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Dear Commissioners Barrot, Dimas and Huebner and President Maystadt,

In mid-December 2007, after a long negotiating process, the Commission approved the Czech OP Transport.

In the attached document, please find a summary of the most problematic aspects of this program from the point of view of Friends of the Earth Czech Republic, CEE Bankwatch Network and Environmental Law Service.

The paper contains:

- A summary of the problems that were encountered by NGOs during the preparatory process of the OP.
- A compendium of problematic highway/motorway projects that are present on the indicative list of major projects.

The paper also draws on numerous conclusions of the Czech National Supreme Audit Office that has discovered massive ineffectiveness of expenditures caused both at the planning level for motorway infrastructure in the country as well as on the level of individual projects.

We would like to turn your attention to these findings because what is at stake now is EUR 5.8 billion from the Cohesion funds and the ERDF to be spent on this programme (plus additional planned co-financing via a loan of EUR 1.3 billion from the European Investment Bank).

The Commission and the EIB should be seeking to ensure that ineffective use of these public resources is, if not avoided completely, minimised. They should also avoid financial support for those projects that in their proposed form will seriously damage the environment and contradict the EU environmental integration policy, only because there is not enough will from the Czech authorities to impartially assess alternatives (which, moreover, are often found to be less costly and more suitable from the transport point of view). EU and EIB resources can be used much more effectively if they are disbursed only on properly prepared project variants selected through unbiased assessments of their economic, transport and environmental aspects.

We would also like to raise our concern that attempts will be made, as declared by a Ministry of Transport senior official internally, especially in the case of controversial projects, to split them up into smaller subsections (this is commonly known as the "salami tactic") where the required contribution from the Cohesion fund will be under the EUR 50 million starting point. This of course would be a practice designed to avoid due European Commission scrutiny over certain projects.)

We hope our paper will provide the European Commission and the EIB with independent information and contribute to the quality of their decision making on the controversial transport projects mentioned, thus ensuring the sound use of public resources for transport projects that are really beneficial for the society in the Czech Republic, not just a few.

Yours sincerely



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Operational Programme Transport: deficiencies in preparation, controversial projects

Brief summary of the objections of Czech NGOs

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1. Introduction

The Operational Programme Transport (OPT) is expected to provide as much as CZK 150 billion (EUR 5.8 billion) for transport projects in the Czech Republic between 2007 and 2013. In 2007, the country lost many months during the protracted negotiations about the programme. A great share of responsibility for this lies with the problems in the OPT draft that stem from years of unsatisfactory work delivered by the Czech state administration in terms of transport construction strategic planning.

The Supreme Audit Office (SAO)¹, which audits the management of state property and the performance of the national budget, has identified serious mistakes in multi-million transport investments in the Czech Republic over the years. According to the SAO, the key problems with transport infrastructure development in the Czech Republic are lack of economic insight and unsystematic approach.²

As early as 2005, SAO auditors recommended “changes to the current decision-making system used in the Czech Republic for transport network development in order to ensure objective decision-making practices and reduce opportunities for biased and intuitive decisions regarding multi-billion investments”³.

However, the Czech government has continued to spend public funds on the development and implementation of projects whose relevance was not properly assessed. At the same time, the state lacks money for road sections that are truly necessary. Problems such as this have also affected the writing of the OPT.

Indeed the European Commission stated during the negotiations in September 2007 that “there is still the problem of an unclear medium-term strategy, specifically its key and non-investment steps”⁴.

The Ministry of Transport was further criticised for its unsystematic approach in relation to the CZK 830 billion transport investment schedule for the next seven years (known as the Timetable of Transport Infrastructure Construction)⁵. The current schedule, approved in September 2007, fails to prioritise the projects based on economic, transport, social and environmental criteria. The only factor considered in the document was whether each project was ready and had been discussed as required by the Construction Act.

¹ The Supreme Audit Office is an independent body auditing the economic use of state-held assets and the performance of the state budget. Its latest report on the financing of Czech roads and motorways, including the use of money from structural funds through the OP Infrastructure, concluded that it took a very long time – eight years on average – to complete preparatory work on transport projects from zoning decision documentation to the issuing of a building permit. The audit focused on 435 projects developed between 2004 and 2007 and found that the estimated cost increased by CZK 76 billion, or 22 percent, and more than half of the projects had a 46 percent increase in estimated cost. Only 32 percent of projects stuck to their original completion dates. *SAO audit no. 07/04: Funds for selected projects under road construction and renovation programmes, 2007.*

² “In the majority of cases, the programme financing system failed to provide an efficient, economic and meaningful use of funds. This resulted in financial problems for many projects, even beyond the preparatory stage. Project implementation had to be suspended or postponed or projects had to be divided into several phases”. *SAO audit no. 07/04: Funds for selected projects under road construction and renovation programmes, 2007.*

³ SAO audit protocol No. 04/25: Traffic infrastructure development in Central Moravia and Ostrava cohesion regions, 2005.

⁴ Minutes from a meeting on the draft Operational Programme Transport held by the EC and Czech representatives, led by the Deputy Minister of Transport on September 20, 2007.

⁵ Timetable of Transport Infrastructure Construction in 2008-2013. Resolution of the government of the Czech Republic no. 1064 of September 19, 2007.

The OPT includes an indicative list of projects to be financed from the EU funds. Numerous individual projects were added to the list without the proper evaluation of possible alternatives, economic efficiency, transport relevance and environmental impact. There is no indication as to the priority of each project nor the sequence of project implementation.

During the negotiations, the European Commission warned the Czech side that the OPT does not imply obligatory financing for roads and motorways on the list. Instead, the Commission will decide on contributions for each project separately. (This means that EU funding could be jeopardised if a project fails to meet EU requirements)⁶.

Also, the government decision from September 2007⁷ about the Timetable of Transport infrastructure Construction requires the Minister of Transport to appoint the expert group in the cooperation with the Ministry of Environment to assess options of 3 controversial projects that are on the OPT list (R1, D3 and R55). However, official proceedings for the realization of the “original” problematic options according to our knowledge were not halted which would be logical, if the Ministry of Transport would act according to the decision.

2. The concerns of NGOs

NGOs have expressed deep dissatisfaction with the preparation process of the OPT. In spring 2006 Hnutí DUHA criticised the side-lining of the “partnership principle” during both the OPT preparatory process and the Strategic Environmental Assessment process. NGO comments on the OP Transport were not responded to at all and the comments on the SEA documentation were ignored. Only in the later stages (autumn 2007) these comments and formal responses to them were selectively listed in the attachment to the OP, though the process itself had already been closed to the public for nearly a year.

Hnutí DUHA considers the positive statement of the Czech Ministry of Environment on the SEA process for the OPT to be unacceptable due to the serious deficiencies that accompanied the preparatory process of the OPT, as well as the quality of the SEA assessment and its final conclusion⁸. The authorities (namely the Roads and Motorways Directorate) are now likely to argue that there is no need to look for project alternatives because the whole list of projects included in the OP Transport was “assessed” – and consequently “approved by the Commission”. Though this argument is grossly wrong, the Czech authorities are often using it as leverage to push the projects through in the formal proceedings.

A more in depth complaint about the problems of the SEA/EIA processes and their links to the OP Transport was prepared by the NGO Environmental Legal Service in early 2007⁹. The OPT includes a detailed list of specific projects, with number of them missing appropriate assessment for example on the densely populated areas lying near the planned Prague Ring Road; the planned route and interconnection of the D1, R43 and R52 motorways/expressways near densely populated areas in Brno; the R52 route via Mikulov, which would result in, among other impacts, excessive traffic generation in the Lednice-Valtice Landscape complex (a UNESCO World Heritage Site). Some other problematic projects were assessed by more specific SEA or EIA procedures, but often with poor quality, leading to serious objections from the public and in some cases even to court actions or other legal steps. At the same time

⁶ Record from negotiations about the draft document of the Operational Programme Transport between the European Commission and the Czech party, lead by the deputy minister of transport, September 20, 2007.

⁷ http://racek.vlada.cz/usneseni/usneseni_webtest.nsf/WebGovRes/45C567956D09DE56C125735500250ECC?OpenDocument

⁸ As it follows from the Socio-economic Focus of the Assessment of the OPT (Annex 2 of the SEA on the OPT), the text of the OPT is insufficient. The document does not discuss the impacts of traffic, which will be induced by the newly built traffic infrastructures. Another key problem is the uncritical approach to assessing the impacts of transport investments on regional economies – these are viewed as an unquestionable positive for the development of the regions. The document lacks an integrated approach to transport planning, mainly on the regional level (the level close to the NUTS II level). In addition, the OPT fails to define criteria for the selection of various projects for funding. It does not give sufficiently clear priority to the reconstruction and upgrading of the existing road infrastructure (which is highly recommended in terms of environmental impacts and economic impacts, construction and maintenance costs).

⁹ Černý, P.: Main legal problems of planning and permitting procedures on traffic infrastructure development in Czech Republic (in particular concerning the EC law requirements), Environmental Law Service, Brno 2007.

the conclusion of the only systemic SEA on the transport network development that took place in 1999¹⁰ was never taken into account in the Czech transport infrastructure plans.

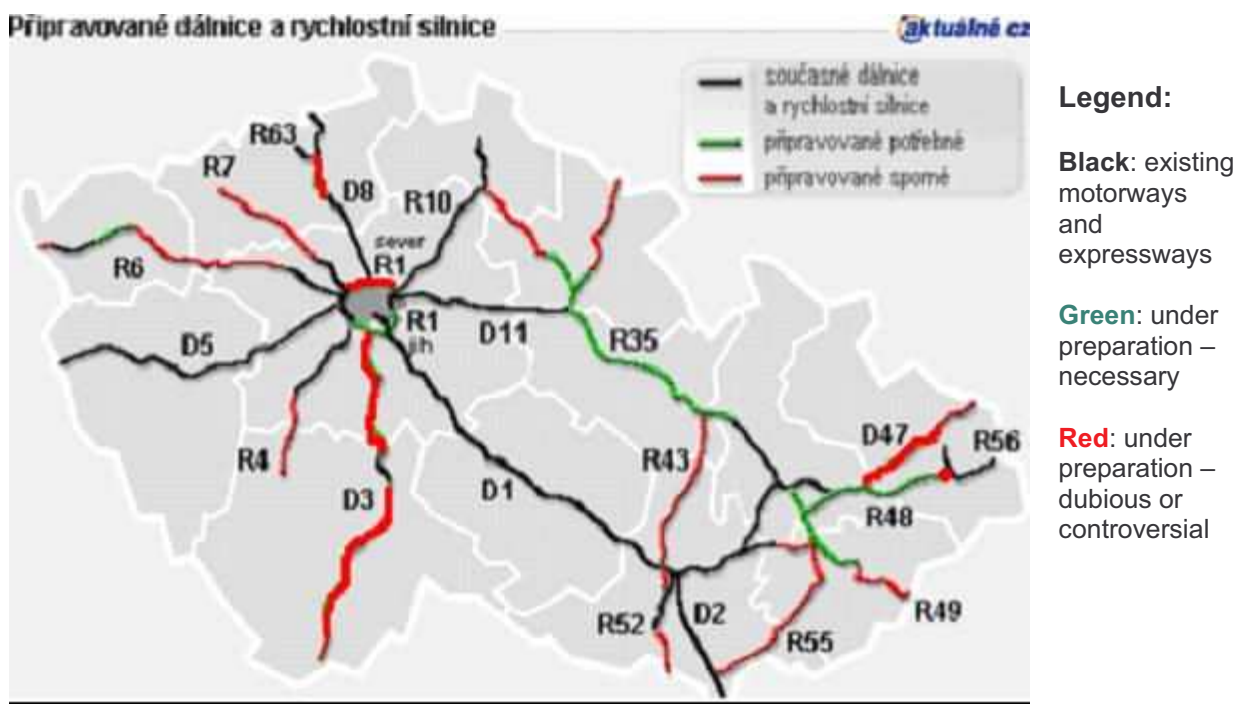
Also there are concerns based on the internal information from the Ministry of Transport, that individual projects will be cut to the sections under the EUR 50 million limit. This of course, would be a practice designed to avoid European Commission scrutiny over certain projects.

Last but not least, the OPT fails to identify both the current as well as the planned level of CO2 emissions from the specific priority investment measures, referring only to the future analysis, that will supposedly be done.

3. List of priority projects in category D (motorways) and category R (expressways)

In the following part we discuss a compendium of the problematic aspects of a number of planned infrastructure projects included in the OPT and in the timetable of transport infrastructure construction. We draw attention especially to motorway and expressway projects (plus one railway and one waterway project) with questionable economic and transport benefits, with a potential for endangering the environment by inappropriate route location. Nevertheless, most of these projects are intended to apply for support from the EU funds and/or for loans from the European Investment Bank.

Illustrative map of the planned motorway and expressway network in the Czech Republic



source: aktualne.cz, adjusted by BWN CZ (based on the expert analysis that was ordered by the Aktualne.cz media server - see <http://aktualne.centrum.cz/domaci/spolecnost/clanek.phtml?id=480209> - with several projects marked additionally by CEE Bankwatch Network as dubious or controversial (arising from the years of NGO experience with planning and from the assessment of available data). The last mentioned are marked with the thick red line (section of R1, D8, whole D3 and D47, bypass on R48)).

¹⁰ SEA of the State programme of the traffic infrastructure for the period up to 2010, Institute of Applied Ecology, Kostelec nad Cernými Lesy, 1998, 1999

Table 1: Indicative list of priority road projects in the OPT (final version approved in December 2007), their necessity according to NGOs, and indications of environmental conflicts.

Legend: **x** – unjustified from the capacity point of view, **!!!** – environmental conflicts)

Priority axis 2				
	Project	Cost (mil. EUR)	Transport necessity in 2007-2013 (according to NGO assessment)	Environmental conflicts
D1	Kroměříž východ - Přerov	476,5		
D1	Kývalka - Černovická terasa (widening)	283,2		!!!, noise and particulate matters in inhabited area
D1	Přerov - Lipník n.Bečvou	266,7		
D3	Praha - Nová Hospoda (Mezno)	847,4	x – cheaper alternative I3 and R4 + I20 possible	!!!, recreational area threatened
D3	Bošilec - Třebonín	552,6	x – if cheaper I3 and R4 + I20 would take place	
D8	Lovosice - Řehlovice	506,7		!!!, through protected landscape area
D11	Hradec Králové - Smiřice	203,3	x	
D11	Smiřice - Jaroměř	101,2	x	
R1	Běchovice – crossing with D1	172,9		
R1	D1 - Vestec	230,6		
R1	Ruzyně – Březiněves	847,6	wrong option (J) promoted, better one (Ss) exists	!!!, too close to residential areas and city recreational zone
R1	Březiněves - Satalice	406,3		
R3	Třebonín – state border with Austria	425,5	x	
R6	Nové Strašecí - Bošov	500,2	x	
R6	Bošov - Karlovy Vary East	289,7	x	
R6	Karlovy Vary - Sedlo - Sokolov - Tisová	191,4	x	
R11	Jaroměř – Trutnov	180,2	x	
R11	Trutnov – state border	182,7	x	
R35	Turnov - Úlibice	202,9		!!!, projected through the protected landscape area
R35	Úlibice – crossing with D11	252,0		
R35	Opatovice - Zámorsk	86,4		!!!, conflict with Natura 2000 area Komárov
R35	Zámorsk – crossing with R43 - Mohelnice	750,0		
R48	Bělotín - Nový Jičín (crossing with I/57)	131,3		
R48	Nový Jičín (crossing with I/57) - Rychaltice	78,8		
R48	Rychaltice - Frýdek-Místek (beginning of the bypass)	102,6		
R48	Frýdek-Místek bypass	143,4		!!!, local protests against the promoted variant, Natura 2000 site affected
R52	Pohořelice - Mikulov, state border with A	357,1	x – cheaper and more appropriate option available	!!!, conflicts with protected landscape area and Natura 2000 sites
R55	Vsisko - Přerov	99,3		
R55	Hulín - Otrokovice (northern bypass)	156,9		
R55	Napajedla - Uh. Hradiště (cross. with I/50)	202,2		
R55	Uh. Hradiště (cross with I/50) – Hodonín South (I/51)	194,9		!!!, conflict with Natura 2000 bird area
R55	Hodonín South - D2	87,7		
Priority axis 4				
R7	Louny (beg. of bypass) - MÚK Bitozveves	61,8	x	
R7	Slaný - Louny (beg. of bypass)	194,7	x	
R7	MÚK Bitozveves - Chomutov	195,9	x	
R49	Hulín - Fryšták	245,5	x	
R49	Fryšták - Zádveřice	255,0	x	
R49	Zádveřice – state border with Slovakia	468,4	x	!!!, potential conflict with protected landscape area
<i>Projects from the Timetable of the Transport Infrastructure Construction</i>				
R4	Příbram - Písek		x , necessary, but only if D3 is skipped	
R7	Slaný - Louny - Chomutov		x , not enough traffic after D8 finished	

4. Compendium of problematic projects

4.1. D1 – planned widening near Brno

The plan to widen the D1 motorway to six lanes in order to increase its traffic capacity exists for an approximately 30-kilometre long section south of Brno. The current intense transport in the surrounding areas has exceeded legal noise and micro-particle emission limits. The widening of the motorway would further worsen these conditions. Together with the planned construction of the R52 and R43 expressways, the traffic burden would accumulate near the village of Troubsko (1900 inhabitants). During the EIA procedure, however, there was no assessment of the cumulative impact of these projects. This is in contradiction with both Czech law and Article 3 of the EIA directive (85/337/EEC).

The problematic situation, which is already now endangering the health of thousands of people, has not been solved (if the permitting of exemptions from the obligation to observe the limits is not regarded as a solution).

4.2. D3 motorway

In 1999 the SEA verdict on the development of the Czech transport network¹¹ turned down the proposed D3 route from Prague to the Austrian border via Tábor and České Budějovice. Instead, the SEA recommended the use of existing roads with the potential upgrade of the I/3 road to an expressway status. Despite the questionable transport benefits and environmental consequences, the government decided that the D3 construction must begin, even though there is wide public disagreement with its routing through the Prague's recreation area of Posázaví. At the same time, Austrian towns protest against the D3's continuation on the Austrian territory.

Another reason for the controversy surrounding D3 is that it is not clear why it needs to be built. There is little traffic on the existing roads and South Bohemia is accessible from Prague via the existing roads I/3 and R4 + I/20 – these can be modernised and, in some sections, expanded – with much lower costs than the promoted option of the D3.

For the section Praha - Mezno the most expensive option with expected costs CZK 30 billion is promoted - technically the most difficult, and damaging for the environment near Prague. Compared with easier alternatives (expanding I/3 to the four-lane R category with bypasses and the completion of R4 and R20 up to České Budějovice), the time-consuming preparations result in delays (the completion date moved from 2010 to sometime after 2015) and growing costs (the total financial costs of the entire Prague-Austrian border project are currently estimated at CZK 80 billion / EUR 3 billion).

Requests from municipal representatives of the Posázaví area, experts and the general public for a less controversial variant¹² (the "Promika version"), which follows the existing I/3 trunk road with bypasses, has been ignored regardless of the fact that this version requires only half the cost, is better for the environment and, if enough will existed, could be prepared and implemented much faster.

For the section Prague – Mezno the government decision from September 2007 about the need to assess alternatives applies¹³.

¹¹ SEA of the State programme of the traffic infrastructure for the period to year 2010, Institute of Applied Ecology, Kostelec nad Černými lesy, 1998, 1999.

¹² Study on alternative solutions to the Prague - Chotoviny section of D3. PROMIKA studio, Prague, August 2001. Acceptability of I/3 between Prague and Tábor for renovation and expansion to a R3 motorway. Czech and Slovak traffic club, Brno November, 2000.

¹³ http://racek.vlada.cz/usneseni/usneseni_webtest.nsf/WebGovRes/45C567956D09DE56C125735500250ECC?OpenDocument

4.3. D8 motorway¹⁴

The construction of the D8 motorway has a controversial history dating back for fifteen years, it represents an example of pre-1989 influences on the government's methods – the refusal to consider alternatives, coupled with ignorance of public opinion and the project's environmental impacts. The whole preparatory process is accompanied by numerous factual and legal deficiencies. This was proved by the Czech Ombudsman in 2005, who stated that the authorities broke the valid legislation several times in the approval process of the motorway. Nevertheless, the project preparation has continued.

Civic organisations have promoted alternative routes for the D8 since the early 1990s, but their arguments, together with the SEA experts' recommendations from 1998 in favour of the alternatives, were ignored. Typical for EIA procedures for the D8 project was the exclusion of alternatives from the very beginning. The D8 is being built in such a way that the least controversial segments were built first, thus increasing the political pressure for issuing permits for the "missing links".

For many years two sections of the motorway still had to be built, both of them controversial for their environmental impacts as they were designed to cross sites of outstanding biological and landscape value.

A section across the Eastern Ore Mountains between Trmice/Ústí nad Labem and the German border¹⁵, where both EIB and ISPA (the EU pre-accession fund) were involved, was put into operation in December 2006. The overall costs of this section amounted to EUR 710 million, namely EUR 41.21 million more than budgeted. In 2005 the Roads and Motorways Directorate was fined with a 20 MEUR for being found guilty for an improper public tender proceedings for the part of this section – border bridge with Germany (the tender was signed for the 200 MEUR)¹⁶.

The last section missing for the completion of the D8 motorway is a 16.4 kilometre long section across the České Středohoří Protected Landscape Area, for which the European Investment Bank (EIB) is providing a loan. Expected costs of the route are EUR 410 million. Environmental NGOs have tried to convince the authorities to either choose a different route, or to put the motorway in the 10-kilometre long tunnel. This, however, was not accepted. The same also happened to later attempts – supported by the Czech Ombudsman – to agree on a 3 kilometre long tunnel in order to protect at least the core zone of the České Středohoří.

Since the section is projected across the protected landscape area where the construction of motorways and expressways is prohibited according to the Nature and Landscape Protection Act, the exemption from the Ministry of Environment was issued several years ago. In October 2007 it also received a construction permit and the section is planned to be put into operation in 2010.

The initial date of completion of the whole motorway in 2000 was prolonged by ten years and the price since 1993 has almost tripled. According to the SAO,¹⁷ the causes of this situation are: failures of relevant authorities to comply with their administrative duties, creating lengthy land use proceedings. Furthermore it is caused by not solving timely the conflict between two public interests: the sustainable mobility of society and the protection of ecological stability.

Similarly, in the European context, the D8 project illustrates the basic contradiction between the declared European priorities of nature protection, and the attitudes of project promoters. By supporting the project financially (through ISPA and the EIB), the EU is contradicting its alleged concept of integrating environmental aspects into all sectors of development planning. So far, Czech national authorities have learnt that even procedurally deficient projects like the D8 can count on EU funds.

¹⁴ The D8 motorway is part of the Berlin - Prague - Budapest - Sofia - Istanbul European multi-modal transport corridor IV. From Prague, the D8 heads north and connects with the German A17 motorway in the Východní Krušné Hory (Eastern Ore Mountains).

¹⁵ Sites recommended to be declared a Specially Protected Area according to the EC birds directive and also several important habitats have been identified there.

¹⁶ <http://www.compet.cz/verejne-zakazky/aktuality-z-verejnych-zakazek/reditelstvi-silnic-a-dalnic-dostatecne-nezduvodnilo-vyber-uchazece/>

¹⁷ SAO audit protocol No. 06/03: Financial sources designated for the construction of D8 motorway, 2006.

4.4. R1 - Prague expressway ring-road – the northwest section Ruzyně – Březiněves ¹⁸

The construction of the Prague ring road (R1) involves a number of problems particularly in terms of planning as well as the increase in its financial costs. Here we deal with its most controversial (north-west) part – section Ruzyně-Březiněves.

In this case city hall and the Ministry of Transport have been one-sidedly promoting the “J” (Southern) variant despite the fact that the so-called “S” (Northern) variant resulted as more appropriate from a comparative study of the two variants of the R1’s northwest segment¹⁹. The “S” variant, specifically its adjusted sub-variant “Ss”, proves cheaper than the “J” variant and was in addition recommended by a statement of the Ministry of Environment to the EIA process in 2002.

The promoters of the “J” variants point to the economic comparative study performed in 2003. However, an SAO audit protocol²⁰ found that its results were distorted to the benefit of the “J” variant mainly through the incorrect use of traffic frequency data and by not involving all costs of the “J” variant.

As a result of public pressure, the Ministry of Transport ordered a new comparative study for both variants in 2007; this was completed by the respected consultancy Mott MacDonald. Its conclusion states that the “Ss” option has clear economical advantages (CZK 4-8 billion savings)²¹.

The “J” variant is furthermore in conflict with Decision No. 1692/96/EC (Community guidelines for the development of the Trans-European Transport Network) on two counts: a) roads included in the TEN-T must bypass urban conglomeration, which the “J” variant does not satisfy; b) the “Ss” variant correctly separates long-distance traffic from urban traffic, while on the contrary the southern “J” variant would result in mixing these two types of traffic and would create a dangerous bottleneck.

The problems with the “J” variant are further compounded by a complicated system of feeding tunnels and principal tunnels and an exotic two level bridge in Prague-Suchdol, all of which involve safety hazards. This can be regarded as non-compliance with or questionable implementation of Decision No. 2004/54/EC on minimum safety requirements for tunnels on TEN-T roads.

R1: Prague ring-road: construction delays and price increases

In the course of the construction of the Prague ring-road, its termination dates were postponed (from 2008 to 2015) and investment costs have been rising from EUR 1.46 billion in 2003 (through EUR 1.78 billion in 2004 and EUR 1.98 billion in 2005) up to EUR 2.68 billion according to the figures of the Road and Motorway Directorate from 2007. This means almost a doubling of construction costs.

According to an SAO audit protocol²², poor preparation of the construction, ignoring the environmental impacts and underestimating costs bear the blame for the price rises.

Besides these failures negatively influencing the economic efficiency of the R1 construction, the SAO found additional major shortcomings with regard to socio-economic assessments. The selection of the whole route location was not based on a socio-economic assessment. Socio-economic assessments were carried out only separately for individual segments of the ring-road. Furthermore, the assessments were not at all carried out according to any common methodology. Finally, even if performed, the results of the socio-economic assessments were not respected anyway.

¹⁸ The Prague ring-road forms part of the trans-European highway network under the Berlin-Istanbul IV multi-modal corridor. The project’s purpose is to direct transit traffic outside of the city centre, provide connection between various highways and roads to Prague, channel traffic arriving from outside of Prague to inner city roads and provide a transport connection for locations along the ring-road. The project is to be partly financed from the EU funds and EIB loans.

¹⁹ SAO audit protocol No. 04/26: Construction of the Prague ring-road, 2005.

²⁰ SAO audit protocol No. 04/26: Construction of the Prague ring-road, 2005.

²¹ Assessment of the “J” and “S” variants of the north-west section of the Prague ring-road. Mott MacDonald, Prague August 2007.

²² SAO audit protocol No. 04/26: Construction of the Prague ring-road, 2005.

During the negotiations of the OPT, the Commission demanded that both options should again be seriously analysed. Also for the section Ruzyně – Březiněves the government decision from September 2007 about the need to assess alternatives applies²³ and in the late 2007 the assessment of the projects was included to JASPERS. At the same time however the Ministry of Transport did not stop the proceedings for the “J” variant and intends to spend EUR 48.71 million on it already in 2008, possibly using EU funding.

4.5. R35 expressway

The construction of the R35 expressway testifies to the lack of conception and the absence of prioritisation in transport infrastructure development in the Czech Republic. The Czech government has spent – and is planning to spend – billions of euros on motorways and expressways whose usefulness has not been proved (for instance R4, R6, R7, D3, D47, R52, R43, R49); on the other hand, it is prolonging the completion of the R35 expressway, a vital supplemental alternative for the overloaded backbone of the main Prague to Brno D1 motorway.

Southeast part of the R35:

The most significant section of the R35 from the transport point of view (Opatovice - Mohelnice) is not a priority in the timetable of traffic infrastructure construction and its completion is scheduled after 2015 (instead of the initial date of 2010).

The construction is complicated by its planned routing across the NATURA 2000 specially protected area Komárov, although it could be easily avoided. In 2004 the Ministry of Environment and the Ministry of Transport agreed to reduce the originally proposed acreage of the area and to shift the route to the south-west border of the reduced area. This decision was criticised by Birdlife Czech Republic, which in April 2005 filed a complaint to the EC against the intentional change of the borders of the bird area in contradiction with the EU Birds Directive (79/409/EEC).

In June 2007 the European Commission sent the Czech government a notification pointing out shortcomings in the declared bird areas. The bird area of Komárov was one of the criticised cases. Procedures against the Czech Republic (and other member states of the European Union) were opened due to the poor implementation of the Birds Directive. If the Czech party does not succeed in the dispute, the bird area will have to be again demarcated and a new routing of the expressway found; the price of the construction will thus rise.

Northwest part of the R35

This section of R35 is cutting through the Český ráj (Czech Paradise) Protected Landscape Area. Since 2005 the area has also featured on the UNESCO Geoparks list. Originally only a two-lane version was considered for this section. However, the Liberec region council requested that a four-lane version be discussed as well. The proposed routing would have a negative impact on the landscape, tourism value, and on the inhabitants of affected settlements. A petition against the most controversial part from Turnov to Úlibice in the protected area, was signed by 11,000 people. Furthermore, the Areas' administration strongly rejected any proposals for a four-lane expressway, not least because the construction would require an exemption from the Nature and Landscape Protection Act. All this demonstrates the need to look for a different route. A possible alternative avoids the protected area from the south. Current status: at the request of the Road and Motorway Directorate, the EIA process was stopped before an opinion was granted.

²³ http://racek.vlada.cz/usneseni/usneseni_webtest.nsf/WebGovRes/45C567956D09DE56C125735500250ECC?OpenDocument

4.6. R48 expressway (Frýdek-Místek bypass)

The completion of the R48 expressway is one of the key priorities of Czech transport infrastructure development in North Moravia, yet it has been repeatedly postponed and the cost of the project has increased as a result.

The delays in implementation have been primarily due to unsystematic financing from several sources. The lack of funds has resulted in the tentative completion date being moved from the originally declared 2005 until sometime after 2015. Another reason for the postponements is the time lost on getting decisions on project location and building permits.

The city of Frýdek-Místek and the North Moravia region are promoting a bypass variant (the so called “Southern variant”) which would damage the Morávka Floodplain – a NATURA 2000 site and Special Protected Area for birds. The regional authority has granted its approval for this variant on four occasions. The Czech Ministry of Environment has cancelled the approval on three occasions and will now decide on a fourth appeal.

4.7. R52 expressway²⁴ (and disputes around the Brno-Vienna route)

The high-capacity connection between Brno and Vienna – road R52 from Brno to Mikulov – is another example of potentially inefficient financing. The R52 route via Mikulov has been actively supported by the Ministry of Transport despite existence of several expert studies²⁵ that favour an alternative solution using the existing D2 motorway (Brno - Břeclav) and a short extension of road R55 (Olomouc - Břeclav) to the Austrian border, including a four-lane bypass of the town of Břeclav.

The R52 connection to the Austrian motorway network in Mikulov has yet to be approved by a bilateral agreement between the Czech Republic and Austria²⁶. There is a memorandum in this regard, signed in 2005, declaring the governments’ support of the R52 / A5 connection in Mikulov/Drasenhofen, which has no legal relevance. Nevertheless, the Czech Ministry of Transport has misleadingly included it among the binding international obligations in the Operational Programme Transport²⁷. Furthermore, the EIA for R52 was not performed on cross-border basis although the project is to be connected to the Austrian motorway network.

The European Commission has requested comparative environmental and economic studies on the project²⁸ and has asked the EIB to suspend financing of a portion of the D1 expansion project that is directly related to pre-development work on the R52 completion and related transport projects in 2006²⁹.

The Mikulov variant has been assessed as economically unfeasible, based on the World Bank HDM-4 methodology³⁰. Another recent study of the Centre for Transport Research³¹ proved that the construction of R52 between Pohořelice and Mikulov is unjustified from a transport perspective, too. It shows that,

²⁴ The four-lane road R52 connecting Pohořelice and Mikulov is planned to be constructed between 2010 and 2014. The construction cost is estimated at CZK 10 billion, or CZK 435 million per km.

²⁵ Kalčík, J.: Search for alternative alignments of R55 highway between D2 highway and Austrian border, Ministry of Transport, Prague February 2007.

Strnad, M.: The alternative road network within Brno Conurbation, Prague, January 2007.

Volf, O.: NATURA 2000 comparative study for Brno - Mikulov -Vienna and Brno - Břeclav - Vienna, January 2007.

²⁶ For example, the Austrian Law Bundesstraßengesetz 1999 does not mention exclusively the A5 Drasenhofen-Mikulov extension but also includes Wilfersdorf – Reinthal - Lundenburg (Břeclav) section of road B47. A decision of the Austrian government of March 2007 says that the A5 construction depends on the decision of the Czech party.

²⁷ OPT version sent to the EC on October 11, 2007

²⁸ Minutes from negotiations with the European Commission on the Operational Programme Transport for 2007-2013 held on July 19, 2007.

²⁹ Letter from G.Kremlis, DG Environment to CEE Bankwatch Network, Jan 19, 2007

³⁰ R52 Economical evaluation, HBH Projekt s.r.o., Prague, April 2006. The situation on the Austrian side is similar. According to a material developed by the Austrian Ministry of Transport (BMVIT) and published in the Austrian daily “Der Standard” on September 19, 2007, the Schrick - Drasenhofen (Mikulov) section of A5 would be seriously uneconomic.

³¹ Dufek, J.: Transport study on alternatives to R55 and the road connection between Brno an Vienna, Center of transport research, Prague 2007.

once completed, R52 will fail to take traffic from other roads (traffic intensity will increase by no more than 10 percent), which means that the project is not efficient.

Alternative route via Břeclav

Instead of extending R52 all the way to Mikulov (Pohořelice - Mikulov section), there is a potential solution that would use the existing D2 highway and extend the road R55 to the Austrian border, thus providing a four-lane bypass of the town of Břeclav. This alternative could save as much as CZK 5.5-6 billion³² compared with the Mikulov variant. A four-lane Břeclav bypass could reach a traffic intensity of more than 20,000 vehicles a day by 2020³³.

According to an expert study on alternative development of the highway network in South Moravia³⁴, a connection of Brno and Vienna via the border crossing in Břeclav (without R52) accompanied by other measures suggested in the study could lead to a CZK 30 billion (EUR 1.15 billion) savings in the overall cost.

Furthermore, the Břeclav version would allow a more sensitive interference with NATURA 2000 site than the R52 version via Mikulov - it would avoid negative consequences for the bird habitat Middle reservoir of Nové Mlýny and Pálava³⁵. Unlike the Mikulov version, it would also avoid heavy truck traffic to and from R55 via the Lednice-Valtice area, which is listed in and protected under the UNESCO World Heritage programme.

Though the above studies were initiated by civic organisations and largely ignored by Czech authorities, after repeated reminders from DG Regio, DG TREN and DG Environment, the Czech government finally agreed in September 2007 to a review of the possible variants of the motorway/expressway connection between Brno and Vienna.

4.8. R55 expressway

The planned R55 expressway from Břeclav to Napajedla is intended as relief for the overused road I/55 which cuts through the centres of several towns. The fundamental problem with the expressway is the section from Rohatec to Moravský Písek through the special protected bird area Bzenecká Doubrava - Strážnické Pomoraví.

The process of approving this particular project has involved violations of European Directives and the absence of consideration of alternative routes. Czech authorities have refused to consider an R55 alternative that would avoid the protected bird area, thus violating Art. 6 of the Directive on Habitats, which requires an assessment of the various project options.³⁶ As part of the EIA process, the Ministry of the Environment granted a positive opinion on a route through the bird sanctuary. Wildlife is to be protected by an approximately 12 km long special tube. However, this only increases the overall cost (by another CZK 1.5-2 billion) and will not be a sufficient protection of the bird population. The European Commission is currently investigating the project approval process based on complaints filed by Czech citizens.

Birdlife Czech Republic and a number of other environmental organisations have commissioned a comparative study which concludes that, from the transport, economic as well as financial perspective, it would be comparable or better to build the R55 road from Rohatec to Otrokovice using a different route that would avoid the bird habitat³⁷. This variant would also decrease the overall cost by CZK 1-2 billion

³² Strnad M.: The alternative road network within Brno Conurbation, Prague, January 2007.

³³ Another positive effect of the alternative solution would be a 7 percent decrease in traffic intensities in Víděňská street in Modřice. The study also proves that both versions of the Břeclav bypass would mean a great relief from transit traffic, with the alternative version offering a greater effect (Dufek: 2007).

³⁴ Strnad, M.: The alternative road network within Brno Conurbation, Prague, January 2007.

³⁵ Volf, O.: NATURA 2000 comparative study for Brno - Mikulov -Vienna and Brno - Břeclav - Vienna, January 2007.

³⁶ <http://www.detizeme.cz/zprava.shtml?x=2012070>

³⁷ Kalčík, J.: Search for alternative alignments of R55 highway between D2 highway and Austrian border , Ministry of Transport, Prague February 2007.

as it would not require the construction of bypasses around several towns and cities on the road I/55 and the tube in the bird sanctuary.

For the section Otrokovice – Rohatec the government decision from September 2007 about the need to assess alternatives applies³⁸. However, preparatory works on the version leading through the bird habitat have not been suspended.

4.9. R43 expressway

Expressway R43³⁹ is one of the most controversial construction projects in the country. It has been removed from the OPT list of projects due to pressure from civic organisations and the EC reservations, but its implementation from other sources will depend on the much-anticipated results of the Brno-Vienna route review (R52 via Mikulov vs. D2 plus R55 near Břeclav).

The R43 would, in the variant supported by the Southern Moravian Region, by some deputies from the city of Brno and by the Czech Motorway Directorate, pass through the centre of the Brno-Bystrc municipal district (a district of the city with around 30,000 inhabitants) and a recreational area around the Brno Reservoir. The corridor would also pass through several other municipal districts of Brno and in immediate proximity to other nearby Brno agglomeration municipalities.

The petition initiative against the proposed route was signed by 35,000 people. They are concerned about the expected increase of noise level, traffic-related emissions, and negative consequences for local nature, landscape and their leisure opportunities.

The project's objective is to relieve the traffic burden on the northern access roads to Brno and other roads within the city. According to independent expert study⁴⁰, however, the project is not justified either from a transport perspective or economically because it would not decrease the number of vehicles in the city. NGOs and some Brno City councillors have suggested that the new city and country planning procedure should also consider an R43 version leading outside the Brno residential areas south from Kuřim to Boskovická brázda, possibly only with half profile (1st class 2 lanes road) at first. This version could provide a bypass for all of the towns concerned including Brno.

The process of approving the R43 variant through Brno has been marked by violations of both Czech and European Law. In 1999, the SEA for the Transport Network Development Master Plan did not recommend the project for construction but the Government chose to ignore the SEA. The R43 is currently undergoing an EIA under the old non-EU law compliant Act No. 244/1992 Col⁴¹. If approved, this variant of the R43 would also be in breach of Community guidelines for the development of the Trans-European Transport Network 1692/96/EC that prohibit transit roads running through urban areas.

Following letters from the Transport Commissioner⁴², the Environment Commissioner⁴³ and the Commissioner for regional Development⁴⁴ as well as the Operational Programme Transport negotiations⁴⁵ in June 2007, expressway R43 was removed from the list of projects to be financed from EU funds, and the construction is supposed to be covered by the state budget.

³⁸ http://racek.vlada.cz/usneseni/usneseni_webtest.nsf/WebGovRes/45C567956D09DE56C125735500250ECC?OpenDocument

³⁹ The construction of a four-lane R43 motorway in the Troubsko - Brno - Bystrc - Kuřim - Staré Město section is to be carried out between 2010 and 2016. The Troubsko - Kuřim section was to be completed by 2005 and the construction on another section should have started already. None of this has happened, though. The construction cost is estimated at CZK 39.4 billion, or CZK 480 million per km.

⁴⁰ Strnad, M.: The alternative road network within Brno Conurbation, Prague January 2007

⁴¹ Instead of the more recent EU law compliant Act No. 100/2001 Col.

⁴² Letter from Commissioner for Transport and energy Jacques Barrot to Senator Mejstřík, March 2007.

⁴³ Letter from Commissioner for the Environment Stavros Dimas to Senator Mejstřík of April 2007.

⁴⁴ Letter from Commissioner for Regional Development Danuta Hübner to Senator Mejstřík, March 2007.

⁴⁵ Minutes from negotiations with the European Commission on the Operational Programme Transport for 2007-2013 held on July 19, 2007.

4.10. Other problematic road projects

The indicative list of projects submitted under the OPT includes other instances of questionable plans, dubious from the transport and sometimes also the environmental impacts perspective. These are the following projects: R3 (continuation of D3), R6, R7, R11, R49 in the OPT. Similarly dubious are the projects R4 and R7 in the state Timetable of Transport Infrastructure Construction, which have some relevance to the projects on the OPT list too. All these projects are listed with brief comments in table 1 at the beginning of this paper.

4.11. Europoint Brno – Railway junction reconstruction in Brno

As a part of its railway junction reconstruction (with a range of expected costs 650-940 MEUR), the city of Brno is planning to move the main railway station from its current attractive site in the city centre to a another quarter almost one kilometre to the south. The relocation would complicate the lives of tens of thousands of people commuting to and from Brno everyday. The city centre would become significantly less accessible from the station on foot, and people would have to spend more time travelling on public transport. Modernisation of the station in its current location allowing for high-speed trains to pass through Brno would be far more appropriate and popular.

In a 2004 local referendum, 86 percent of voters rejected the planned relocation of the main station. The former city council, which had openly called on citizens to boycott the referendum, has ignored the results, referring to a low turnout (25 percent)⁴⁶.

After the municipal election in November 2006 the new city council reconsidered the situation and ordered a comparative assessment,⁴⁷ analysing the pros and cons of the two options (relocation versus current location in the city centre). It also negotiated the inclusion of this complex project into the JASPERS National Action Plan.

In September 2007 the results of the above mentioned assessment acknowledged the convenience of the “central” variant for both passengers and inhabitants of the city of Brno, but the municipality does not act in favour of this variant at all.

The European Commission has requested the Czech Republic to assess both variants of the reconstruction of Brno railway junction within the scope of the Operational Programme Transport⁴⁸. No financial contribution from structural funds should be approved until all the conditions of the European Commission are fulfilled.

4.12. Dam on Elbe river

The construction of a 142.1 MEUR dam on the River Elbe near the town of Děčín would irreparably damage the river’s last free flowing section on Czech territory and the unique natural area of the Elbe Canyon, planned as a Natura 2000 site. The dam would lead to a loss of rich river ecosystems that are home to beaver, otter and fish species such as barbillon and dace. The stated aim of the project is to intensify navigation on the Elbe. This makes very little sense as the navigability is also limited on further stretches of the river in Germany, where no similar navigation plans have been approved due to both economic and environmental reasons.

⁴⁶ Controversial TRANSPORT projects in the indicative list for EU finding in the 2007 – 2013 period, Czech Republic, Friends of the Earth CZ, CEE Bankwatch Network, Brno March 2007.

⁴⁷ Analysis of variants of Brno railway junction reconstruction, ČVUT in Prague the Faculty of Transport and City plan spol. s.r.o., July 2007.

⁴⁸ Record from negotiations about draft document of the Operational Programme Transport between the European Commission and the Czech party lead by deputy minister of transport, September 20, 2007.

Hnutí DUHA/Friends of the Earth Czech Republic campaigns for environmental solutions on a wide range of issues, with priorities in energy and climate, forests, nature conservation, waste and resources and agriculture, as well as on general environmental policy issues.

Advocacy work, undertaken by about 30 staff, volunteers and some 15 local groups, effectively combines lobbying, grassroots mobilization, research, local community empowerment and public information. FoE Czech Republic exposes bad practice by corporations and helps parties to compile their election manifestos, advises communities and drafts new laws, informs consumers and researches alternatives.

www.hnutiduha.cz

The **CEE Bankwatch Network** is an international non-governmental organisation with member organisations currently from 12 countries of the Central Europe and former USSR. The basic aim of the network is to monitor the activities of international funders in the region, and to propose constructive alternatives to their policies and projects in the region. The CEE Bankwatch Network was formally set up in 1995 and has become one of the strongest networks of environmental NGOs in Central and Eastern Europe. The Network focuses mainly on energy, transport and EU enlargement, while working to promote public participation and access to information about the activities of international funders in the CEE region.

www.bankwatch.org

The **Environmental Law Service (EPS)** is a non-governmental, non-profit, and non-political public interest law organization that gathers together lawyers and law students. We see public interest law (PIL below) to mean the participation of lawyers in activities that contribute to the protection of the public interest and human rights.

EPS works for free to defend the rights of citizens and the environment in the Czech Republic using the law and to influence pending legislation, the legal community, and law students in the direction of the public interest. EPS was founded in 1995 as a volunteer organization by students at the law school of Masaryk University in Brno. Since 1997, it has run on a professional basis.

www.eps.cz

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