

## **M0 motorway, Hungary**

### ***Short description of the project***

What is in short called the M0 case is a motorway around Budapest partially financed by the EIB and Phare. The Bank approved the <sup>a</sup> 72 million loan for the construction of the Northern section of the orbital motorway and the bypass road Nr. 2 which connects three towns along the Danube river (Vác, Göd, Dunakeszi).

During the project preparation some of the environmental impacts were ignored and affected public was not properly involved in the process. In addition, the M0 is not justified from the perspective of international transport network development.

Original plans for the motorway, including the EIA, were prepared by UNITEF Ltd. in June 1994. According to those plans, the motorway connected the main road Nr 11 with the new road Nr 2 and the motorway M3. The route runs through an almost uninhabited area near M3 then connects to the road Nr 2 and runs further through a viaduct passing by the housing estate Káposztásmegyer II. A junction of a major arterial road and the motorway is only 150 meters away from a nursery, while the arterial road runs between the local school, the nursery and the apartments. A further section of the road runs through a Nature Protected Area.

### ***Connection to the road network***

It is an objective of the EU and EIB to promote the development of the Trans-European Network (TEN) and to connect Central and Eastern European countries to the international traffic venue. It has to be noted that the northern section of M0 motorway does not form part of either TEN or the Helsinki Corridors. Moreover, this particular section cannot serve the purpose of relieving the capital from heavy traffic because it is not connected with other, existing parts of the M0 ring road.

### ***Environmental and social concerns***

The EIA is not without deficiencies. Experts revealed that an expected NO<sub>x</sub> and particle emissions would exceed the ambient Hungarian air standards by 25-30 %. This implies even more damages as the motorway crosses a major air corridor along which clean air flows into the city of Budapest. However, this was not taken into account in the EIA. Noise levels are also expected to exceed the limits and reach 70-76 dB in the day and 63-68 dB at night by 2008. These levels violate not only the Hungarian Constitution (Act 20-1949, par. 18) but also the Regional Planning and Regional Development Act (21-1996, par. 3). The mitigation measures indicated in the EIA are not sufficient. The green belt, which was planted to mitigate the impacts, needs 10-16 years to reach sufficient size for this purpose. Meanwhile, enhanced noise and emission levels may result in health problems among the inhabitants of the housing estate.

The ring road has heavily damaged the environment, as the route and one of the junctions cross an area with a protected bush called *Hippophae rhamnoides*. That area was supposed to be protected with fencing around it during the construction, but it never occurred. Furthermore, no new EIA for the ongoing construction was prepared after a much stricter law on EIA which was passed in 1996.

The Hungarian Ministry for Transport, Communication and Water Management contracted UTIBER Ltd. for the works in December 1997 and the construction of the motorway begun in

the spring of 1998. Only after the construction has started the inhabitants of the housing estate learnt about the project. Although the District claims that they have announced the public hearing, only government officials were present. In the local residents' view, as indicated by the formation of an association called the Káposztásmegyer Environmental Protection Society (KKKE), this implies that the notification about the consultation was not sufficient. This constitutes a violation of Hungarian legislation (Act 53-1995, Government Decree 152-1995), several EU Directives and the EIB's Rules on Public Access to Documents (97/C/243/06).

### ***Actions in Hungary***

Alarmed by the deficient EIA, the Hungarian environmental NGO Clean Air Action Group (CAAG) launched a suit against the State Motorway Management Public Service Company in 1997. As a result the City Court of Budapest issued a temporary injunction in June 1999 requiring the contractor to suspend construction. Despite this resolution, construction went on as "maintenance works". In August 1999, the contractor appealed to the Supreme Court, which in its verdict of February 2000 suspended the temporary injunction and required the City Court to conduct a new process. This also quashed the ruling of the City Court issued a few days later requiring the immediate stopping of construction and in October 1999 the motorway was opened to the public. The only measure that local residents could achieve at the court was that the arterial has been closed, thus avoiding heavy traffic through the housing estate.

### ***Action on international level***

As the EIB provides funding for the construction, Bankwatch considers that it should take responsibility over the design, the implementation and the impacts of the project. Therefore, together with the CAAG and the local NGO KKKE they addressed the Bank's President with a letter in November 1998. The reply said, "It is not for the Bank to comment on legal procedures in the respective country." Following this the NGOs, having the European Environmental Bureau as an intermediary, filed a complaint about maladministration with the European Ombudsman who agreed on investigating the case. This was the first case investigated by the Ombudsman on a project outside the EU.

The Ombudsman asked for specific, project related documentation from the EIB, which was provided by the President of the Bank. After that, the EIB was asked to provide additional material in response including documents submitted by the Hungarian Ministry of Transport, Communication and Water Management. The EIB refused this, stating that the decisions of the Bank's Board of Directors are not subject to judicial review. Despite the Ombudsman's request, the EIB refused cooperation.

After exchanging several letters with the Bank and sending a last notice to the EIB, the Ombudsman got a list of key documents. Meanwhile, the Bank denied its financing of the northern section and said that it has only financed the bypass around three towns. In his final decision of 24<sup>th</sup> January 2001, the European Ombudsman found that "there appears to have been no maladministration by the European Investment Bank." However, the decision does not fully exempt the Bank from the responsibility as it points out several deficiencies and reminders. One of them says that "it is necessary to establish the responsibilities of the Bank as regards environmental considerations when granting loans."