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DIRECTORATE-GENERAL  
REGIONAL POLICY

Director

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DG REGIO/F/io D(2008)/800130

H.E. Ambassador  
Maroš Šefčovič  
Permanent Representation  
of the Slovak Republic to the EU  
Av. De Cortenbergh 79  
1000 Brussels

Dear Mr Šefčovič,

Following the meeting of Deputy Prime Minister D. Čaplovič with the Commissioner D. Hübner on 29 April 2008, Commission services have received the draft Slovak guidelines for the water sector, relating to the operation of water infrastructure by private companies for the 2007-2013 cohesion policy programming period, entitled : "Terms for operating and concession contracts in frame of Operational programme Environment".

We understand that the Slovak Government should decide on this document at its session on 7 May 2008, and DG REGIO has agreed to give a first reaction on this document which will be subject to a more deep analysis within Commission services.

As explained during the meeting with the Commissioner, Alternative 1 of the Slovak draft guidelines is not acceptable to the Commission.

Alternative 2 of these guidelines looks in principle a feasible and acceptable approach, subject to further consolidation and key modifications.

This second Alternative seems acceptable on account of the 10 year ceiling to the duration of future contracts with private operators, a common rule with the Czech guidelines that have already been agreed by the Commission.

Apart from the duration of the contracts, a number of technical issues are to be developed, and general principles need to be consolidated in particular in relation to performance criteria, monitoring and sanctions.

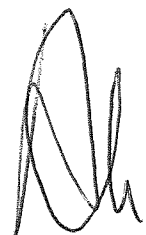
With a view to clarifying the text, comments that are not linked to the guidelines themselves should be avoided, for example in the last part focused on "Risks". In particular in this section, Commission services do not agree with the comments made on the obligations under Council Directive 91/271/EEC of 21 May 1991, concerning urban wastewater treatment. In fact, the OP Environment 2007-2013 has to be considered as an opportunity for the Slovak authorities to help comply on time with the EU "environmental acquis". Private partnership projects can be of great assistance in this process, as far as they respect EU legislation.

I would like to recommend again, as mentioned in Commission services letter of 07/12/2007 (ref. 013170) that the Slovak authorities consider adoption of national legislation on service concessions as in several other Member States, in order to achieve more transparent and standardised procedures for selection of service concessionaires in the future. Until then, at least some basic principles, especially on procurement rules, must be included in the national guidelines for the water sector.

Commission services expect the draft guidelines (Alternative 2) to be adjusted and consolidated accordingly and will then provide more detailed comments.

When final national guidelines are ready, they will have to be reflected in the implementing documents, in particular in the selection criteria to be approved by the Monitoring Committee and included into the OP Environment.

Yours sincerely,



Alejandro Checchi-Lang

c.c.: Mr. Dušan Čaplovič, Deputy Prime Minister  
Mr. Marián Janušek, Minister, Ministry of Construction and Regional Development  
Mr. Jaroslav Izák, Minister, Ministry of Environment of the SR  
Mr. Ján Počiatek, Minister, Ministry of Finance of the SR  
Cabinet of the Commissioner Hübner