

D1 motorway Phase I, Slovakia

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CEE Bankwatch Network's mission is to prevent environmentally and socially harmful impacts of international development finance, and to promote alternative solutions and public participation.

Background

In April 2010 the EBRD approved a EUR 250 million loan for the Slovak Motorways PPP D1 Phase I project in Slovakia, which seeks to link the economically wealthier western part of Slovakia with the less developed eastern part. The European Investment Bank (EIB) also approved a loan for the project in December 2008, however the EIB has been waiting for clearance for the project by the European Commission, which has not yet been forthcoming. Eighteen commercial banks are expected to provide the remainder of the financing. The project is to be financed through a public-private partnership (PPP), which has been the cause of considerable controversy in Slovakia, as has the fact that the planned route impacts protected Natura 2000 areas.

PPP shortcomings

Enormous – and rising – costs:

In the fourth amendment to the concession contract the nominal price of the PPP for the 30-year lifetime of the contract is EUR 9.128 billion compared to the already considerable original price of EUR 7.822 billion. This represents a significant burden for Slovak public budgets. The official public administration debt of Slovakia is currently approximately 40 percent, but according to the INEKO Institute, adding the current PPP packages (D1 and R1) will take this over 50 percent.¹

To PPP or not to PPP:

In March 2009 data from the Slovak Ministry of Transport comparing a Public Sector Comparator (PSC) with a PPP option for the project was published.² It found an advantage of implementing a PPP of just over 5 percent. Without the publication of the larger document on which it was based, some of the assumptions used appear highly dubious, most notably the “earlier onset of selected socio-economic benefits” in the PPP, apparently adding EUR 593 million in value onto the PPP option. This seems very optimistic. It is also unclear how the ministry arrived at the figure of EUR 221 million for risk transfer.

In March and April of this year, the justification for the PPP had become even more flimsy. In April an article was published in *Ekonomia E-trend* showing how a PSC calculation from the Ministry of

¹ <http://www.ineko.sk/clanky/ppp-zvysuju-verejny-dlh-nad-50-hdp>

² [http://www.rokovania.sk/appl/material.nsf/0/7765DC8C1C7272D8C125759900320E5B/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/7765DC8C1C7272D8C125759900320E5B/$FILE/Zdroj.html)

Finance published in March³ – before a government session to approve price rises in the project – contradicted the Ministry of Transport’s data, on which it was supposedly based.⁴ The Ministry of Transport’s table showed that a PPP option, even if a state guarantee was approved by the European Commission, would cost 20 percent more than the PSC. Yet the Ministry of Finance’s figures showed a disadvantage to the PPP of only 0.93 percent (with state guarantee).

There are two issues here: first, it is alarming that the Slovak government made decisions on the basis of data that two ministries do not seem to agree on. The differences in the tables are mainly in construction costs for the PSC; continuous maintenance for the PSC; lack of risk transfer in the PSC; and refinancing benefits from the PPP variant. As the published version by the Ministry of Finance is the one that comes out more favourable to the PPP, it seems likely that it was manipulated to be more palatable to decision-makers.

Second, taking even the original Ministry of Transport figures, there are several large changes to the data from a year ago that are not explained:

- the “earlier onset of selected socio-economic benefits” in the PPP had risen from EUR 593 million to EUR 665 million,
- the two categories of maintenance in the PSC had risen from EUR 129 million to EUR 176 million, and EUR 192 million to EUR 253 million,
- the refinancing gains mentioned above had been put at EUR 61 million in 2009, which had nearly doubled to EUR 114 this year,
- on the other hand, in the PPP version the expected deductions for non-availability (EUR 76 million), EUR 19 million for the initial payment under the concession contract, and EUR 221 million for risk transfer in 2009 had disappeared in this year’s version.

Overall, the PPP version has risen from EUR 2.14 billion to EUR 3.228 billion while the PSC has risen from EUR 2.255 billion to EUR 2.682 billion. This does not even include a comparison of the overall PPP availability costs over 30 years (EUR 9.128 billion) with the overall costs of the PSC including financing costs.

When confronted with the differences between the Ministry of Finance and Ministry of Transport figures, Slovakia’s Transport Minister Ľubomir Vážny was not able to come up with explanations and merely brushed the topic aside, saying that there had been several versions of the analyses and that he could not recall which was the analysis that was forwarded to the Government for approving.⁵

³ [http://www.rokovania.sk/appl/material.nsf/0/16A6A0D8415C7AD0C12576F700321980/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/16A6A0D8415C7AD0C12576F700321980/$FILE/Zdroj.html)

⁴ Zavádzal vládu o PPP Vážny alebo Počiatek? 23.04.2010 <http://ekonomika.etrend.sk/ekonomika-slovensko/zavadzal-vladu-o-ppp-vazny-alebo-pociatek.html>

⁵ <http://ekonomika.sme.sk/c/5346946/kdh-vyzyva-vladu-na-odlozenie-rozhodnutia-o-ppp.html>

Low risks for the concessionaire

As the motorway is being undertaken through an availability fee system, it seems that there is hardly any risk for the concessionaire after the construction is complete. Income will come from the state at a fixed amount, give or take some performance penalties, while the concessionaire just has to perform maintenance and clear snow.

Natura 2000 clashes

Breach of the EU EIA Directive and Slovak EIA Act by failing to state how the final statement on the EIA was taken into account:

According to Article 8 of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, the consultation results together with information from Articles 5, 6 and 7 of the Directive must be taken into consideration in the approval procedure. By § 38 of the new Slovak EIA Act the content of the final statement on the activity must be taken into consideration in the decision-making process of permitting the activity. At the same time, the permitting authority cannot issue a permit for the proposed activity without the final statement on the activity in question being attached to the request for issuing the land-use permit.

In this case, the final statement on the EIA recommended Variant B1 (Korbel'ka tunnel), whereas in the end a slightly modified version of Variant B2 (surface-tunnel) was approved. However, it is impossible to find out from the text of the land-use permit how or whether the permitting authority took the content of the final statement into consideration. On the contrary, in the text of the land-use permit there is no mention of any environmental assessment taking place or of any recommendation of any variant other than the one given planning approval. Such a practice is in breach of Article 8 of Council Directive 85/337/EEC as well as § 38 of the new EIA Act.

Insufficient Natura 2000 assessment:

The approved surface route does not meet the conditions for approval under Article 6.4 of the Council Directive on the conservation of natural habitats and of wild fauna and flora since its performance poses the risk of destruction and/or damage of characteristic habitats in the area of Šútovo – Rojkov (Malá Fatra, Veľká Fatra and Váh River Special Areas of Conservation), including migratory and wintering water birds, bats, amphibians and large carnivores.

The impacts on Natura 2000 site by the currently approved surface route of the D1 motorway in the Turany – Hubová section was assessed in the study of Peťková & Mika (2007), which was ordered by the Ministry of Transport, Post and Telecommunication. However, this study has been strongly criticized by subsequent independent assessments (eg. TOPERCER et al 2009, VOLF 2010), as being seriously flawed and based on incomplete, methodically incorrect and misinterpreted sources of information. For example it does not examine the Rojkovské raselinisko mire separately, in spite of its unique characteristics, omits to mention several protected habitat types, and lays out only a few, weak mitigation measures.

Moreover, the decisions taken by the relevant Slovak authorities' show that they have not adopted any compensation measures for the project and that the mitigation measures have been implemented only partly. Thus, it should not be considered as an appropriate assessment under the article 6(3) of the Habitat Directive 92/43/EEC or as any supporting document mandatory for the approval procedure.

The approval of this surface routing could be given only if there is no other alternative, which has not been proven to be the case. The EIA procedure recommended Variant B1 (Korbel'ka tunnel), while the slightly modified version – Variant B2 – was finally approved. This was apparently because of concerns about the Korbel'ka tunnel's impact on the hydrological regime. However, based on the hydrogeological study ordered by the MTPT and National Motorway Company it can be concluded that one water source with an average capacity c. 11/s is located on the routing of Korbel'ka (B1). The other water source with average capacity c. 51/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”.

The fact that the European Commission has not yet given clearance to the project regarding its Natura 2000 impacts indicates that there are some deficiencies in the project that require further evaluation.

Recent damage to the Rojkovske mire

During preparation works in late April, motorway builders partially damaged a 15,000 year-old peat bog nature reserve called Rojkovske raselinisko (SKUEV 0238 Veľká Fatra). This outstanding biologically and paleontologically significant mire has been protected since 1950 under national legislation and now also under the EU Habitats Directive. Slovak biodiversity experts have filed a complaint to the Slovak authorities for a breach of the Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive).

Conclusions and recommendations

1. The rising price tag of the PPP motorway package points to poor planning and calculations.
2. The repeated changes in the Public Sector Comparison calculation indicate that the figures may have been adjusted to suit the desired outcome, and that the project may not represent good value for money. It is highly unlikely that the difference between the costs of the PPP (EUR 3.228 billion according to the Ministry of Transport, which includes construction and maintenance) and the EUR 9.128 billion that the Slovak government will have to pay over the 30 years is justified.

3. The EBRD must review its decision to approve the project in the light of the recent damage to the Rojkovske raselinisko nature reserve, which calls into question the competence of the relevant companies in dealing with operations in sensitive nature areas. If it nevertheless opts to proceed with the project, the bank must not do so until an adequate Natura 2000 assessment has been carried out, appropriate mitigation measures have been identified, and the construction permit has been altered to ensure that they are carried out.

For more information

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