INFRASTRUCTURE PLANNING AND NATURA 2000: THE LEARNING CURVE FROM ROSPUDA TO BRATISLAVA

Jozef Ridzon, Tatiana Nemcová, SOS/BirdLife Slovakia
Slovakia is biodiversity rich country with 29.6% of land protected under Natura 2000.

Direct motorway between east and west Slovakia (D1) still missing (mainly due to constructions challenges)
D1 TURANY-HUBOVA CASE – GOOD START

- D1 Turany-Hubová (13 km long section) is one from the last missing sections of D1 motorway
- It should be located in northern Slovakia and should cross Veľká Fatra mountains (Natura 2000) and confluence of rivers Orava and Váh (one from the largest rivers in Slovakia, iconic place of Slovak landscape) in a narrow valley.
- In 2002 as a result of EIA, Ministry of Environment recommended realization of D1 Turany-Hubová tunnel variant (on the surface - problems with geology, national parks, landslides, impacts on drinking water, impacts on tourism identified.)
- End of the story? Just a beginning…
D1 TURANY HUBOVA CASE – UNFORESEEN DEVELOPMENTS

- In 2005 Ministry of Transport decided to change the tunnel variant to the surface one. This decision was taken by an official in the form of letter starting with „Due to my competences I decide...“ without justification, without making it public.

- In December 2007, by changing the law, NGOs were excluded from decision making process (assent granting procedure), and could be involved only as observers – this was reaction to other case won by NGOs which resulted in delays in motorway building.

- Ministry of Transport claimed, that construction of motorways should not be obstructed and D1 connection between east and western Slovakia should be finished in 2010.

- In January 2008 (decision making procedure took place during the Christmas) building permit for D1 Turany-Hubová section was granted.

- Only this was the point that NGOs learnt that the surface variant was approved (despite the fact, that the Ministry of Environment recommendation for the tunnel variant was still in force and valid)
Impact on nature
D1 Turany-Hubová surface variant:
- crosses two national parks (Malá Fatra and Veľká Fatra)
- crosses 6 SCI and 1 SPA
- crosses migration routes of bears, lynxes, wolves
- would destroy „Rojkov fen“ (the oldest peatbog in Central Europe)
- would destroy primary forests in Veľká Fatra mountains

Other problems
- is longer and more expensive
- would cause more noise in adjacent villages
- poses risk of landslides exist
- Due to lack of direct sunlight in Vah river valley during the winter, there is a risk of icing on the roads and high probability of road accidents
D1 TURANY HUBOVÁ CASE: THE WRONG DECISION
Many bears are being killed on the main road already now
D1 TURANY HUBOVA CASE: THE WRONG DECISION

- Rojkov fen – in threat

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National Motorway Company needed a derogation for damaging of protected habitats and species or European concern according to national legislation, so we joined the procedure.

Procedure was cancelled with a justification that SCI had not been designated so there was not need for derogation.

In this way we lost last national possibility to stop the controversial project.

The project started to attract media attention not only due to impact on nature but also because it was controversial from economic point of view. (expensive PPP project)

However the government did not change the decision and advanced preparatory works of the project were underway; national authorities continued ignoring NGOs and their arguments.
In 2009 Polish government took a decision to abandon controversial plans for road development through the Rospuda valley – the result of long and hard-fought campaign by Polish NGOs and related EC infringement. Following that, our complaint on D1 Turany-Hubova construction was submitted to the European Commission. Separately, EIB decided not to finance PPP projects for D1 construction, due to environmental concerns. As a result, preparatory work on D1 Turany-Hubová stopped and Minister of transport invited us for a meeting. (not constructive, just forcing us to change the position). New government came in 2010 – despite our big hopes financial aspect of the project was changed but not the decision about the damaging variant. To our disappointment, European Commission had not started an infringement procedure, so we submitted a new complaint in 2011 with new information. Slovak authorities learnt from Rospoda case, that AA under article 6.3 of the HD matters – attempts to manipulate outcome. We found over 100 scientists, who supported our standpoint. Until now D1 Turany-Hubová is not solved and we expect new AA results in January 2016....
D1 TURANY HUBOVA CASE: REASONS FOR THIS DELAY AND THE MESS

- D1 Turany-Hubová is the last remaining section of east-west connection and hence highly political issue
- Arrogance of national authorities, lack of transparency and rule of law at the beginning of process
- Lack of knowledge and experience on the side of national authorities in the area of EU Nature law and its underestimation (Rospoda precedence)
- Wrong transposition of Article 6.3 in national legislation and hence wrong AA procedure
- Underestimation of NGOs, their expertise, experience and international links.
- Absence of effective tools allowing European Commission to check the facts on the ground (eg. inspection)
D1 TURANY HUBOVA CASE: HAVE WE LEARNT FROM MISTAKES?

- Nature conservation law (543/2002 Coll.) was changed in January 2014 with aim to make AA procedure clear and with aim to avoid such delays in another projects. Besides that State Nature Conservancy of Slovak Republic prepared new methodology on AA (until 2014 we used Czech methodology or no methodology).

- New approach was first time tried in D4 motorway planning (bypass of Bratislava).
D4 CASE: LESSONS LEARNED FROM ROPSUDA AND D1

- From beginning D4 seemed to be problematic motorway too. It crossed primeval forests in SPA along Danube river.
- Motorway D4 would damage only remaining primeval forest, which survived construction of Gabčíkovo water reservoir.
- Therefore we asked for change of the proposed variant.
D4 CASE: LESSONS LEARNED FROM ROPSUDA AND D1

- National authorities agreed to change the variant (to our surprise)
- In addition - national authorities started to prepare compensation measures according article 6.4. in this case of D4. It is first real use of art. 6.4. in Slovakia.
- Therefore D1 case (based partly on Rospuda case) improved not only application of 6.3., but it also laid practical basis for application of 6.4. in Slovakia.
- In present compensation measures are focused on Black Kite, White-tailed Eagle and Black Stork.
- Compensation measures will be following:
  1. There will be renaturalized arm of Danube river, which was cut from Danube during Gabčíkovo waterreservoir construction.
  2. There will be planted 30 ha of new gallery forests on historic breeding site of White-Tailed eagle on land, which is arable land in present.
  3. There will be 20 ha of new grassland as feeding area for Black Kite on land, which is arable land in present.

Still early to judge on the actual realisation!
LESSONS LEARNT - CONCLUSION

- Precedence needed to make national authorities to take Nature legislation seriously.
- Clear law and procedures save time and money.
- Having NGOs and other stakeholders “around the table” in early stages of the process improves the quality of decision making process.
- Support from public and communities very important.
- National authorities are under impact of political decisions - role of EU law crucial.
- Need for strengthening/creating tools allowing EC to check information on the ground (inspection).
- Environmental considerations as part of decision making process of financial institutions are important.
HOPE FOR D1 TOO?

- In 2013 new government decided to stick to surface variant.
- However, due to rainy winter there was a landslide on the planned surface D1 route.
- So may be, it is nature which helps us to save the nature.
- We are not giving up! Therefore we hope, that in 2016 we will say, that Bears, Lynxes, Wolves, Rojkov Fen and Ludmila cave was definitively saved for future generations.
THANK YOU FOR ATTENTION!