

Alistair Clark
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Bratislava, 16.02.2010

Dear Mr. Clark,

thank you for your letter dated 18th December and for your email of 15th January, both concerning the D1 motorway, section Turany – Hubová.

Firstly, our organisation has not received any detailed reply from the Ministry of Transport, Post and Telecommunication (MTPT) as stated in your letter from 18th December. We have made repeated attempts to contact the MTPT. Only yesterday we received an email from Mr. Brozek (the director of PPP section) not directly answering our question on what has happened with the detailed reply, but instead suggesting that:

“With regards to the fact that your organisation does not belong to our financial partner or to the other co-partners, we are not obliged to inform you about your steps associated with the financial matters and equally we have no interest to know who we are cooperating with”.
Such a reply answers a completely different question than the one asked.

Therefore, we would like to ask you to clarify what “detailed reply” from the MTPT we were supposed to receive.

Secondly, we would like to provide you with further clarifications with regard to the points raised in our previous email communication including the update of the D1 motorway, section Turany – Hubová.

1. The Turany – Hubová construction represents a serious impact on the Natura 2000 network and there are alternative solutions that could considerably reduce this impact.

EBRD letter, 18th December:

Our findings are as follows:

The potential effects on protected areas, habitats and species of the Project were appropriately assessed in the Environmental Impact Assessment (EIA). At the time of the assessment, protected areas were afforded the highest level of protection under Slovak law.

Subsequent assessments of the impacts of the Project on the sites of the Natura 2000 network have been carried out. An independent consultant report, “Assessment of severity of impacts of the proposed motorway D1 Turany - Hubová on the sites of the Natura 2000 network” ([Hhttps://www.telecom.gov.sk/nemocnica/H](https://www.telecom.gov.sk/nemocnica/H)) concluded that:

*“the variant under assessment of the motorway section Turany - Hubová **will not have severe impacts on the sites of the Natura 2000 network** if the proposed measures for mitigation of impacts and the compensatory measures are complied with, and therefore the proposed variant of the motorway section D1 Turany - Hubová can be implemented while respecting the proposals made in the submitted study”.*

The mitigation measures for elimination of potential negative impacts of the Project have been incorporated into the design and technical solutions, where appropriate, to ensure that there are no substantial impacts on biodiversity, structure and function of ecosystems.

Regarding the “Assessment of the severity of impacts of the proposed motorway D1 Turany-Hubová on the sites of the Natura 2000 network” mentioned in your letter, as the link provided did not function, we assume this is the study by Peťková & Mika commissioned by the Ministry of Environment of the Slovak Republic and prepared by the company Creative, s r. o. in November 2007 (hereafter “study by Peťková & Mika”).

However, as mentioned in our email from 07 January, the study by Peťková & Mika has a number of deficiencies, outlined in the attached document by J. Topercer, M. Jasík, D. Dítě, D. Bernátová & J. Ridzoň (November 2009), hereafter “Topercer et al. 2009”.

As previously mentioned, the findings of Topercer et al. (2009) clearly indicate that the chosen variant of D1 would have serious adverse impacts on protected Natura 2000 areas and that it poses a risk of destruction and/or damage of characteristic habitats in the area of the SACs Malá Fatra, Veľká Fatra and the River Váh. Even the weak mitigation and compensation measures proposed by Peťková & Mika (2007) have been neglected.

An analysis of relevant Slovak authorities’ decisions shows that they have not adopted any compensation measures for the project and that the mitigation measures are only partly being implemented. We stress that preparatory works which have already started have caused damage which will be difficult to mitigate.

When taking into consideration the availability of an alternative variant, an appropriate and comprehensive assessment of the alternatives should be completed by the relevant authorities of the Slovak Republic before the project is approved.

Please see the English version of the study of Topercer et al. (2009) in the attachment.

2. When permitting the construction of the motorway the final EIA statement was not taken into account.

Our findings are as follows:

The final EIA statement from the Ministry of Environment of the Slovak Republic in cooperation with the MTPT issued on 12 November 2002 referred to two variant options. The Variant B1 (tunnel) for D1 Turany - L'ubochňa (Hubová) section was the preferred variant on the basis of the results of the EIA. However, the feasibility of variant B2 was not fully excluded as there were some concerns relating to the potential impact of the proposed tunnel (B1) on the hydrological regime and water resources in the Korbel'ka area.

Transport connections, technical, financial and environmental risks - including the above mentioned concerns - were analysed in detail by the MTPT and consenting authorities and appropriate mitigation measures presented prior to the final selection of the surface tunnel variant B2.

The final statement is one of documents that must be taken into account when permitting the project. New and additional surveys and information have been undertaken and these form a part of the material that is considered during the permitting process. The B2 variant was slightly modified to take account of the new survey findings.

The information on the alleged potential impact of the proposed tunnel (B1) on the hydrological regime and water resources in the Korbel'ka area is misleading. Based on the hydrogeological study ordered by the MTPT and National Motorway Company it can be concluded that one water source with average capacity c. 1l/s is located on the routing of Korbel'ka (B1). The other water source with average capacity c. 5l/s (substantially higher than than the B1 variant) is located on the routing of Rojkov variant (B2) – the currently approved variant, which would be nevertheless also possibly be damaged by the motorway construction and thus would have “potential impact on the hydrological regime and water resources”.

Unless the slight modifications to the B2 route you mentioned above were able to resolve this issue, we are of the opinion that the hydrogeological impact of the B1 variant would be less harmful than that of the B2 due to the smaller capacity of the source affected.

In order to support our claims please see the relevant sections of the hydrogeological study attached. It is in Slovak as we have not had the capacity to translate it and we prioritised sending it sooner rather than later. Please let us know if the EBRD will be able to have this document translated or whether it already holds a copy.

Taking into consideration all the facts aforementioned, we ask you not to finance the "Slovak Motorways (PPP) D1 Phase I" until a new assessment of the impacts of the D1 Turany – Hubová Motorway on Natura 2000 sites has been carried out in compliance with the valid national legislation and with the Community Law of the European Community, and any necessary adjustments in the route have been made.

I would like to thank you for your time and look forward to hearing from you.

Yours sincerely,

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