



Brussels, **13 FEB. 2012**  
ENV.B.3 PO D(2012) Ares

**Mr. Csaba Kiss**  
Coordinator  
Justice and Environment  
Dvorakova 13,  
602 00, Brno  
Czech Republic

Subject: Position Paper on the Danube-Oder-Elbe Canal

Dear Mr. Kiss,

Thank you for your e-mail of 11 January 2012 in which you raised concerns about the planned Danube-Oder-Elbe Canal. I would like to inform you that the Commission is aware of the plans to connect the North Sea with the Black Sea and the Baltic Sea through the system of inland waterways. We are also aware that this project has had a long history and that in the past it was incorporated into various spatial planning documents where it has remained up to date.

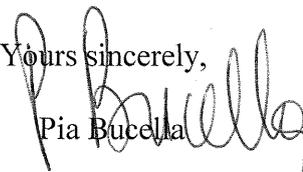
In reply to your concerns I would like to draw your attention to the fact that the accession of the Czech Republic to the EU in 2004 created a number of obligations in the area of environmental protection, including requirements related to EU legislation such as, the Environmental Impact Assessment (EIA) Directive, The Birds<sup>1</sup> and Habitats<sup>2</sup> Directives as well as the Water Framework Directive (WFD)<sup>3</sup>.

As regards the EU nature legislation, I would like to clarify that under Article 6(2) of the Habitats Directive the Czech Republic is obliged to avoid deterioration of natural habitats and disturbance of protected species in Natura 2000 sites. Additionally, pursuant to Article 6(3) all projects, including transport infrastructure, which might have significant negative impact on Natura 2000 sites must be subject to appropriate assessment of their implications for the sites in view of the sites' conservation objective and can be approved only under certain conditions, i.e. lack of adverse effects on the site, or otherwise, lack of alternative solutions together with proof of imperative reasons of overriding public interest and adoption of adequate compensatory measures. As regards the Water Framework Directive its aim is to establish a framework for the protection of all surface waters and groundwater. The WFD stipulates that Member States should prevent deterioration of the status of all water bodies and reach good ecological status of all

waters by 2015. According to Article 4(7) of the WFD, exemptions to these environmental objectives can be made for new hydromorphological modifications. This may for instance include new developments related to navigation. These exemptions must however respect the conditions specified in Article 4(7): the project should be of overriding public interest and/or the benefits to society or the environment of achieving the environmental objectives are outweighed by the benefits of the project; there are no other alternatives that would be a better environmental option; all possible measures are taken to mitigate the adverse impact on the status of the water. All conditions for the application of Article 4(7) in individual projects must be explained and justified in the river basin management plan. Furthermore, Article 4(8) of the WFD requires that the achievement of WFD objectives in other water bodies within the same river basin must not be compromised or excluded and that the project is consistent with the implementation of other Community environmental legislation.

With regard to your concerns about the European Agreement on Main Inland Waterways of International Importance (AGN) I would like to clarify that international commitments such as resulting from the AGN treaty do not automatically override EU environmental legislation such as the Birds and Habitats Directives and the Water Framework Directive. In other words, projects which result from fulfilment of international commitments have also to be properly assessed and can only be approved if they comply with conditions specified in the EU legislation. The fact that a certain waterway has been classified in the AGN treaty as a waterway of international importance might however be considered in the approval process as one of the reasons of overriding public interest but for every project it has to be assessed on a case-by-case basis.

I hope these clarifications will reassure you that EU environmental legislation provides a framework which guarantees that all major infrastructural projects are properly assessed and approved only if they comply with this legislation. Ultimately, however, it is the responsibility of the Czech Republic and its partner countries to decide whether they will proceed with the project modify it or abandon the whole concept.

Yours sincerely,  
  
Pia Bucella

<sup>1</sup> Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment as amended by Directive 97/11/EC and Directive 2003/35/EC ( OJ L 175, 5.7.1985, p. 40; OJ L 73, 14.3.1997, p. 5; OJ L 156, 25.6.2003, p. 17 ).

<sup>1</sup> Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ L 103, 25.4.1979, p. 1).

<sup>1</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ( OJ L 206, 22.7.1992, p. 7).

<sup>1</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 21.12.2000, p. 1).