



EUROPEAN COMMISSION

DIRECTORATE-GENERAL ENVIRONMENT

DIRECTORATE-GENERAL REGIONAL AND URBAN POLICY

The Directors-General

Brussels,
REGIO/E.3/ (2022)5681809

Dear Minister,

Thank you for your letter dated 29 June 2022 concerning Lot 3.2 of the Struma motorway.

The completion of the Struma Motorway in Bulgaria is a very high priority for the Commission services as it is key to the development of the trans-European transport network and connectivity within Bulgaria. However, its completion is significantly delayed, including due to the need to ensure compliance with environmental directives.

As constantly recalled by the Commission, the Bulgarian authorities have to ensure that legal, technical and environmental aspects have been duly taken into account during the project's preparation, including those related to the preservation of the unique biodiversity in the area.

The Struma Lot 3.2 project was submitted by Bulgaria for approval by the Commission as a Major Project in August 2019. The evaluation by the Commission services pointed to significant weaknesses in the environmental impact assessment.

Indeed, the observations of the European Commission sent by letter of 15 October 2019¹ focusing on the Environmental Impact Assessment (EIA) and Appropriate assessment (AA) procedures conducted in connection with the construction of Lot 3.2 of Struma Motorway underlined, *inter alia*, the following points:

- The AA was not performed according to the site-specific conservation objectives (SSCOs) of the Natura 2000 sites, as the latter were not established;
- Not all the components of the investment proposal were assessed in the EIA;
- Measures proposed to mitigate the negative impact on species and habitats were of questionable effect, and the expedience of their implementation as late as 2026-2027 was questioned;
- The Commission concluded to an overall mismatch between the scope of the project proposal for financing and the scope of the investment plan on which the EIA was conducted.

¹ Ares(2019)6378788

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Consequently, the Managing Authority of the Operational Programme Transport and Transport Infrastructure (OPTTI) withdrew the project in January 2020 to revise it and ensure its full compliance with all applicable legislation.

As result of the withdrawal, the Lot 3.2 was divided in two parts:

- Struma Motorway Lot 3.2 /preparatory and mitigation measures/ to be implemented under OPTTI 2014 – 2020;
- and construction of Lot 3.2 to be implemented under the Programme Transport Connectivity 2021 – 2027 (PTC).

The Bulgarian authorities have to establish SSCOs and the necessary conservation measures for the affected sites. Once the conservation objectives are established, the impact of the project must be analysed against these objectives in a revised AA. Once this revision is completed, the mitigating measures on the E79 to address the current pressures linked to the operation of the other Lots of the motorway should be reviewed and adjusted as appropriate, on the basis of the necessary conservation objectives for the sites.

In particular, setting SSCOs for the two Natura 2000 sites in the gorge is fundamental. According to the EU Habitats and Birds Directives and the case law of the European Court of Justice, the Appropriate Assessment of any project/plan should be done in light of the SSCOs and the establishment and implementation of mitigation or conservation measures is also to be done on the basis of the SSCOs set for the sites.

In this context, the Bulgarian authorities have asked for the support of Commission services to complete this task and Commission central technical assistance budget was devoted to appoint two external experts. The terms of reference for the work to be conducted by the experts were developed in cooperation between DG REGIO, DG ENV and the Bulgarian authorities. They included the provision of guidance and quality assurance in the development of SSCOs, assistance in ensuring the appropriateness of urgent measures on the existing road E79 and supporting the revision of the project application on the basis of the approved SSCOs.

In the light of the above, the questions raised in your letter can be answered as follows:

1. The methodology to set up the SSCOs developed with the support of two independent international experts is fully compliant with the legal standards and requirements of the Commission note on the issue. The SSCOs developed for the two affected Natura 2000 sites in the Kresna Gorge follow this methodology. We understand that the Working Group established by the Bulgarian Ministry of Environment and Water to finalise these SSCOs (whose completion was not included under Commission funded technical support) has now completed its work. The only remaining step ahead of their adoption is the mandatory public consultation.
2. Publically available information, notably the draft versions of SSCOs set for a number of Natura 2000 sites in Bulgaria, indicate that SSCO work conducted in Bulgaria for all Natura 2000 sites progresses in compliance with the methodology developed through the technical support project.
3. When approving EU funding for the Lots 3.1 and Lot 3.3 in the current programming period 2014-2020, Commission services made sure that the solutions identified did not, in any way, pre-empt the possible alternatives for Lot 3.2.

The Commission observation letter of October 2019 details several flaws of the 2017 EIA/AA, which go beyond the lack of SSCO in the light of which the AA should be developed. For this reason, Commission services are still awaiting Bulgarian authorities' revised EIA/AA including their thorough analysis of all reasonable alternatives for Lot 3.2.

The re-assessment and revision of the Lot 3.2 project in light of the SSCOs is an essential part of the work before project re-submission to the Commission for approval.

We therefore urge you to submit the application form for the preparatory and mitigation measures of Lot 3.2 of the Struma Motorway and the approved SSCOs without further delay. We expect the preparatory and environmental mitigation measures to be implemented by the end of the 2014 – 2020 programming period.

Moreover, it is important to receive assurance that the construction of remaining part of Lot 3.2 could be implemented within the programming period 2021–2027. Besides, the repetition of serious accidents on the Struma Motorway due to road safety issues only make the finalisation of this road section even more urgent.

The expenditure under the programming period 2021–2027 is eligible until 31 December 2029 and each project has to be physically complete or fully implemented before 2031 in order to ensure absorption of the allocated budget under PTC.

In this context, we expect your authorities to take all the necessary steps to revise the project and to communicate the timeline for such steps.

Regardless of whether the project is re-submitted in time for EU co-financing under the current programming period, Commission services will of course closely monitor any implementation on the ground to ensure compliance with EU environmental legislation and take appropriate action if necessary.

4. Commission services remain available for any needed technical meeting on any specific point.

Please be ensured that both DG REGIO and DG ENV services remain committed to the successful resolution of above-mentioned issues in view of implementing this important major project. We also count on your full support to ensure that appropriate resources and attention are given to the completion of this project at national level.

Yours faithfully,



(e-signed)
p.o. Normunds Popens
Deputy Director-General

on behalf of Marc Lemaître



Florika Fink-Hooijer

c.c.: Cabinet of the Prime Minister Kiril Petkov
Nikolay Sabev, Minister of Transport and Communications
Martin Georgiev, Acting Director of Coordination of Programmes and Projects Directorate, Head of the Managing Authority of OPTTI
Borislav Sandov, Deputy Prime Minister for Climate Policies and Minister of Environment and Water
Ivaylo Iaydjiev, Deputy Minister of Finance
Ivan Ivanov, Central Coordination Unit in the Council of Ministers
Cabinet Commissioner Elisa Ferreira
Cabinet Commissioner Virginijus Sinkevičius
Cabinet Commissioner Mariya Gabriel