].

<sup>55</sup> Iordache, *supra* note 43.

working to develop the Kuryk port on the eastern coast of the Caspian Sea — a project that includes a bulk cargo terminal, designed for the transshipment of oil,” and “could provide an alternative to Kazakhstan’s main seaborne crude oil export route” once complete.<sup>56</sup> The Kuryk port currently transports oil across Russian territory via the 939-mile long pipeline owned by Caspian Pipeline Corporation “for later shipment from the CPC terminal near Russian port Novorossiysk,”<sup>57</sup> but this pipeline alone would likely not be enough to sustain increasing volumes of exports. In fact, “[a]ny closure of the CPC pipeline or terminal would shut in more than 1% of global oil supply and cost its producers billions of dollars in lost income,”<sup>58</sup> so the need for other routes for Kazakh oil flow to Europe is massive.

### *Geopolitical Challenges of Replacing Russian Oil Sources*

In addition to underdeveloped infrastructure in Kazakhstan’s petroleum industry, geopolitical risks abound in Europe’s transition from Russian to Kazakh oil. Kazakhstan has been described as “stranded . . . in a precarious balancing act between Western powers and the Moscow administration of Vladimir Putin,”<sup>59</sup> a situation growing even more precarious with Kazakhstan threatening to replace Russia as Europe’s most powerful exporter of oil amidst the EU sanctions. Russia, a Kazakh ally,<sup>60</sup> shares a 4,750-mile border with the smaller nation.<sup>61</sup> Kazakh oil must be transported through thousands of kilometers of Russian territory, “putting the supply at the mercy of Russian goodwill.”<sup>62</sup>

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<sup>56</sup> Iordache, *supra* note 43.

<sup>57</sup> Iordache, *supra* note 43.

<sup>58</sup> EURACTIV *supra* note 44.

<sup>59</sup> Iordache, *supra* note 43.

<sup>60</sup> See Ashutosh Pandey, *Germany: How does its Kazakh oil deal benefit Russia?*, DEUTSCHE WELLE (Jan. 3, 2023), <https://www.dw.com/en/germany-how-does-its-kazakh-oil-deal-benefit-russia/a-64849621> [<https://perma.cc/D6X6-PBEP>].

<sup>61</sup> EURACTIV, *supra* note 44.

<sup>62</sup> Pandey, *supra* note 60.



Relying on such goodwill is inherently risky since an oil deal with Kazakhstan means Russia would continue to hold power not only over Kazakhstan, but also over Germany, since Germany would be relying on Kazakh oil flowing through Russian territory. Russia “stands to collect additional revenue in the form of a transit fee that Transneft would earn for allowing the oil to be shipped through its pipeline network – a welcome source of cash”<sup>63</sup> which would be in direct conflict with the policy goals behind the sanctions and price caps being imposed by the EU and other nations around the globe. Transit fees for the use of Russian-owned oil pipelines frustrates a policy of economically isolating and placing pressure on Russia. It is “unavoidable that some Russian oil will end up in Germany” and in other European nations relying on Kazakh oil flows.<sup>64</sup> There is at least the promise that no money would be flowing from the EU to Russia as Kazakh oil supplies “would be bought not from a Russian firm, but a Kazakh one.”<sup>65</sup> Given Kazakhstan’s close historical ties to the country both geographically and economically, that promise may not be enough of a safeguard against support for Russia.

Moreover, arguably by the summer of 2023<sup>66</sup> and definitely as of November 2023, ties between the Kazakh and Russian energy sectors gained momentum to an extent that the benefits of Kazakh oil deals to Russia largely counteracted the benefits of switching from Russian oil to Kazakh oil in the first place. While oil from Kazakhstan is not subject to the EU embargo, the blending of crudes means that it is difficult to tell where exactly oil is sourced from,<sup>67</sup> and Kazakhstan has since extended their use of the Druzhba pipeline to transport Russian oil to

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<sup>63</sup> Pandey, *supra* note 60.

<sup>64</sup> Pandey, *supra* note 60.

<sup>65</sup> Pandey, *supra* note 60.

<sup>66</sup> See Emrah Kaya, *Russia-Kazakhstan Energy Ties Gain Momentum*, ANKARA CENTER FOR CRISIS AND POLICY STUDIES (June 16, 2023), <https://www.ankasam.org/russia-kazakhstan-energy-ties-gain-momentum/?lang=en> [<https://perma.cc/K8F4-WAVV>].

<sup>67</sup> Pandey, *supra* note 60.

China.<sup>68</sup> Furthermore, Kazakh leaders have proposed building a new international gas pipeline running from Russia to China that would run through Kazakhstan.<sup>69</sup> Such developments pose the risk of tightening any economic bonds between the energy sectors of Russia and Kazakhstan as the Kazakh oil and gas industries continue to grow.

Perhaps most troubling is the palpable unrest originating from Kazakhstan's already turbulent energy sector, unrest which has manifested in widespread protests.<sup>70</sup> Despite having large hydrocarbon reserves, Kazakhstan's poor oil processing infrastructure has led to only 15 percent of Kazakhstan's oil being sold domestically.<sup>71</sup> The reason for this comparative disparity is that crude oil exports are far more profitable than domestic sales to Kazakh consumers,<sup>72</sup> so exports are far more incentivized than domestic sales. The result fails to provide Kazakh residents with the oil they need for personal transportation and heating. These failures to develop oil and gas for domestic usage, combined with severely harsh winters suffered by Kazakhstan each year, culminated in mass protests breaking out in the western part of Kazakhstan on January 2, 2022 after the price of liquified petroleum gas doubled.<sup>73</sup> Local protests "snowballed into nationwide unrest with economic and political demands"<sup>74</sup> regarding the fuel shortages faced by residents of oil-rich Kazakhstan. The unrest led to 238 deaths, with at least six deaths as a result of torture in the aftermath of the protests.<sup>75</sup> These are clear signals that energy crises have

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<sup>68</sup> Kaya, *supra* note 66.

<sup>69</sup> Kaya, *supra* note 66.

<sup>70</sup> See Tatiana Mitrova, *Q&A: The Geopolitics Behind Kazakhstan's Turbulent Energy Sector*, CENTER ON GLOBAL ENERGY POLICY (Mar 2, 2023), <https://www.energypolicy.columbia.edu/qa-the-geopolitics-behind-kazakhstans-turbulent-energy-sector/> [https://perma.cc/5D3J-FMGN].

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *See id.*

<sup>74</sup> *Id.*

<sup>75</sup> See *Kazakhstan: No Justice for January Protest Abuses*, HUMAN RIGHTS WATCH (Dec. 20, 2022), <https://www.hrw.org/news/2022/12/20/kazakhstan-no-justice-january-protest-abuses> [https://perma.cc/7XXD-ACMN].

already catapulted Kazakhstan into dangerous instability – instability which could potentially worsen in light of oil deals with Europe. More severe gas shortages in November 2023<sup>76</sup> make further unrest in Kazakhstan a grim possibility.

The January 2022 unrest resulting from fuel shortages was not confined to Kazakhstan's borders, as activists in Poland have been criticizing the Polish government for allowing Poland's state-controlled refiner to keep buying Russian crude.<sup>77</sup> This criticism is largely appearing because Poland is a key ally of Ukraine and because Poland pledged to stop all imports of Russian oil supplies by the end of 2022.<sup>78</sup> While the Polish protests have not resulted in the kind of tragic losses Kazakh unrest has, it is noteworthy that Kazakh oil imports affect political tensions across Europe.

While Kazakhstan “has often faced difficulties in selling oil through Russia,” and has sought ways to decrease its dependence on exporting routes via Russia as a result,<sup>79</sup> such difficulties have clearly not yet been resolved. Kazakhstan is “tightening regulation of the petroleum and liquified gas markets to reduce price increases and shortages,” but progress has been slow, and “the only measure approved so far has been the gas price reform at the end of December 2022.”<sup>80</sup> Questions remain as to whether Kazakhstan can successfully reduce its dependence on Russia to a meaningful degree, despite their efforts to do so.

#### *Limited EU Sanctions on Russian Oil*

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<sup>76</sup> See generally AKIPRESS, *supra* note 10 (reporting the Kazakhstan gas shortage and the problems this will cause).

<sup>77</sup> See Marrow & Strzelecki, *supra* note 40.

<sup>78</sup> Marrow & Strzelecki, *supra* note 40.

<sup>79</sup> *Kazakhstan increased oil exports bypassing Russia in 2022*, REUTERS (Feb. 2, 2023), <https://www.reuters.com/article/idUSL8N34I57P/> [<https://perma.cc/H5C2-6LYS>].

<sup>80</sup> Mitrova, *supra* note 70.

Europeans need sanctions to help them achieve their transition to an oil market that is as independent of Russian influence as possible,<sup>81</sup> and the ones currently in place may not be sufficient. Sanctions regimes in place in the EU can be categorized into three types,<sup>82</sup> the first type consisting of sanctions imposed by the UN and then transposed by the EU into EU law.<sup>83</sup> The second type follows from the EU's ability to reinforce UN sanctions by applying stricter and additional measures on top of the ones already in place.<sup>84</sup> The third and final type of EU sanctions regime occurs when the EU decides to impose "fully autonomous" sanctions.<sup>85</sup> A fully autonomous sanctions regime is instituted when the European Council "decides to impose sanctions on its own initiative,"<sup>86</sup> as has been the case with Russia, Syria, and Venezuela.<sup>87</sup>

The EU sanctions regime against Russia legally binds Russian oil suppliers, but may do so only indirectly and to a limited extent. According to the European Council, "[a]ll sanctions adopted by the EU are fully compliant with obligations under international law"<sup>88</sup> and "may target members of government bodies of non-EU countries, as well as companies, groups, organizations, or individuals."<sup>89</sup> Thus Russia, which is not a member of the EU, can still be bound by EU sanctions as can Russian oil corporations despite EU Council Decisions only being directly binding on EU Member States.<sup>90</sup> Since the sanctions, also known as "restrictive measures," are accompanied by EU Council Regulations, they are "binding on any person or

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<sup>81</sup> See Nightingale, *supra* note 26 (stating Poland has "argued it needs European Union sanctions to help it meet its pledge" to stop buying Russian oil).

<sup>82</sup> See Strategic Communications, *European Union sanctions*, EUROPEAN UNION EXTERNAL ACTION (Oct. 7, 2021), [https://www.eeas.europa.eu/eeas/european-union-sanctions\\_en](https://www.eeas.europa.eu/eeas/european-union-sanctions_en) [<https://perma.cc/TP9G-VTL3>].

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Different types of sanctions*, EUR. COUNCIL & COUNCIL OF THE EUR. UNION (June 3, 2022), <https://www.consilium.europa.eu/en/policies/sanctions/different-types/> [<https://perma.cc/W5EW-CKZH>].

<sup>87</sup> See Strategic Communications, *supra* note 82.

<sup>88</sup> Strategic Communications, *supra* note 82.

<sup>89</sup> *Frequently asked questions: Restrictive measures (sanctions)*, EUR. COMMISSION (Feb. 26, 2022), [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_22\\_1401](https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_1401) [<https://perma.cc/7ZKJ-8QYX>].

<sup>90</sup> *Id.*

entity under EU jurisdiction” as a legal act of general application.<sup>91</sup> This means that restrictive measures imposed by the EU may target governments of “third countries” such as Russia, non-state entities such as companies, and individuals such as terrorist groups and terrorists.<sup>92</sup>

In sum, “EU sanctions apply within the jurisdiction (territory) of the EU; to EU nationals in any location; [and] to companies and organizations incorporated under the law of a Member State – including branches of EU companies in third countries.”<sup>93</sup> So, while the EU “refrains from adopting sanctions having extraterritorial application in breach of international law,”<sup>94</sup> the sanctions are still legally valid and can be used against Russia and Russian companies. Because many of the import and export restrictions imposed by the sanctions target nations trading with Russia and Russian companies, as opposed to Russia and the Russian companies themselves,<sup>95</sup> the sanctions do not necessarily have an extraterritorial application despite their extraterritorial effects on Russia. Rather, they are a means to pressure Russia economically by deterring Russia’s potential trade partners from moving forward with international transactions.<sup>96</sup>

How effective would additional EU sanctions be if implemented? The answer to this question lies in whether the sanctions are practically enforceable. While the EU can “launch an infringement procedure against Member States for failure to comply with their obligations under EU law,”<sup>97</sup> the Commission has not launched a single infringement procedure against a Member State for the misapplication of EU sanctions to date.<sup>98</sup>

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<sup>91</sup> *Id.*

<sup>92</sup> Strategic Communications, *supra* note 82.

<sup>93</sup> Strategic Communications, *supra* note 82.

<sup>94</sup> Strategic Communications, *supra* note 82.

<sup>95</sup> *EU sanctions against Russia explained*, EUR. COUNCIL & COUNCIL OF THE EUR. UNION, (Mar. 15 2023), [https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-russia-over-ukraine/sanctions-against-russia-explained/#:~:text=As%20part%20of%20the%20economic,the%20EU%20\(import%20restrictions\)\[https://perma.cc/47V3-A42F\]](https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-russia-over-ukraine/sanctions-against-russia-explained/#:~:text=As%20part%20of%20the%20economic,the%20EU%20(import%20restrictions)[https://perma.cc/47V3-A42F]).

<sup>96</sup> *Id.*

<sup>97</sup> EUR. COMMISSION, *supra* note 89.

<sup>98</sup> EUR. COMMISSION, *supra* note 89.

One possible interpretation of this lack of infringement procedures is that EU sanctions are exceptionally successful in swaying public policies, so much so that enforcement via infringement actions is not usually needed. However, an alternative explanation is that EU sanctions are not terribly effective since no real threat exists regarding their enforcement. If a third country bound by an EU sanction decides that no real threat of an infringement action from the EU exists, there is a chance that the country would be more willing to ignore the sanctions. This alternative explanation does not consider any extraneous political, socioeconomic, or military backlash the third country might receive from individual nations as a result of their failure to comply with sanctions, but there arguably would be no palpable threat from the EU itself.

## CONCLUSION & RECOMMENDATIONS

Central Europe's transition from Russian oil to Kazakh oil poses several technical, infrastructural, and policy issues. In December, Transneft claimed that that Kazakhstan's KazTransOil "requested 1.2 million tonnes of capacity on the Druzhba pipeline for 2023 to facilitate extra oil shipments to Germany,"<sup>99</sup> a hefty task considering the minimal infrastructure of Kazakhstan's oil processing industry. Ultimately, central Europe's transition from Russian oil to Kazakh oil should be made smoother, and this can be done in a number of ways: (1) by implementing additional EU sanctions against Russia, (2) by diversifying Kazakh oil export routes, or (3) by building national gas reserves in Europe.

### *1. Additional EU Sanctions to Aid Central Europe*

Implementing additional EU sanctions to help central Europe is one option, but as discussed earlier, such a course of action may be of questionable effectiveness. Since the

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<sup>99</sup> 20,000 tonnes, *supra* note 35.

European Commission has not dealt with any non-compliance or infringement to date,<sup>100</sup> EU sanctions may simply not be thoroughly enforced. And even if EU sanctions are likely to be complied with, the scope of the sanctions would need to be broad enough to encompass all necessary parties. Since EU sanctions only bind entities within EU jurisdictions,<sup>101</sup> the scope of any additional restrictive measures put into place may be too limited.

## 2. *Diversifying Kazakh Export Routes*

Since the spring of 2023, Kazakh oil and gas suppliers have already been attempting to diversify their oil export routes due to concerns about “the lack of clarity on the resolution of the conflict in Eastern Europe.”<sup>102</sup> Magzum Mirzagaliyev, Chairman of the Management Board of Kazakhstan’s state-owned oil and gas producer Kazmunaigas (KMG), also cited “the functioning of the price cap for Russian oil, [and] OPEC+’s ability to regulate oil prices effectively” as reasons the country has considered moving towards the diversification of their export routes.<sup>103</sup>

This diversification is crucial, and not only to Kazakhstan’s economy. Diversification may help minimize supply shortages on an international scale<sup>104</sup> and dilute any growing ties between Russia and Kazakhstan by providing less oil to Russia and distributing more amongst other countries. This is a double-edged sword because diversifying routes and potentially increasing exports could still lead to increased dispersion of what may have been originally sourced as Russian oil.<sup>105</sup> Despite this limitation, a move towards diversification would at least

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<sup>100</sup> *Strategic Communications*, *supra* note 82.

<sup>101</sup> *Strategic Communications*, *supra* note 82.

<sup>102</sup> See Rosemary Griffin, *Interview: Kazakhstan diversifying oil export routes to mitigate impact of Ukraine conflict*, S&P GLOBAL COMMODITY INSIGHTS (May, 24 2023), <https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/oil/052423-interview-kazakhstan-diversifying-oil-export-routes-to-mitigate-impact-of-ukraine-conflict> [<https://perma.cc/2YJN-L8DR>].

<sup>103</sup> *Id.*

<sup>104</sup> Iordache, *supra* note 43.

<sup>105</sup> Pandey, *supra* note 60.

lessen Kazakhstan's dependence on Russia's cooperation along their export routes.<sup>106</sup> Diversified revenues means less reliance on Russia, thereby strengthening the initially intended effects of the UN embargo and of individual nations' bars against importing Russian oil and gas. Considering the construction of a pipeline under the Caspian Sea – one which would allow Kazakhstan to bypass Russia while exporting their own oil to Western markets – was a step in the right direction for diversification<sup>107</sup> prior to the Kazakh President's statement that he wished to continue exporting Russian oil.<sup>108</sup>

### 3. *Building National Gas Reserves in Europe*

Another recommendation is for Germany and other European nations to establish national gas reserves to minimize the amount, or at least the frequency of, oil imports from Kazakhstan. The head of Germany's network regulator recommended establishing a strategic national gas reserve in January 2023, as a method of avoiding severe domestic energy shortages on a more permanent basis.<sup>109</sup> No such reserve was set up before the invasion of Ukraine, as Germany's long-term contracts with Russia seemed to guarantee a steady supply and the utility industry feared that creating one "could signal tightness to the market and drive up prices."<sup>110</sup> However, future winter seasons pose potential threats to the energy supplies of Germany, leading to growing sentiments that German energy storage may need to be revamped considering the war in Ukraine.<sup>111</sup> Klaud Mueller, Germany's chief utility regulator, has warned that Germany's gas

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<sup>106</sup> Iordache, *supra* note 43.

<sup>107</sup> *Kazakh President Calls For New Oil Export Routes After Russia Suspends Key Pipeline*, RADIO FREE EUR. & RADIO LIBERTY (July 7, 2022), <https://www.rferl.org/a/kazakhstan-pipeline-russia-exports-war/31932806.html> [<https://perma.cc/SSM5-X4UB>].

<sup>108</sup> *Kazakhstan Ready*, *supra* note 7.

<sup>109</sup> *Germany should consider creating strategic gas reserve – regulator*, REUTERS (Jan. 31, 2023), <https://www.reuters.com/business/energy/germany-should-consider-strategic-gas-reserve-regulator-2023-01-31/> [<https://perma.cc/5CVU-SBMY>].

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*



supply remains fragile despite conservation efforts within the country, as a pipeline accident or “sudden cold snap” could hinder German plans to keep their energy storage reserves as full as possible.<sup>112</sup>

In addition to benefitting Germany – and other countries that decide to build up more effective national gas reserves – such reserves could potentially help ease the burden on Kazakhstan’s energy sector and prevent domestic shortages for Kazakh citizens. Since the limited domestic sales in Kazakhstan are largely a result of exports being more profitable and thus more highly incentivized,<sup>113</sup> a reduction in the demand for exports could mean that domestic sales become a higher priority. Thus, national gas reserves for European nations could soothe energy shortages both for their own respective populations and for consumers in Kazakhstan.

#### *Point of No Return?*

One final, albeit grim possibility is that Kazakhstan will not be able to fully fill the void left in European oil supplies by Russia. Because Russia has played such a prominent role in the European energy market for so long, the infrastructure of its successor may not be able to catch up in time to meet growing demands from Central and Western Europe. European countries have been “steady buyers” of oil exported from Kazakhstan, with numbers that are only projected to grow throughout 2023, and the CPC pipeline running through Russian territory already suffered a number of concerning outages in 2022.<sup>114</sup> Thus, despite reassurances to EU officials from Kazakhstani President Kassym-Jomart Tokayev that Kazakhstan “is ready to use its hydrocarbon

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<sup>112</sup> Associated Press, *German energy chief warns gas supply remains fragile*, THE JOURNAL RECORD (Feb. 24, 2023), <https://journalrecord.com/2023/02/german-energy-chief-warns-gas-supply-remains-fragile/> [<https://perma.cc/XM58-DPGT>].

<sup>113</sup> Mitrova, *supra* note 70.

<sup>114</sup> The Jamestown Foundation, *supra* note 11.

potential to stabilize the situation in the world and European markets,”<sup>115</sup> the four separate outages suffered by the CPC pipeline in 2022 alone<sup>116</sup> suggest that the oil infrastructure in Kazakhstan is not up to par for what is necessary. Logistical challenges will likely continue to present themselves despite the fact that the CPC and Druzhba pipelines have a large capacity to carry oil, as Russia seems unlikely to want to allow Kazakhstan to increase their own exports at the expense of Russia.<sup>117</sup> And of course, the possibility of Kazakhstan continuing to build economic ties with Russia contradicts efforts to find a replacement for Russian oil in the first place.

Perhaps the best hope moving forward, for Kazakhstan and for the Europeans that rely on Kazakh oil to make it through harsh winters, is that oil infrastructure development will continue to occur in Kazakhstan so as not to disrupt one of the last remaining oil connections from central and western Europe to the rich and crucial hydrocarbon reserves of regions farther east. In addition, the construction of an alternative pipeline which allows Kazakhstan to bypass Russia in their export routes would give the nation more freedom to develop economic ties with other European countries and move away from their dependence on Russian cooperation. In order to circumvent Russia’s grasp on the European energy sector and simultaneously provide consumers with the power supplies they need, actions similar to these will likely need to be taken.

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<sup>115</sup> *Telephone conversation with President of the European Council Charles Michel*, OFF. WEBSITE OF THE PRESIDENT OF THE REPUBLIC OF KAZAKHSTAN (July 4, 2022), <https://www.akorda.kz/ru/telefonnyy-razgovor-s-prezidentom-evropeyskogo-soveta-sharlem-mishelem-465120> [<https://perma.cc/255E-4XLW>].

<sup>116</sup> The Jamestown Foundation, *supra* note 11.

<sup>117</sup> The Jamestown Foundation, *supra* note 11.