

Construction of Struma Motorway Lots 1, 2 and 4 & preparation
of Lot 3

CCI 2011BG161PR006

Questions & comments

NB: Page numbers refer to the English translation of the submitted documents.

Project preparation

Engineering feasibility

- 1) EC services agree with the JASPERS recommendation to include suitable places for locating rest and service areas, as none are foreseen for Lots 1 and 4.

Obtaining permits and geological troubles during construction are some of the most notorious factors of project delay, resulting in rising project costs. Land expropriation has been one of the most common causes of delay for Bulgarian infrastructure projects.

- 2) Has the land acquisition for Lot 4, foreseen for February 2012, meanwhile been completed?
- 3) The Commission services have serious doubts about the schedule for completion of Lot 2 given the outstanding issues: with regard to
 - the relative shorter construction time envisaged compared to lots 1 and 4,
 - the need to still perform all the necessary environmental assessments,
 - unfinished expropriation of land,
 - on-going archaeological excavations,

The risk of delays for the issuing of construction permits is considerable. The detailed design will not be available until August 2013, possibly necessitating a new EIA as the current one will have expired in January 2013. With the eligibility of costs under the Cohesion Fund already ending on 31 December 2015, it is likely that Bulgaria will have to pay for the completion of the unfinished part of this most expensive of all three lots proposed for construction.

Project financing

- 4) The tender for Lot 1 has revealed a very low price for its construction (approximately EUR 1.8 million per km). EC services have concerns about maintaining project quality, especially as the supervision contract is also very low. With such a low price thorough supervision is all the more important to keep an eye on cost increases and claims presented by the contractor that might raise the initial contract price.
- 5) The share of national co-financing has to be guaranteed, not only for the duration of construction but also for completing the project and putting it into operation. How has this been arranged and what are the sources of national co-financing? Are any EIB loans foreseen?

Project management & interface arrangements

Robust project management is essential for observing the implementation schedule. Recent issues with regard to supervision and on-the-spot-checks of the Trakiya Motorway suggest that project management and supervision have increased in importance as the average price per kilometre of road construction in Bulgaria has gone down.

According to a Bulgarian government decree, the National Company for Strategic Infrastructure Projects (NCSIP) is supposed to manage the preparation and implementation of the whole Struma Motorway project, including lots 1 and 4, which are currently managed by the RIA. Ideally NCSIP should be ready by the beginning of the new programming period.

- 6) When will the NCSIP fully operational to manage the implementation of the major project for Struma motorway?
- 7) What is the status of the Business Plan for the establishment of the NCSIP? Has the plan been formally approved?
- 8) Please provide a monthly breakdown of the timetable for the Struma activities of NCSIP, notably the preparation of tenders, the management of feasibility and other studies, technical designs, the contract management, etc.
- 9) Please provide an annual breakdown of the distribution of the budget for the Company for the period 2012 – 2015, indicating whether financing is done under OP Transport technical assistance or the state budget.

Supervision procedures of the highest standard should be applied, preferably FIDIC. Commission services agree with the JASPERS observation that the current supervision contracts, based on the minimum requirements set in the Spatial Development Act, are too limited and requiring substantial involvement of RIA in the supervision process.

For Lots 1 and 4 duties of the companies carrying out construction supervision are limited to complying with the requirements of the Territory Planning Law only. Thus the consultants are only supposed to ensure that the works are being done in accordance with the designs, but are not required to advise the employer on construction costs, produce forecasts, assist in disputes, etc. These duties are taken by Project Coordination Teams (PCT) assigned within RIA.

With the increase of the number of the on-going works contracts, this involvement will increase and will absorb substantial parts of RIA's administrative capacity needed for other important project preparation tasks.

- 10) Current supervision arrangements are not adequate for the size of the Struma MW project. How will the supervision be expanded and RIA's shortage of supervision and management capacity be compensated?
- 11) Please describe the organisation and staffing of the supervising engineers.
- 12) Describe the arrangements made for interface management between contractors, supervising engineers, project sponsors, etc.
- 13) Please describe the interface arrangements with the National Railway Infrastructure Company.

On-the-spot checks of the Trakiya Motorway project performed by the Road Agency at some point did not provide sufficient assurance on the quality of the works, thus delaying the processing of payments and hampering cash-flow of the contractors..

- 14) What are the arrangements for the on-the-spot checks? Who are the actors involved and what are their responsibilities with regard to the checks, specifying roles of supervising engineer, project manager, managing authority, etc?

Stakeholder management

- 15) How have liaisons with local stakeholders and critics, such as environmental bodies, NGOs, municipalities, etc. been facilitated, before and after tendering?
- 16) Describe the arrangements for information of the local and general public during the preparation and implementation of the project.

Risk management

Particular risks should rest with the party most capable of managing and minimising that risk. With the prices offered during the tendering of Lot 1, prices are again very low, meaning that the risk of cost increases during the implementation of the project cannot be excluded. To contain this risk, robust project management and supervision are indispensable.

The Chapter E.3.3 on Risk Analysis gives a rather theoretical account of the risks facing the project without arriving at any conclusions on how these risks will be managed. There is no information on the risk arrangements between the different stakeholders, namely the different ministries involved (MTITC, Ministry of Finance, Ministry of Regional Development), RIA, NCSIP, the contractors

17) Define clearly the risk arrangements between the ministries, the Ministry of Transport (project sponsor), RIA and NCSIP (project delivery organisations), between RIA/NCSIP and the contractors.

18) Referring to our remarks under 8) on project management, the fact that supervision standards comply with the minimum standards as prescribed by the law, it is not unlikely that supervision will prove insufficient to anticipate or mitigate risks. The RIA is supposed to compensate for this lack of supervision.

The probability of contractors coming with additional claims can be reduced by using the risk analysis during the tendering and contracting phase.

19) Has the risk analysis been used in the tendering and contracting phase? Was the awareness of (potential) contractors of potential risks and uncertainties checked?

Operation & maintenance

20) How will contractor defects liability obligations be dealt with?

Maintenance will be carried out with the incomes collected by the Ministry of Finance and State budget funds. The RIA relies on future improvement of the general economic situation to spend more financial resources for the maintenance of the motorway.

21) Please give a justification why the maintenance costs for the Struma Motorway should not be covered by toll collection.

Road safety

Directive 2008/96/EC of 19 November 2008 introduces a comprehensive system of road infrastructure safety management, addressing projects for the construction of new road infrastructure. Thus, safety must be integrated in all phases of planning, design and operation of road infrastructure.

22) Have the provisions of the Directive 2008/96/EC on Road Safety been taken into account, such as the performance of a road safety impact assessment and a road safety audit?

23) Junctions between the Struma MW and intersecting roads should be well lit, as recommended in the JCN.

EIA procedure

The Commission services are unable to judge whether the EIA procedure carried out complies with the provisions of the EIA Directive.

The non-technical summary was made available on 20 August 2007 (see p.74 of the AF) i.e. three months *after* the public consultations on the project, when it should have been made available in advance.

24) Please clarify what kind of information was presented during the public consultations between 29 May and 01 June 2007. Did it include a non-technical summary as foreseen by the EIA Directive?

An amended version of the February 2007 EIA report included the Appropriate Assessment. During the obligatory new round of public consultations on the revised report, only the two municipalities of Simitli and Kresna were consulted as opposed to the first round when the municipalities of Radomir, Dupnitsa, Boboshevo, Blagoevgrad, Sandanski, Strumyani, and Petrich were also included.

- 25) The authorities must clarify what kind of information was presented to the public during the consultation of the amended version of the EIA report, as well as submit the relevant non-technical summary of the amended EIA report.
- 26) Were the remaining municipalities also consulted on the revised version of the EIA report?
- 27) Please submit the exact documents (EIA report, non-technical summary) that allowed the issuing of EIA Decision n° 1-1/2008.

Application of Article 9(1) of the EIA Directive

Article 9(1) of the EIA Directive stipulates that the competent authorities shall inform the public of the decision to grant development consent, making available to the public:

- a) the content of the decision and any conditions,
- b) the main reasons and considerations on which the decision is based, including information about the public participation and the concerns and opinions expressed by the public, and
- c) a description of the main measures to mitigate the major adverse effects on the environment.

- 28) Please clarify the application of Article 9(1) of the EIA Directive with regard to the two development consents for Lot 1 and Lot 4.

The environmental assessments concerning Lot 2 have not been finalised. As the final results of these assessments may trigger a revision of the EIA Decision Nol-1/2008, no conclusions about the environmental impact of constructing Lot 2 of the Struma Motorway can be made.

- 29) The Bulgarian authorities should perform the necessary environmental assessments before construction.

Natura 2000

The assessment has been done at an early stage of project development. Absence of detailed final designs had not been available preventing the assessment of the impact of structures such as junctions, overpasses, tunnels, etc. More recent and precise information has meanwhile become available.

Struma motorway will have impact on four Special Protection Areas (SPA) and nine Sites of Community Importance (SCI) with special focus on the most sensitive area of the Kresna gorge (SPA Kresna and SCI Kresna Ilindenci) although this section is not part of the submitted Major Project application. However, the report should treat all sites concerned with equal attention, evaluating impacts on species and habitats in all respective sites resulting in a more balanced analysis and conclusions per lot.

Commission services have serious reservations about providing a Commission approval to finance parts of the Motorway without having any legally binding assurance that the results of the EIA and of the Habitats Appropriate Assessment will effectively be implemented, i.e. that the tunnel will be built.

- 30) An update is needed of the Appropriate Assessment of the impact of the project on the Natura 2000 sites that takes into account the latest available information, final technical designs, update on the cumulative impact, etc., which will allow for more accurate evaluation on the real effect on the Natura 2000 sites in question and their integrity.
- 31) Separate Appropriate Assessments have to be carried out for each Lot as the level of detail of the holistic AA is insufficient.
- 32) What guarantee can the Bulgarian authorities provide that the building of tunnels to bypass the Kresna gorge will in fact be realised?
- 33) When is the Appropriate Assessment for Lot 3 expected to be available?

- 34) Distribution maps of the species and habitats in the affected sites should be made available in the report as well as comprehensive lists of the habitats and species presented in Standard Data Forms (SDF) per site.
- 35) Please confirm that the report does not mention impacts on species and habitats for those areas where these were not expected.
- 36) The AA should substantiate the expected significant reduction of the negative impact on populations of small animals along the proposed and EIA approved route after the planned construction of tunnels (notably Lot 3 in Kresna-Ilindenci SCI and Oranovski Prolom-Leshko SCI).
- 37) The cumulative impact assessment of the Struma motorway together with other existing, proposed or approved projects (e.g. mini hydropower plants, aggregates extraction quarries, railway lines) or plans should be updated.