

THE BOT – MODEL FOR FINANCING SLOVENIA'S RAILWAY INFRASTRUCTURE DEVELOPMENT

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The development of the railway infrastructure is of essential importance for Slovenia which lies at the crossing of V. and X. trans-European transport corridors and has been recently confronting the increasing road traffic and severe environmental conditions. To successfully cope with these challenges and achieve positive multiplicative macroeconomic effects of railway infrastructure investment, the government formulated the Resolution on National Program of Public Railway Infrastructure Development (ReNPPRID). The investment program, its realization being planned for the period between 2005 and 2020, was divided into two parts: (i) the development part which includes investment to upgrade and enlarge the public railway infrastructure, and (ii) the regular part referring to implementation of public service and maintenance of existing infrastructure. Since the regular part is going to be financed from the state budget, we will focus only on the financing of those infrastructure projects that are included into the development part and promise a considerable quality improvement of the railway network and transport services.

Key words: railway infrastructure, project finance, BOT model, Slovenia

1. Introduction

The development of public–private partnerships (PPPs), including different forms of co-operation between the state or local communities and legal entities or natural persons of the private sector, has not emerged until the economic and socio-political environment enabled private companies to actively participate in the implementation of public services and ensured access to public infrastructure. This refers primarily to the period marked by deregulation and enterprise ownership transformation, which renders possible the creation of an institutional framework that allows implementation of public services to the private sector.

In professional literature, we find different forms of public–private partnerships that can be divided into two groups according to the level of private sector participation in the implementation of public services and the provision of public infrastructure:

various forms of private sector co-operation with the right of ownership to a civil or construction engineering object remaining in hands of the public sector and only the implementation of activity being privatised, and

forms of privately managed operations where the right of ownership of an object is temporarily or permanently passed over to the private sector. As stated by Haarmeyer and Mody (1998), service performance contracts, public infrastructure management contracts, lease contracts and classical concession contracts can be placed into the first group, while different forms of partial or total divestiture and different approaches to project financing belong to the second group.

2. Project financing

Project financing represents an off-balance sheet form of providing medium and long-term capital for capital intensive projects. This requires formation of a capital structure in which project assets and cash flow will cover all obligations resulting from liabilities. Because of the limited ownership rights of a civil or construction engineering object (i.e. the outcome of concession relationship), cash flow represents the most important guarantee for repayment of obligations resulting from liabilities. That's why the creditors, when establishing the concessionary's debt capacity, favour infrastructural projects which provide a higher level of certainty in the anticipation of future cash flows, while at the same time they are not interested in the debt capacity of the sponsors (except if they would guarantee for the concessionary's obligations with all their property).

There is a considerable difference between project and enterprise financing. While with project financing the servicing of obligations resulting from liabilities is ensured by project assets and cash flow, in case of enterprise and on-balance sheet financing these obligations are covered by the assets and cash flow of the enterprise and not only by a single investment project. However, this is not true, if for the purpose of an investment project implementation a new enterprise would be set up. In such a case, the value of recognized assets and liabilities would be equivalent for the enterprise as well as for the contractually segregated infrastructural project. When evaluating the economic acceptability of an infrastructural project, the key decision-making factor for potential investors will be the calculation of the project long-term positive net cash flow. If a positive cash flow would not be ensured, the profitability of implementation or the project

implementation should be guaranteed by the state or local community.

This financing technique can be used only when it is possible to structure single infrastructural projects in separate units and transfer them to a private concessionary by granting him a concession for operation and maintaining. We distinguish three basic forms of project financing:

- non-recourse project financing,
- limited-recourse project financing, and
- full-recourse project financing.

With the full-recourse form of project financing there is no off-balance sheet effect on the recognition of assets and obligations to liabilities.

Non-recourse project financing is a financing technique when creditors and other investors have no direct or indirect access to project sponsors' property *ex voto*, as they do not guarantee the repayment of obligations with all their property, but only to the amount of paid-in capital or to the amount defined by the contract. Therefore a future cash flow with a higher risk level requires a higher amount of guarantee or a bigger volume of the equity capital which represents the basic guarantee for repayment of obligations resulting from liabilities and the base for attaining a positive financial leverage. The financial construction of an investment project should be let known to potential investors in advance, otherwise they will not be able to come to a decision whether they find a project economically acceptable and whether the return on investment is proportional to the risk taken, while at the same time in unstable circumstances they would be exposed to a too high risk of bankruptcy. Things are utterly different in case of limited-recourse project financing where risks are allocated among individual contractors in such a way that a limited guarantee of

project sponsors exists for the repayment of obligations resulting from liabilities, usually in form of guarantees or by setting aside a fixed amount of the sponsor's assets to the tutorship account. With this guarantee project, sponsors or third parties acting upon their instructions bind themselves to pay a fixed amount to the other party should their co-contractor fail to meet his obligations in due time. When the instrument of tutorship account is used as a form of guarantee, a sufficient amount of money must be remitted to the account for an eventual repayment of unsettled obligations resulting from the investment project.

We can distinguish another two forms of project financing:

- project financing with the segregation of the investment project into an *ad hoc* founded project enterprise (Single Purpose Stock Company or Special Purpose Vehicle) and
- project financing with a contractual segregation of the investment project, which organisationally remains part of the sponsor as a legal entity, while in contracts (above all in credit contracts) limitations regarding the investor's access to the sponsor's assets are defined and all other legal relations are regulated.

In project financing, an entity of private law enters a concession relation with an entity of public law (state or local community). To protect public interest, state or local government can limit the legal capacity of a concessionary to make new concession contracts and thus to prevent the encumbrance of the net cash flow with obligations resulting from other concession relations. Nevertheless, both project financing forms have their advantages and weaknesses. Limitation of project enter-

prise activity can usually lower the risk of contractual opportunism, but cannot exclude it completely.

3. BOT form of project financing

The modern BOT form of project financing is most frequently employed in financing capital-intensive cross-border projects. The main feature of this form of financing is a concession for the construction and maintenance of public infrastructure or other public service facilities granted by the host state, with the concessionary taking on the responsibility to provide all the missing financial resources and to transfer all rights of ownership resulting from the project back to the grantor after the expiration of the concession period without any additional transaction costs. As stated by Hyman and Shah (2003), in this way the state or local community are able to transfer part of responsibility for financing, construction and maintenance of the public infrastructure from public to the private sector, with private co-contractors being given the possibility to maximize the rate of return on the invested capital by increasing the operation efficiency. The return on invested capital is unlimited upwards (unlimited up-side potential) and represents the most important motive for the participation of private investors in public infrastructure development.

As stated by Wu Lu and Lin (2000), the BOT form of project financing involves a temporary privatization of public infrastructure, therefore, before signing a concession agreement, the state or local community (principal) must carry out four analyses:

analysis of public infrastructure and of the level of population provision with public services and goods,

analysis of existing mechanisms of regulation,

analysis of the relation of interest groups to the admission of private sector to public economic service operations,

analysis of financial and other possibilities for the introduction of the public-private partnership. In the opposite case, the missing consent of interest groups to the temporary privatization of public infrastructure could put the financial close or the investment project implementation at risk.

The BOT financing technique is employed primarily in the economic activities where prices of products or services are regulated by the state and for this reason the future cash flow can be anticipated with a relative certainty. When this is not possible, the stability of sales revenues will have to be guaranteed by the state or local community. The latter is opposed by many who believe that through aid in different forms of guarantees, transfers and subsidies, an aid-seeking line of economy (rent-seeking industry) starts to grow and finances the X-inefficiency of the concessionary. This also answers the question why the incorporation of the private sector into public provision services still does not guarantee a higher efficiency in providing population with public goods.

4. The financial model

In the last years, Slovenia is encountering the growing road traffic (mostly transit) and ever sharper requests regarding the protection of space and environment that represent new requirements and opportunities by forming the Resolution on National Program of Public Railway Infrastructure Development

Table 1. The Investment Structure

	Mill. €	%
Upgrading of the existing railway infrastructure	1463	23.5
New construction	1879	30.2
High velocity railway lines construction	2300	36.9
Project management and preparation of project and investment documentation	584	9.4
TOTAL	6226	100.0

(ReNPPRID). According to the proposal of the resolution, we divided the investment program, whose realization was planned for the period between 2005 and 2020, into two parts:

the development part, which includes investment into upgrading and enlarging the public railway infrastructure, and the regular part, referring to the implementation of public service and maintenance of existing infrastructure¹. Since the regular part is going to be financed from the state budget, we will be focusing only on the financing of the infrastructure projects that belong to the development part and promise a considerable quality improvement of the railway network and transport services.

The estimated value of investment from the developmental part of the proposal of the ReNPPRID amounts to 6.22 billion euros, taking into account fixed prices from 2005, with single projects sorted into four basic groups as follows:

upgrading of the existing railway infrastructure,
 new construction,
 construction of high velocity railway lines, and

project management and preparation of the project and investment documentation (see Table 1)².

4.1 The organizational aspect of the model

The financial model was planned by taking into consideration the present situation and long-term strategic starting-points for public railway infrastructure development as the BOT form of project financing. From the organisational point of view, the investment project is in most cases segregated as an *ad hoc* founded project enterprise to whom later a concession for the implementation and managing of a single project or a complete investment program is granted by the state or local community.

As stated by Winkelmann (2000), the foundation of a project enterprise is logical, especially when hereby the debt capacity and possibility for project implementation is increased. This was one of the reasons why, along with the development of this model, we anticipated a foundation of a segregated investment enterprise (special investment vehicle) whose

¹ Taking into account the fixed prices from 2005, the new sum total investment value would be 9.19 billion €.

² Taking into consideration the financial burden allocation of particular investment groups, the financially most demanding period from the point of view of the complete investment program implementation would be between 2011 and 2017, with the two most intensive investment phases in the field of new construction and construction of high velocity railway lines.

founders should enter an international competition for concession activity. The selected concessionary, be it a private consortium or a private enterprise, would be offered a concession contract by the state as a grantor and market regulator. By signing it, the concessionary would contract the obligation to implement a single project or a complete investment program and to provide the missing financial resources. In this part of the concession relation, the role of a segregated investment enterprise is very important as it enables the transfer of private capital into the financial structure of the BOT project implementation. In order to diminish the project risks, it is desired for the project enterprise to be organized as an equity joint venture having the right to make an outsourcing contract.

Beside the foundation of a segregated investment enterprise, within the framework of this paper also a foundation of a segregated financial fund (special financial purpose vehicle) is suggested. This fund would manage the in-flowing means and the payment of annual availability compensations (availability payments) to the concessionary. As quoted by Trujillo et al. (1998), the setting up of a segregated financial fund is logical, primarily to diminish the risk of contractual opportunism that could endanger the financial construction and

implementation of the project. According to Dewatripont and Legros (2005), the advantage of a segregated financial fund is displayed in the fact that the state as the founder has access to all important information regarding fund managing and allocation control of financial resources, thus lowering the risk of information asymmetry and inadequate use of project resources. The fund would also be responsible for checking the concessionary's right to the receipt of annual compensation and a correct use of project resources, what is, according to Ergenzinger and Büschgen (1993), of key importance for a successful implementation of planned investments. With regard to the different sources for the pay-out of concession payments anticipated within the framework of the paper, such as revenues originating from usage fees, sources of cross-financing, budgetary funds, etc. (see Table 2), the foundation of a segregated financial fund would also be important for harmonizing the obligations of potential investors, while the concessionary could focus primarily on the operative implementation of infrastructural projects.

Usage fees are planned to be the main source of the financial fund – users shall pay the greatest share for the public infrastructure construction. The national budget is tradition-

Table 2. Financial Fund Resource Structure Projection for the Pay-off of Concession Payments

	Mill. €	%
National budget funds	1910	28.7
Sources of cross-financing*	1590	23.9
Ecological taxes	660	9.9
Usage fees	2180	32.8
Revenues resulting from the marketing of other infrastructure	143	2.2
Other sources**	165	2.5
TOTAL	6649	100.0

Notes: (*) e.g., tolls and charges, excise taxes, parking fees, etc. (**) Lease of telecommunication capacities.

Source: Authors' calculations.

ally an important financing source of railway infrastructure financing because infrastructural objects have a public good characteristics. The national budget shall remain a major source of financing also in public-private partnerships, at least for the following reasons:

- state funds are necessary to attract private capital,
- state (government) becomes the final owner of the public infrastructure,
- state (government) is the protector of public interest in public-private partnerships.

Cross-financing is considered an important source of financing for the following reasons: since Slovenia gained independence, the road transport infrastructure has been favoured, which resulted in the unequal development of transport infrastructure. Cross-financing is therefore a means for more equal development of road and transport infrastructure. Other sources of financing are to complement the main financial sources of the fund.

4.2 The financial aspect of the model

The financial model cash flow simulation is based on the starting points of the preliminary study on the possible public railway infrastructure financing models in the Republic of Slovenia and program documentation of the Ministry of Transport. Taking into account the assumptions and limitations of railway infrastructure financing, the estimated value of the investment and the activation period, the cash flow simulation anticipates a concession period of 36 years, coinciding with the concession payment period between 2008 and 2040, during which concession payments will be effected from a segregated financial fund on a yearly basis. The pay-off of concession

payments is frequently linked to the transfer of a long-term concession right to the use of railway infrastructure back to the grantor. However, this is not the case with the BOT project financing form as here the transfer of ownership rights is effected only after the expiration of the concession period, with the exception of cases where the principal has the right to buy-back the infrastructure before the expiration of the concession period (early buy-back) or when they mutually agree to terminate the contract (early termination by negotiation). In project financing, the timing of ownership rights transfer is very important, as at that moment the concessionary loses the right to control the cash flow creating resources.

Taking into consideration the annual estimated values of investments from the program documentation, the projection of cash flow etc., between 2008 and 2040 the segregated financial fund should pay-off 6.65 billion euros of concession payments to a segregated investment enterprise. However, as stated by Kay and David (1991), when employing this project financing technique, the potential investors must pay a great deal of attention to ensuring the efficiency of the received concession payments use or they will run the risk of the project enterprise over-indebtedness. That is why an important task of the segregated financial fund would be to control the use of financial resources. In addition to ensuring and managing the financial resources, the fund should also take care of the transparency and efficiency of use of the in-flowing resources. As stated by Trujillo et al. (1998) another task of the segregated financial fund is to ensure the stability of project financing, which displays the fund's capability to substitute the loss of whichever of the resources, not allowing it to affect the fulfilment of contractual obligations to the concessionary. In the opposite case, the loss

Table 3. Investment Enterprise Cash Flow Projection

	Investment value (1)	Concession payments (2)	EU funds (3)	Difference (2)+(3)-(1)
TOTAL, 2005–2020, mill. €	6223	2554	1538	-2131
TOTAL, 2005–2040, mill. €	6223	6694	1538	2009

Source: Authors' calculations.

of one of the resources could endanger the financial stability of the investment implementation anticipated in the cash flow projection and according to which between 2005 and 2020 the segregated investment enterprise should ensure an additional sum of 2.13 billion euros (see Table 3) in order to bridge the difference between obligations and liabilities. Together with the state, the enterprise should also apply for exploitation of EU funds in the amount of 1.54 billion euros.

Taking into account the cash flow projection, financially the most demanding period for the segregated investment enterprise would be between 2014 and 2020. During this period it should cover the total difference between the investment value and revenue resulting from concession payments as the exploitation of EU funds is anticipated only for the period of the next EU financial perspective – 2007–2013. Since the successful implementation of project financing requires resources to refinance the obligations resulting from liabilities and to realize the return on the capital invested by private investors, the model simulation anticipates a segregated investment enterprise that would be receiving concession payments until the expiration of the concession period (i.e. to the year 2040) when it would, together with the segregated financial fund, cease to operate.

5. Conclusions

The financial model presented in this paper is based on an organisational structure which

enables a more optimal allocation of financial, technical and technological, operational and other risks that could jeopardize the financial close and implementation of the investment program. The main feature of this structure is the incorporation of three key participants:

- state as the grantor of concession;
- a segregated investment enterprise whose private founders enter an international competition for the implementation and managing of the complete investment program, and
- a segregated financial fund which during the concession period takes care of managing the in-flowing financial resources (budgetary resources, funds from cross-financing sources, ecological taxes, usage fees and funds from other sources) and for the annual availability payments to the concessionary who will use them for refinancing the obligations resulting from liabilities, including the payment of the requested profit rate on the equity capital invested by private investors.

The public-private partnership structure of the presented financial model shall contribute to the distribution of financial sources and risks, ensure the public (state) budget relief (contribute to sustainability of public finances) and attract the private capital to speed up the construction of the railway infrastructure. Within the financial fund, usage fees are planned to comprise the greatest share of financial sources, followed by the national budget and cross-financing.

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THE BOT MODEL FOR FINANCING SLOVENIA'S RAILWAY INFRASTRUCTURE DEVELOPMENT

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Summary

The modern “Build, Operate, Transfer” (BOT) form of project financing represents an off-balance sheet form of providing medium and long-term capital for capital-intensive projects. It is most frequently employed in financing capital-intensive cross-border projects. The main feature of this form of financing is a concession for the construction and maintenance of public infrastructure or other public service facilities granted by the host state, with the concessionary taking on the responsibility for providing all the missing financial resources and transferring all rights of ownership resulting from the project back to the grantor after the expiration of the concession period without any additional transaction costs.

There is a considerable difference between project and enterprise financing. While with project financing the servicing of obligations resulting from liabilities is ensured by project assets and cash flow, in case of enterprise and on-balance sheet financing these obligations are covered by the assets and cash flow of the enterprise and not only by a single investment project. However, this is not the case, if for the purpose of an investment project implementation a new enterprise is set up. In such a case, the value of recognized assets and liabilities would be equivalent for the enterprise as well as for the contractually segregated infrastructural project. When evaluating the economic acceptability of the infrastructural

project feasibility, the key decision-making factor for potential investors will be calculation of the project long-term positive net cash flow. If the positive cash flow is not ensured, the profitability of implementation or the project implementation should be guaranteed by the state or local community.

Focusing on the development of the proposal of the Resolution on National Program of Public Railway Infrastructure Development (ReNPPRID), the financing model was developed as the BOT form of project financing in which the core part consists of: (i) a special investment vehicle for which the private founders would compete at the international tender to gain concession service, and (ii) a special financial purpose vehicle which would manage the fund's money flows and transactions of annual availability payments to the concessionary.

The estimated value from the developmental part of the proposal of the ReNPPRID amounts to 6.22 billion euros, taking into account fixed prices from 2005, with single projects sorted into four basic groups as follows:

- upgrading of the existing railway infrastructure,
- new construction,
- construction of high velocity railway lines, and
- management and preparation of project and investment documentation.

Taking into consideration the annual estimated values of investments from the program documentation, the projection of cash flow, etc., between 2008 and 2040 the segregated financial fund should pay off 6.65 billion euros of concession payments to a segregated investment enterprise.

Usage fees are planned to be the main source of the financial fund – users shall pay the greatest share for the public infrastructure construction. The national

budget is traditionally an important financing source of railway infrastructure financing, it is envisaged to be the second greatest source of financing. Cross-financing, planned to be the third largest financial contributor to the segregated financial fund, is considered an important means for a more equal development of road and transport infrastructure. Other sources of financing are to complement the main financial sources of the fund.

SLOVĒNIJOS GELEŽINKELIŲ INFRASTRUKTŪROS PLĒTROS „STATYTI-EKSPLOATUOTI-PERDUOTI“ MODELIS

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Santrauka

Šiuolaikinė projektų finansavimo forma „Statyti-eksplloatuoti-perduoti“ (angl. BOT) yra netradicinė (nebalansinė) forma, užtikrinanti kapitalo imlių projektų finansavimą vidutiniams ir ilgam laikotarpiui. Ji dažniausiai naudojama kapitalo imliems tarptautiniams projektams finansuoti. Svarbiausia šios finansavimo formos ypatybė yra lengvata, teikiant koncesiją viešos infrastruktūros objektų statybai ir išlaikyti ar kitų viešųjų paslaugų palaikymui valstybėje, kurioje įgyvendinami projektai. Koncesioninkas gaudamas lengvatą kartu prisiima atsakomybę ir įsipareigojimus aprūpinti projektą visais trūkstamais finansiniais ištekliais, taip pat perleisti visas nuosavybės teises, kylančias iš projekto dotuotojui (suteikiančiai institucijai) po lengvatos periodo termino pabaigos be kokių nors papildomų sandorio kaštų.

Yra žymus projekto ir įmonės finansavimo skirtumas. Kai projektas finansuojamas iš jo teikiamų paslaugų rezultatų, įsipareigojimai laiduojami tik projekto turto ir pinigų srutais. O įmonės atveju šie įsipareigojimai yra garantuojami įmonės balansiniu finansavimu (remiantis balansine apskaita) ir dengiami ne tik vieno projekto, bet ir visos įmonės turto ir pinigų srutais. Tačiau

tai nėra teisinga, jei investicinio projekto įgyvendinimui būtų įkurta nauja įmonė. Tokiu atveju pripažinto turto vertė ir įsipareigojimai turėtų būti ekvivalentiški tiek įmonei, tiek pagal sutartį atskiram infrastruktūros projektui. Įvertinant infrastruktūros projekto įgyvendinimo ekonominį pagrįstumą, pagrindinis sprendimų priėmimo faktorius potencialiems investuotojams bus projekto teigiamas grynojo pinigų srauto skaičiavimas ilgam laikotarpiui. Jei teigiamas pinigų srautas nebūtų užtikrintas, įgyvendinamo projekto pelningumą turi garantuoti valstybė arba savivaldybė.

Sutelkiant dėmesį į pasiūlymo „Sprendimas dėl Nacionalinės programos viešo geležinkelio infrastruktūros plėtrai“ (ReNPPRID) pagrindimą, finansavimo modelis buvo pateiktas kaip projekcinio finansavimo BOT forma, kuri susideda iš dviejų pagrindinių dalių: (i) specialios investicinės priemonės, kurioje turėtų dalyvauti privatūs projekto dalyviai tarptautiniame konkurenciniame pasiūlyme, kad įgytų koncesijos paslaugą, ir (ii) specialios finansinės tikslinės priemonės (mechanizmo), kuri leistų valdyti pinigų srautus ir metinių mokėjimų, numatytų koncesijos sutartyje, likvidumo fondą.

Įteikta 2007 m. liepos mėn.

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