

Citizen Association  
**„Občané za ochranu kvality bydlení v Brně-Kníničkách,  
Rozdrojovicích a Jinačovicích“**

Mailing Address: U Iuhu 23, 635 00 Brno, Czech Republic

Identification number in the EC register of interest representatives: 31877851126-59

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Response to public consultations:  
[MOVE-TEN-T-POLICY-REVISION@ec.europa.eu](mailto:MOVE-TEN-T-POLICY-REVISION@ec.europa.eu)

15 September 2010

**Subject: Public consultations - " Consultation on the Future Trans-European  
Transport Network "**

Your Excellency,

We are taking the liberty of responding to the public consultations on TEN-T.

We also attach our comments sent on 29 April 2009 as these comments remain valid, but unfortunately nobody contacted us with information how these comments were utilized. Please take them into account and kindly inform us.

We have serious worries that the new definition of TEN-T network, in particular, the "core TEN-T network" is problematic as well as the process to define this network.

We had a chance to read the published final reports of the working groups and well as the published document "*Traffic flow: Scenario, Traffic Forecast and Analysis of Traffic on the TEN-T, Taking into Consideration the External Dimension of the Union*", December 2009, delivered to the EC by Tetraplan A/S Denmark. This report is the only published document which is dealing with concrete data on road planning and with some forecasts (or visions) for 2030. Unfortunately this, obviously key report, is in our opinion, of little value despite of its 320 pages. The document applies mechanically some mathematical algorithms to identify the bottlenecks and missing links. By this it is obviously completely ignoring any national information, i.e. information on national strategic planning, land-use planning and on new developments to take place in the coming years in the Member States.

This is specifically true, for example, for the European Priority Road Corridor #25 (of Decision of European Parliament and Council No. 884/2004/EC).

This is a major corridor which is to be extended from Vienna, Austria, to the Adriatic, and thus to become Baltic – Adriatic corridor.

In this case there is an ongoing debate on best alignment of the cross-border segment between the Czech Republic and Austria. The land-use planning in the Czech Republic has been impacted by the ruling of the Czech Supreme Administrative Court of 25 November 2009, which terminated an illegal land-use plan for the South Moravian region of Breclav and Mikulov. The court ruling also terminated the existence of a road corridor R52 Mikulov – Brno.

As it is described in the attached letter from 2009, there besides the terminated R52 corridor in the terminated land-use plan, there exists a substantially more favourable corridor Vienna, Austria – Breclav, Czech Republic – R55 – Katowice, Poland.

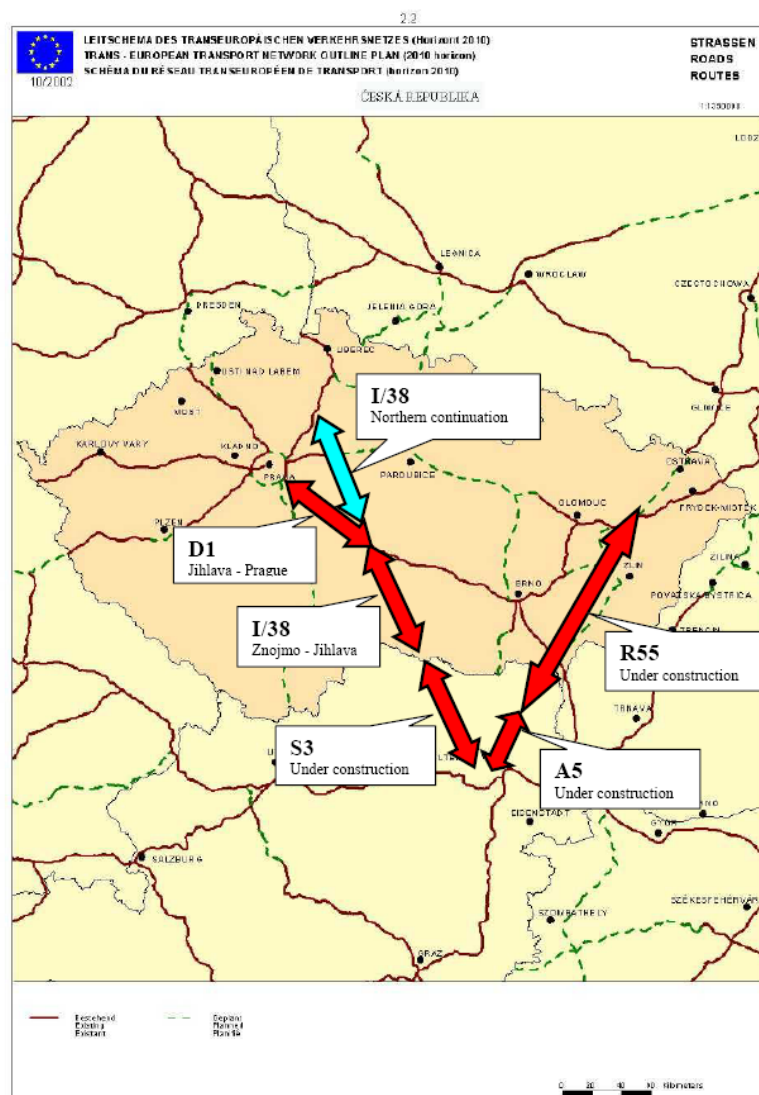
This Breclav (or R55) corridor is not only 35 kms shorter, but it is also bypassing the known traffic bottleneck, the second largest agglomeration in the Czech Republic, i.e. the Brno agglomeration.

The Breclav R55 corridor forms not only faster traffic connection, but it is also multimodal as the expressway R55 is being build along the European Priority Rail Corridor # 23 with segment Breclav – Katowice (please see map in the attached letter of 2009).

This information has been completely ignored in the above mentioned Final Report.

Similar problem exists with the shortest corridor between the two capitals in Central Europe, namely Vienna, Austria, and Prague, Czech Republic. The connection Vienna – Znojmo – Prague is again 35 kms shorter compared to corridor via Mikulov and Brno.

Further, there may be identified a missing link from Jihlava to Pardubice/Hradec Kralove, which would establish a most effective connection from Northern Germany via the Czech Republic to Vienna area and further south to Balkan and Italy. It is demonstrated on the following figures:



Both these cases identify missed pieces of information in the TEN-T network planning.

It seems that not only insufficient information was published by the Commission for the Public Consultations, but also so far not enough information was actively collected by the Commission in individual Member States. So far not enough active contacts were established with NGOs in the Member States.

Please consider how to use the above provided information to improve the TEN-T planning in the Central Europe and please find your ways that the information in possession of NGOs can be effectively utilized and direct contacts with NGOs in the Czech Republic and Austria are established by your services.

Please send the confirmation of receipt of this letter and we would appreciate receiving your written answer as soon as possible.

Sincerely,



Assoc. Prof. Dr. Petr Firbas  
Chairman of the NGO

Citizen Association  
**„Občané za ochranu kvality bydlení v Brně-Kníničkách,  
Rozdrojovicích a Jinačovicích“**

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European Commission  
Antonio Tajani  
Vice-president of the European Commission and Commissioner for Transport  
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29 April 2009

**Subject: Public consultations - Green Paper "TEN-T : A policy review –  
Towards a better integrated trans-European transport network at the  
service of the common transport policy"**

Your Excellency,

We are taking the liberty of responding to the public consultations on TEN-T. In the text below we first comment on the general issues related to the Commission mandate and TEN-T implementation and then we comment on the draft proposal of the Recast of Decision 1692/96/EC, which was made available by Director General for Energy and Transport to participants of TEN-T Days 2008.

## **I.**

We believe that **Commission should exercise its mandate to its fullest to work towards common European interests** and make sure that limited and narrow minded national interests do not prevail in areas as important for Europe as in the area of TEN-T road network. This is especially important for the period 2007 – 2013 where billions of Euros of European funds are provided to countries as the Czech Republic.

We are not convinced that the Commission may argue that

- *there is no role for the Commission until a TEN-T project is submitted for funding to the Commission, and that*
- *the choice of alignments of TEN-T roads is solely responsibility of the*

*national authorities.*

While we fully accept the fact that the land-use-planning and land-use-permitting steps have to follow the national law (but still have to be fully compliant with EU law), we believe that there is a substantial room for the (methodological) guidance and monitoring by the Commission to make sure that the principles contained in TEN-T Decisions 1692/96/EC and 884/2004/EC are fully observed and that **not just one project** is executed based on EU instruction for EU funds, but the TEN-T road network is built up to its priorities, goals, and characteristics approved in Decision No. 1692/96/EC and its amendments.

**We believe that the consensus which led to the approval of above quoted Decisions gave not only a mandate, but also obligation to the Commission to be involved substantially in the TEN-T implementation.** This means that at least appropriate precautionary actions of the Commission should take place.

These obligations can be found in only in various parts of the quoted Decisions, but they are also based on Articles 154 and 155 of the European Community (EC) Treaty.

### **I/a.**

In particular Art. 154 of the EC Treaty is requesting that the Community “*shall aim at promoting the interconnection and interoperability of national networks*”. This means that the TEN-T national (sub)networks located on territory of any EU country should be built to satisfy to priorities, goals, characteristics laid down in Decision 1692/96/EC. If this is, *a contrario*, not done then the construction of the national TEN-T (sub)networks would not allow proper “*interconnection and interoperability of national networks*”.

From this point one can argue that the Commission should stay in close contact with the Member States and utilize all the available to tools and means, and to consult with the Member States, always and without delay, once the Commission learns about any substantive steps taken by a particular Member State which are worrisome and may lead towards hampering the purpose of the EU TEN-T network and especially proper, fully functional, and effective *interconnection and interoperability of national networks*.

We believe that the situation repeatedly reported on the three major TEN-T projects in the Czech Republic (“Old Hitler Highway” R43 in Brno area, Prague Ring Road R1 and R52/R55 Connection Brno – Vienna) not only justifies decisive action of the Commission, but it dictates that this action is taken without any delay.

### **I/b.**

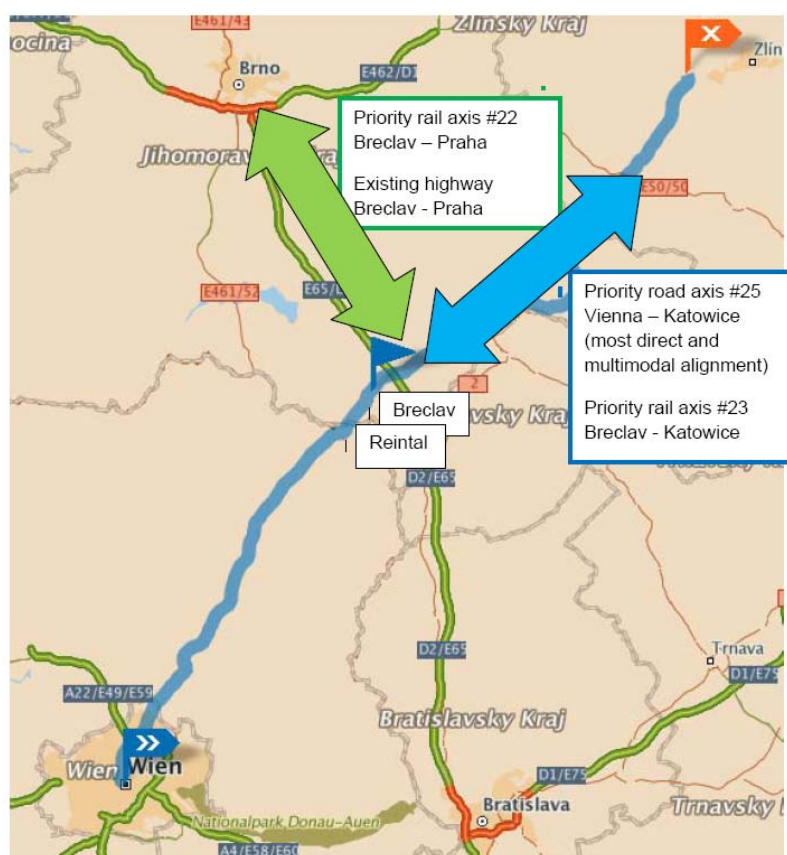
In the 2003 report of the High-level Group on TEN-T Network Mr. Karel van Miert explicitly pointed to Art. 155 of the EC Treaty and argued that “*Article 155 of the EC Treaty gives to the Commission the role of taking any useful initiatives to promote coordination between Member States*”.

We believe that this is a very justified argument and it is definitely applicable e.g. to the Priority Road Axis No. 25 of the Decision 884/2004/EC which includes the cross border segments along the **corridor Vienna (Austria) – Katowice (Poland)**.

In this case the 2005 Report “*TEN-T priority axes and projects 2005*” properly states that “*The alignment of the section from Brno to the Czech–Austrian border is not yet*

decided”<sup>1</sup>. This information was confirmed in writing by EC Vice-president Jacques Barrot in his letter No. A(07)561-D(07)620 dated 6 March 2007. It is true, that the decision whether the TEN-T corridor will or will not form a bypass of the town Breclav, is still subject to ongoing discussions and there is not any Commission’s or JASPERS’ official conclusion on this issue.

This is a very prominent example where EC needs to be involved as there priority projects and one existing corridor connection are involved. The optimum multimodal and inter-operative solution is depicted on the picture below.



In the situation when the technical discussion has not been finalized yet we find it incorrect that there are political “agreements” made to pre-empt and shortcut the full-scale comparisons of variants (ignoring the agreement of the Czech Republic with the Commission – e.g. Preamble of the Operational Programme Transport refers.)

We believe that for cases as the one described above, once the Commission is informed about the situation it is meaningful and well mandated for the Commission to contact the Prague Ministry of Transport and got effectively and efficiently involved to take care of trans-national/EU interests.

<sup>1</sup> Unfortunately the 2008 Report “TEN – T Trans-European Transport Network - Implementation of the Priority Projects, Progress Report, May 2008” incorrectly reports on the section from Pohorelice to the Austrian border as a part of the approved alignment, even though it correctly reports that an environmentally sensitive area is involved. No legally valid decision on the alignment for No. 25 priority axes was taken since 2005 and this is documented also by the Commission refusal to fund the Austrian A5 segment Schrick – Drasenhofen from the TEN-T fund (page 207 of TEN Network multi-annual programme 2007 – 2013 refers.).

In this context we appreciated DG TREN spot mission, which was sent to the region two years ago, and which, as we understand, reported to DG TREN favourably on the above depicted solution (corridor via Břeclav, not corridor via Mikulov).

Since then, however, many issues have evolved and many tens millions of CZK have been invested without a clear decision based on comparison studies. Potentially these costs may be charged to the Commission in the future and questions may arise about eligibility and/or about **waste/misuse of EU funds**.

Therefore we find it inappropriate if now DG REGIO starts justifying its non-action by reference to the subsidiarity principle. We perceive this as to be to large extent an excuse.

### I/c.

As another example where EC mandate should have been and should be more strongly exercised, please allow me to mention R1 – Prague Ring Road (specifically its north-western segment).

In case of the R1 – Prague Ring Road Art. 155 of the EC Treaty might not be directly applicable, but the spirit of this Article undoubtedly can be utilized *per analogiam* as the Prague Ring Road is a core of a critical star like road topology in the Central Europe.



If major mistakes happen in designing and constructing the Prague Ring Road then the TEN-T system in this part of Europe will not reach the expected TEN-T characteristics and a new **major bottleneck will be created**.

This would have a serious impact on the traffic from/to all neighbouring countries and therefore Art. 155 of the EC Treaty needs to be applied to R1 as well.

The issue of proper application of the subsidiarity and proportionality principles has to be resolved by the Commission to avoid non-action of Commission. If the subsidiarity and proportionality principles are properly applied, the chances to build a fully functional TEN-T network in the Central Europe will grow dramatically.

### I/d.

Any amendments to the 1692/96/EC Decision should be done in the above describe spirit, in line with the above quoted recommendation of Karel van Miert.



## II.

In this part of our letter we suggest changes to the draft proposal of the Recast of Decision 1692/96/EC, which was made available by Director General for Energy and Transport to participants of TEN-T Days 2008. If an identical change is suggested more once, it is expected that the best location for this text will be decided and in the other location a reference to this change will be introduced.

### II/a.

Preamble item (4) should be extended by the following text:

*"As the objective of TEN-T road network is sustainable mobility of persons and goods" for long distances, any bottlenecks arising from undesired mixing of urban and long-haul traffic shall be strictly avoided for any new TEN-T roads."*

Preamble item (10) should be extended by the following text:

*"A priori project evaluation is to be carried out by the Commission for all border-crossing projects. Cross-boundary Environmental Impact Assessment (EIA) and the Cost - Benefit (C/B) analysis shall be submitted by Member States and shall contain, inter alia, comparison of alternative options on the base of their cost and environmental aspects in line with the "letter and spirit" of the relevant Community legislation. Multimodal and shortest logical alignments shall be preferred. The findings of the comparative studies of the examined projects alternatives, both from an economic and environmental point of view, shall be also a part of any formal application for the co-financing of the projects."*

After preamble item (15) a new item should be introduced:

*"TEN-T network has to be designed and operated to comply with all human protection measures enacted by the European Union, namely the Directive of European Parliament and Council No. 2008/50/EC on ambient air quality and cleaner air for Europe and the relevant legislation for environmental noise, incl. Directive of European Parliament and Council No. 2002/49/EC relating to the assessment and management of environmental noise."*

Preamble item (19) should be extended by the following text:

*"As the outline maps do not represent the final and approved alignments and as the final alignment has to be determined based on a comparison of alternative options, Commission will develop a certification procedure to decide whether a specific alignment may be considered "TEN-T compliant" and so be listed as a part of TEN-T. In such an approach all TEN-T objectives and characteristics spelled out in the "Decision" shall be appropriately considered."*

In Article 4, a new item should be introduced after (e):

*"the avoiding of bottlenecks arising from mixing urban and TEN-T long-haul traffic"*

Article 5, item (g) should be extended to read:

*"integration of safety and environmental concerns **as well as protection of population health (noise, PM10 particles, etc.)** in the design, **land-use planning**, and implementation of the trans-European transport network"*

Article 7 item (2d) should read:

*"is potentially economically viable on the basis of analysis of the socio-economic costs and benefits **of alternative options, giving preference to multimodal and shortest logical alignments.**"*

Article 7 item (3a) should read:

*“relate to the **sketched traffic relations between the main urban centres** on the **outline maps** in Annex I,”*

Article 8 should be renamed to

*“Protection of environment and population”.*

In Article 8 a new item (3) is to be added stating:

*“TEN-T network has to be designed and operated to comply with all human protection measures enacted by the European Union, namely the Directive of European Parliament and Council No. 2008/50/EC on ambient air quality and cleaner air for Europe and the relevant legislation for Directive of European Parliament and Council No. 2002/49/EC relating to the assessment and management of environmental noise.”*

Items in Article 9 should be reordered into more logical groupings and it should be modified to read:

- 1. The trans-European road network shall comprise **only** motorways and high-quality roads, whether existing, new or to be adapted, which:  
(a) play an important role in long-distance traffic **and**  
(b) bypass the main urban centres on the routes identified by the network*
- 2. The trans-European road network shall **also**  
(a) provide interconnection with other modes of transport and  
(b) link landlocked and peripheral regions to central regions of the Community.*
- 3. The network shall guarantee users a high, uniform and continuous level of services **without bottlenecks**, comfort and safety.*

Article 19(5) should be amended by a new item:

*(d) ensure that cross-boundary Environmental Impact Assessment (EIA) and the Cost - Benefit (C/B) analysis has been performed and which covers, inter alia, comparison of alternative options on the base of their cost and environmental aspects in line with the "letter and spirit" of the relevant Community legislation. Multimodal and shortest logical alignments shall be preferred. The findings of the comparative studies of the examined projects alternatives, both from an economic and environmental point of view, shall be also apart of any formal application for the co-financing of the projects*

Article 23 should be amended by a new item:

*(4) A priori project evaluation is to be carried out by the Commission for all border-crossing projects. Cross-boundary Environmental Impact Assessment (EIA) and the Cost - Benefit (C/B) analysis which shall be submitted by Member States and shall contain, inter alia, comparison of alternative options on the base of their cost and environmental aspects in line with the "letter and spirit" of the relevant Community legislation. Multimodal and shortest logical alignments shall be preferred. The findings of the comparative studies of the examined projects alternatives, both from an economic and environmental point of view, shall be also apart of any formal application for the co-financing of the projects. European Coordinator, if designated, will support Commission in this project evaluation.”*

After Article 21 a new Article is to be introduced:

*“TEN-T elements certification*

*As the outline maps do not represent the final alignments, which has to be determined based on comparison of alternative options, Commission will develop a certification procedure to decide whether a specific alignment may or may not be considered TEN-T compliant and be listed as a part of TEN-T network. In such approach all TEN-T objectives and characteristics spelled out in the “Decision” shall*

*be appropriately considered. Member States will assist the Commission in this task by providing all necessary information."*

Article 28 should be amended by a new item:

*"When deciding on a border-crossing point for a cross-border section, cross-boundary Environmental Impact Assessment (EIA) and the Cost - Benefit (C/B) analysis has to be performed which covers, inter alia, comparison of alternative options on the base of their cost and environmental aspects in line with the "letter and spirit" of the relevant Community legislation. Multimodal and shortest logical alignments shall be preferred."*

Annex I should be started by an introductory paragraph as follows:

*The Annex contains maps displaying existing elements of the TEN-T network and sketched traffic relations outlining the new considered elements on the network by schematically connecting the main urban centres. None of the to-be-constructed elements (nor the location of the cross-border points) is approved by these outline plans. New TEN-T elements shall be compliant with all the goals and characteristics of the TEN-T network as specified in the body of the Decision. A priori project evaluation is to be carried out by the Commission for all border-crossing projects. Cross-boundary Environmental Impact Assessment (EIA) and the Cost - Benefit (C/B) analysis which shall be submitted by Member States and shall contain, inter alia, comparison of alternative options on the base of their cost and environmental aspects in line with the "letter and spirit" of the relevant Community legislation. Multimodal and shortest logical alignments shall be preferred.*

The Outline Plans for Czech Republic and Austria should be amended by

*\*\* connection Wien – Znojmo – Jihlava (in Vienna known as "Pragerstrasse", which is the shortest and logical connection of the two Central-European capitals Prague and Vienna)*

*\*\* connection Wien – Břeclav – Zlín – Katowice (Poland), which is the shortest and the most logical connection for the corridor Austria (Vienna) – Poland (Katowice).*

Notes:

These corridors as well as the Prague Ring Road are typical examples of projects of European interest and national "games" should not be tolerated by the Commission, otherwise TEN-T road network in the Central Europe will be seriously dysfunctional.

1. We are very alarmed by the disturbing situation around TEN-T Road Priority Axis #25, which is listed in the Decision of European Parliament and Council No. 884/2004/EC. In this context we cannot ignore the official statement of the Czech Prime Minister Topolánek in the Parliament of the Czech Republic on 25 September 2008 where he was answering a parliamentary inquiry on the progress in planning of the express roads in the South Moravia. **The Prime Minister explicitly talked about a solution which will please both lobbyists who purchased land at Mikulov and who purchased land at Břeclav** (cf. official Czech Parliament transcript <http://www.psp.cz/eknih/2006ps/stenprot/038schuz/s038096.htm#r4> ). In our opinion, land purchases by any lobbyists should not be the decisive factor, the comparison studies requested by the DG REGIO should be completed.

Should the political "game" continue this strange way, the funding in level of tens of billions of Czech Crows from the Operational Programme Transport might be misused and/or non-effectively used. This is becoming a serious warning sign also for DG-REGIO and for OLAF. Every action has to be taken against the non-transparency of handling of over 5 billion Euros assigned to the Operational Programme Transport for the Czech Republic as any non-transparency forms also "grey areas", potentially leading to the build-up of an unwanted corruption environment.

2. Unfortunately a similar problematic story is documented in the files of the public hearing for the Prague Ring Road which took place on 19 March 2008 (item 190 of the protocol and the sound recording refer), where representative of the Czech Motorway Directorate was responding to a question, whether the suggested alignment of the variant "J" of the Prague Ring Road is compliant with the EC legislation, namely with Decision 1692/96/EC and his answer was "No". If an officer of the Czech Motorway Directorate admits a non-compliance of the official plans with the binding EU legislation, this should be considered very serious and the Commission should take appropriate action, even as a precautionary step.

The definition of priority project No. 25 in Annex III should be clarified to read:

Motorway axis Gdansk-Brno/Bratislava-Vienna<sup>15</sup>  
– Gdansk-Katowice motorway (2010)  
– Katowice-Zlin-Breclav-Vienna / Katowice-Zilina-Vienna motorways (2010), cross-border sections  
~~– Brno-Vienna motorway (2009), cross-border section~~

Note:

Please note that by building the shortest logical connection Katowice-Zlin-Breclav-Vienna the reference to Brno – Vienna segment becomes obsolete, as the Brno – Břeclav highway (D2) exists already.

Please send the confirmation of receipt of this letter and we would appreciate receiving your written answer as soon as possible.

Sincerely,



Assoc. Prof. Dr. Petr Firbas  
Chairman of the NGO

Copy:

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