

RE: Open letter to the EBRD and JP Autoceste about the legality of the project-level Spatial Plan of 2017 for the Corridor Vc in the Hercegovina-Neretva Canton

TO: Board of Directors, European Bank for Reconstruction and Development London, UK

JP Autoceste, Public company Motorway of the Federation of Bosnia and Herzegovina, Sarajevo, FBiH

16 February 2022

Dear members of the EBRD Board of Directors,

Dear JP Autoceste Management,

The ESIA public consultations for the Corridor Vc segment Mostar North – Mostar South, scheduled for February 16, 2022, will pave the way for construction work on yet another section of the pan-European route around Mostar.

But, as the EBRD and the Federation of Bosnia and Herzegovina's state motorway firm, JP Autoceste, race ahead, the fact remains that the current routing for the motorway sections around Mostar has never been consulted with the public, in contravention of the Aarhus Convention.

The public consultations on the project-level spatial plan¹ took place in 2011, with a 30-day commenting period and two public consultation meetings, in Sarajevo and Mostar.

Major changes to the Spatial Plan in 2017 without public consultations

Between 2011 and the adoption of the spatial plan by the Federal parliament in early 2017, major changes of the route took place:

- The section south of Mostar around Blagaj was completely changed. Originally it had been planned in the Neretva valley, then local people objected and it was moved up to the nearby ridge. Then in 2016 it was again proposed to move it down to the valley, with a slightly different routing. No new consultation on this section was held, only an informal presentation in January 2017 – a few days before the House of Representatives adopted the spatial plan - at which local people vigorously opposed the changes.²

¹ Prostorni plan područja posebnih obilježja od značaja za Federaciju Bosne i Hercegovine "Autocesta na Koridoru Vc" za period od 20 godina.

² Bljesak, [Burna rasprava u Blagaju: Autocesta će proći samo ako nas pobiju!](#), 22/03/2017.

- In 2016 it was announced that a new route for the Prenj tunnel had been found, which was 18 km shorter than the original version.³ No information about the environmental and social impacts of the new variant has ever been presented to the public and no consultations took place about this route change.

Environmental impact assessments are being carried out for separate sub-sections but since the spatial plan is already adopted, there is no real chance for the public to impact on the choice of route. This clearly contravenes Article 6.4 of the Aarhus Convention which states that *"Each Party shall provide for early public participation, when all options are open and effective public participation can take place."*

Social and Environmental Impacts on the sections around Mostar

The selection of the route lacks transparency and is not legitimately justified by adequate studies on the relative impacts on biodiversity and local communities. The latter has also been confirmed by the ruling of the Mostar municipal court on covert discrimination against war returnees in December 2021.⁴

The court concluded that the seemingly neutral practice of changing the motorway route indirectly discriminated against the plaintiffs, because of the inadequate justification and lack of public consultations for the changes to the spatial plan. The court also acknowledged that the war returnees have a disadvantaged position in realizing their social and economic rights in FBiH. As a result, although the Mostar court does not have the competence to annul the spatial plan, it ruled that the plan and the decision to declare the Corridor Vc a project of public interest cannot be applied to the complainants, leaving the plan and the decision de facto unable to be implemented.

Bankwatch showed that the disproportionate impact on the Serb minority and war returnees in the villages south of Mostar was not assessed in the 2020 ESIA.⁵ According to the EBRD ESP 2014, ethnic minorities are categorized as vulnerable groups who should have been informed and their particular needs and concerns consulted to safeguard their rights.

The 2020 ESIA does not properly justify the reason for making changes to the Spatial Plan of Special Interest to FBiH in 2017 since it does not explain why the 2011 ridge route around Blagaj was inadequate and why the search for a new route began in 2015/2016. Even the [multi-criterial analyses](#) (MCAs), which Bankwatch obtained in 2021, do not properly explain this decision.

³ Edib Bajrović, [Koridor 5c preko Prenja: Stavovi "Za" i "Protiv"](#), N1, 12/03/2016.

⁴ Voice, [PRESUDA: Izmjenom trase Koridora 5c diskriminisan dio stanovništva u Mostaru](#), 17/01/2021.

⁵ CEE Bankwatch Network, [Connecting or Dividing? The South Mostar section of Corridor Vc in Bosnia and Herzegovina](#), 21/01/2021, 14-15.

In view of these unresolved issues, we underline our requests⁶: to thoroughly research and reassess the whole route around Mostar, including the section across Prenj, the Prenj-Mostar North section, the Mostar North-Mostar South section, the section between the Mostar South Interchange and Kvanj, as well as tunnel Kvanj. Even if it is not the EBRD that will finance all of these sections, they need to be assessed together in order to come up with a coherent proposal and avoid creating bottlenecks.

Recommendations:

- **The EBRD must not accept the current spatial plan for the Corridor Vc as legitimate or workable.** Any consideration of other parts of the Corridor Vc in FBiH, such as the Mostar North – Mostar South subsection, must be situated within a comprehensive re-assessment of the route between Prenj and Počitelj.
- **The EBRD needs to ensure compliance with its environmental and social standards for the entire section in Lots 3 and 4 which is not yet built, from Prenj until Počitelj.** JP Autoceste, with assistance from the EBRD, should carry out a comprehensive assessment of the entire route, reassess alternative route options, and organize new public consultations based on improved environmental and social studies.
- **The EBRD also needs to ensure compliance with its social standards and assess the implications of the ruling on the discrimination case with regard to the adoption of the spatial plan in 2017.**⁷
- **The North Mostar-South Mostar section cannot and should not be considered separately from neighbouring sections, as is the case in the ongoing public consultations.**

Thank you again for your attention and time!

Sincere regards,

Fidanka Bacheva-McGrath

CEE Bankwatch Network

Copy: Manuela Naessl EBRD Head of Bosnia and Herzegovina Sarajevo Resident Office

Copy: Victoria Marquez-Mees IPAM Managing Director EBRD Chief Accountability Office

⁶ CEE Bankwatch Network, [Bankwatch's request to the EBRD Board regarding Corridor Vc South Mostar Section](#), 17/02/2021.

⁷ CEE Bankwatch, [War returnees won discrimination case over re-routing of the EBRD and EIB financed motorway](#), 20/01/2022.

