

Z A K O N
O POTVRĐIVANJU UGOVORA O GARANCIJI IZMEĐU
REPUBLIKE SRBIJE I EVROPSKE INVESTICIONE BANKE
REHABILITACIJA PUTEVA I MOSTOVA - B2

Član 1.

Potvrđuje se Ugovor o garanciji između Republike Srbije i Evropske investicione banke Rehabilitacija puteva i mostova - B2, potpisan 16. jula 2007. godine u Beogradu.

Član 2.

Tekst Ugovora o garanciji između Republike Srbije i Evropske investicione banke Rehabilitacija puteva i mostova - B2, u originalu na engleskom jeziku i u prevodu na srpski jezik glasi:

FI no.	24.037 (RS)
SERAPIS no.	2005-0105

Roads and Bridges Rehabilitation – B2

Guarantee Agreement

between the

Republic of Serbia

and

European Investment Bank

Belgrade, 16 July 2007

THIS AGREEMENT IS MADE BETWEEN:

the Republic of Serbia, for the purposes of this agreement represented by Mr Mirko Cvetkovic, Minister of Finance,

hereinafter also called:
"the Guarantor",

of the first part,

and

the European Investment Bank, having its seat in Luxembourg, represented by Mr Manfredi Tonci Ottieri, Associate Director, and Mr Peter Coveliers, Senior Loan Officer,

hereinafter called: "the Bank"

of the second part.

WHEREAS :

1. a Finance Contract entitled "Roads and Bridges Rehabilitation" between the European Investment Bank and the Public Enterprise "Serbian Roads" (hereinafter called "**the Borrower**") has been signed at the date hereof by which contract (hereinafter called the "**Finance Contract**") the Bank has established a credit of EUR 33,000,000 (thirty-three million euro) in favour of the Borrower to be used for a programme for the rehabilitation of around 100 bridges on main and regional roads in Serbia (hereinafter called the "**Project**");
2. the obligations of the Bank under the Finance Contract are conditional upon the execution, delivery by the Guarantor and continuing operation of a guarantee of performance by the Borrower of its financial obligations under the Finance Contract (this guarantee hereinafter called the "**Guarantee Agreement**");
3. the Federal Republic of Yugoslavia and the Bank concluded on 13 December 2001 a framework agreement governing the Bank's activities in the territory of the Federal Republic of Yugoslavia (hereinafter called the "**Framework Agreement**");
4. following a referendum on independence in the Republic of Montenegro on 21 May 2006 and the adoption of the Declaration of Independence by the National Assembly of the Republic of Montenegro, the Parliament of the Republic of Serbia has adopted a decision on 5 June 2006 whereby the Republic of Serbia has declared to be the successor of the Federal Republic of Yugoslavia and to have fully inherited its international legal personality and international documents;
5. this declaration has been recognised by the international community, including other international financial institutions and the European Community, which, following the Presidency Conclusions of the Council of the European Union dated 15/16 June 2006, considered the Republic of Serbia as the successor state of the Federal Republic of Yugoslavia;
6. the Republic of Serbia has therefore assumed all the obligations arising from the Framework Agreement in relation to its own territory and acknowledged by latter of its Minister of Finance dated 12 July 2007 that the financing to be provided by the Bank under the Finance Contract falls within the scope of the Framework Agreement;
7. the execution of this Guarantee Agreement has been authorised by a decision of the Government of the Republic of Serbia dated 12 July 2007;

NOW THEREFORE it is hereby agreed as follows:

ARTICLE 1

Finance Contract

- 1.01** The Guarantor declares that it is well acquainted with the terms, conditions and clauses of the Finance Contract, a true copy of which, as signed by the parties thereto, has been delivered to it.

Terms defined in the Finance Contract shall have the same meaning in this Guarantee Agreement.

ARTICLE 2

Guarantee

- 2.01** The Guarantor, as primary obligor and not merely as surety, guarantees entirely the full and punctual performance of all monetary obligations of the Borrower to the Bank under the Finance Contract in respect of principal monies, interest without any limitation, commissions and all other charges, expenses and sums which may from time to time become due under or pursuant to any provision of the Finance Contract (each amount so guaranteed hereinafter referred to as a "**Guaranteed Sum**").

ARTICLE 3

Enforcement of Guarantee

- 3.01** Demand may be made hereunder as soon as the Borrower has not performed, whether on a Payment Date, upon demand for early repayment or otherwise, all or part of the obligations guaranteed pursuant to Article 2 of this Guarantee Agreement.
- 3.02** The Guarantor hereby waives irrevocably any objection or exception in law to the total or partial enforcement of this Guarantee Agreement. It undertakes to perform its obligations upon first written demand by the Bank whenever such demand is made and to pay the sums due without any limitation, retention or condition, without the Bank having to furnish any special evidence in support of its request other than the reason for the demand under this Guarantee Agreement. In particular, the Bank is not bound to prove that it has taken any action against the Borrower and it is not obliged, prior to the enforcement of this Guarantee Agreement, to realise securities or to enforce any other security that the Borrower or a third party may have constituted.
- 3.03** Any payment of a Guaranteed Sum by the Guarantor shall fall due three Luxembourg Business Days after the date of the relevant demand and shall be made in the currency of that Guaranteed Sum and to the account specified in the demand.
- 3.04** In the event of the Bank making any demand hereunder, the Guarantor shall have the right to pay immediately to the Bank, in full and final settlement of its obligations under this Guarantee Agreement, the balance of the Loan outstanding at the date of such payment, interest accrued thereon until that date and any other Guaranteed Sum then payable by the Borrower, together with any indemnity which would have been payable pursuant to Article 4.02B of the Finance Contract if the Borrower would

have voluntarily prepaid the balance of the Loan on the date of the payment under this Article 3.04.

- 3.05** The guarantee under this Guarantee Agreement shall remain in force until all Guaranteed Sums have been fully and unconditionally paid or discharged.

ARTICLE 4

Subrogation

- 4.01** When the Guarantor has made a payment to the Bank, it is subrogated, to the extent of such payment, to the rights and actions relating to the said payment that the Bank has against the Borrower; this right of subrogation shall not be invoked to the detriment of the Bank.

ARTICLE 5

Modification of the Finance Contract

- 5.01** The Bank may agree to any modification of the Finance Contract which does not increase the amounts payable by the Borrower thereunder. The Bank shall notify the Guarantor of each such modification.
- 5.02** The Bank may grant the Borrower, in respect of the due date of payment of any Guaranteed Sum, an extension of time of up to three months. Any such extension of time shall be notified to the Guarantor.
- 5.03** The Bank may not amend or vary the terms of the Finance Contract save as provided in Articles 5.01 and 5.02 or save with the prior written consent of the Guarantor, which consent shall not be unreasonably withheld.

ARTICLE 6

Guarantee of the European Community

- 6.01** The guarantee hereby created is independent of any guarantees now or hereafter given to the Bank by the European Community ("**EC**"). The Guarantor hereby waives any right to contribution or indemnity from the EC.
- 6.02** If payment is made to the Bank by the EC on account of any Guaranteed Sum, the EC shall be subrogated to the rights of the Bank hereunder and the EC may recover from the Guarantor any amount outstanding under this Guarantee Agreement.

ARTICLE 7

Taxes, Charges and Expenses

- 7.01** Taxes or fiscal charges, legal costs and other expenses that may be incurred in the implementation of this Guarantee Agreement shall be borne by the Guarantor. The Guarantor shall make payments hereunder without any withholding or deduction on account of tax or fiscal charges.

ARTICLE 8

Law, Jurisdiction and Language

- 8.01** This Guarantee Agreement shall be governed by the laws of the Grand Duchy of Luxembourg.

8.02 The place of performance of this Guarantee Agreement is the head office of the Bank.

8.03 Disputes arising out of this Guarantee Agreement shall be submitted to the to the Court of Justice of the European Communities.

The parties to this Guarantee Agreement hereby waive any immunity from, or right to object to, the jurisdiction of that Court. A decision of the Court given pursuant to this Article 8.03 shall be conclusive and binding on the parties without restriction or reservation.

8.04 Any document and notice submitted to the Bank in accordance with the provisions of this Guarantee Agreement shall be made in the English language or shall be accompanied by a duly certified translation thereof in English.

ARTICLE 9

Final Provisions

9.01 Notices and other communications given hereunder shall be in writing and shall be sent to the relevant address set out below or to such other address as the addressee shall have previously notified in writing as its new address for such purpose:

– for the Guarantor: Kneza Milosa 20
Belgrade 11000
Republic of Serbia

– for the Bank: boulevard Konrad Adenauer 100
L-2950 Luxembourg.

9.02 The Recitals form part of this Guarantee Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Guarantee Agreement to be executed on their behalf in three (3) originals in the English language. Each page hereof has been initialled for the Guarantor and for the Bank.

Belgrade, 16 July 2007

Signed for and on behalf of the
REPUBLIC OF SERBIA

Minister of Finance

Mirko Cvetkovic

Signed for and on behalf of the
EUROPEAN INVESTMENT BANK

Associate Director

Manfredi Tonci Ottieri

Senior Loan Officer

Peter Coveliers

Rehabilitacija puteva i mostova – B2

Ugovor o garanciji

između

Republike Srbije

i

Evropske investicione banke

Beograd, 16. jula 2007. godine

OVAJ UGOVOR ZAKLJUČUJU:

Republika Srbija, koju za potrebe ovog ugovora zastupa dr
Mirko Cvetković, ministar finansija, u ime Vlade kao
zastupnika Republike Srbije,

u daljem tekstu: Garant,

kao prva ugovorna strana

i

Evropska investiciona banka, sa sedištem u Luksemburgu,
koju predstavlja Manfredi Tonci Ottieri, Associate Director i
Peter Coveliers, Senior Loan Officer

u daljem tekstu: Banka,

kao druga ugovorna strana.

BUDUĆI:

1. da je Ugovor o finansiranju pod nazivom „Rehabilitacija puteva i mostova - B2” (u daljem tekstu: Ugovor o finansiranju), potpisan između Evropske investicione banke i Javnog preduzeća „Putevi Srbije” (u daljem tekstu: Zajmoprimac) na dan koji je dalje naveden, kojim Banka Zajmoprimcu daje na raspolaganje kredit u iznosu od 33.000.000 EUR (tridesettrimilionaeura) za korišćenje u programu rekonstrukcije oko 100 mostova na glavnim i regionalnim putevima u Srbiji (u daljem tekstu: Projekat);
2. da su obaveze Banke iz Ugovora o finansiranju uslovljene izdavanjem i kontinuiranim važenjem garancije koju daje Garant na ime finansijskih obaveza Zajmoprimca iz Ugovora o finansiranju (ova garancija se u daljem tekstu naziva: Ugovor o garanciji);
3. da su Savezna Republika Jugoslavija i Banka 13. decembra 2001. godine zaključile okvirni sporazum kojim se uređuju aktivnosti Banke na teritoriji Savezne Republike Jugoslavije (u daljem tekstu: Okvirni sporazum);
4. da je nakon referenduma o nezavisnosti koji je u Crnoj Gori održan 21. maja 2006. godine i nakon što je Skupština Republike Crne Gore usvojila Deklaraciju nezavisnosti, Narodna skupština Republike Srbije 5. juna 2006. godine usvojila odluku u kojoj se navodi da je Republika Srbija postala pravni sledbenik Savezne Republike Jugoslavije i u celosti nasledila njen međunarodno-pravni subjektivitet i međunarodne dokumente;
5. da je pomenutu odluku prihvatila Međunarodna zajednica, kao i druge međunarodne finansijske institucije i Evropska zajednica koja je usvajanjem Zvaničnog zaključka Saveta Evropske unije od 15/16. juna 2006. godine prihvatila Republiku Srbiju kao pravnog sledbenika Savezne Republike Jugoslavije;
6. da je time Republika Srbije preuzela sve obaveze koje proističu iz Okvirnog sporazuma u vezi sa svojom teritorijom i putem zvaničnog pisma ministra finansija od 12. jula 2007. godine potvrdila da finansiranje koje Banka treba da obezbedi u okviru Ugovora o finansiranju spada u delokrug Okvirnog sporazuma;
7. da je odlukom koja je doneta 12. jula 2007. godine, Vlada Republike Srbije dala saglasnost na zaključivanje ovog ugovora o garanciji;

SHODNO GORE NAVEDENOM usaglašeno je sledeće:

Član 1.

Ugovor o finansiranju

- 1.01 Garant izjavljuje da je dobro upoznat sa uslovima Ugovora o finansiranju i da mu je dostavljena verna kopija potpisanog ugovora.

Pojmovi koji su definisani u Ugovoru o finansiranju imaće isto značenje u ovom ugovoru.

Član 2.

Garancija

- 2.01 Garant, u svojstvu primarnog dužnika, a ne samo u svojstvu jemca, u celosti garantuje potpuno i pravovremeno izvršenje svih novčanih obaveza Zajmoprimca prema Banci shodno Ugovoru o finansiranju po osnovu glavnice, kamate bez bilo kakvog ograničenja, provizije i drugih troškova i iznosa koji mogu dospeti na plaćanje u skladu sa bilo kojom odredbom Ugovora o finansiranju (svaki iznos koji se ovim putem garantuje u daljem tekstu se naziva Garantovani iznos).

Član 3.

Primena garancije

- 3.01 U skladu sa ovim ugovorom, zahtev za aktiviranje garancije može se uputiti neposredno nakon što Zajmoprimac, bilo na dan plaćanja, bilo po zahtevu za prevremenu otplatu ili na neki drugi datum, ne izvrši obaveze koje su garantovane članom 2. ovog ugovora, bilo u celosti ili delimično.
- 3.02 Garant se ovim putem neopozivo odriče prava na bilo kakav prigovor ili izuzeće u zakonu u vezi sa celokupnim ili delimičnim sprovođenjem Ugovora o garanciji. Garant se obavezuje da će izmiriti svoje obaveze odmah nakon dobijanja prvog pisanog zahteva Banke i da će platiti dospele iznose bez ikakvih ograničenja, zadržavanja ili uslovljavanja, i bez nametanja obaveze Banci da uz svoj pisani zahtev priloži neke posebne dokaze osim onog kojim se obrazlaže razlog za podnošenje zahteva u skladu sa ovim ugovorom. Pre svega, Banka nije dužna da podnese dokaze o tome da je preduzela bilo kakve mere protiv Zajmoprimca i nema obavezu da, pre stupanja na snagu ovog ugovora, aktivira bilo koji instrument obezbeđenja koji je ponudio Zajmoprimac ili neka treća strana.
- 3.03 Svaki Garantovani iznos dospeće na plaćanje Garantu tri luksemburška radna dana nakon datuma relevantnog zahteva. Plaćanje se mora izvršiti u valuti Garantovanog iznosa i na račun naveden u zahtevu.
- 3.04 U slučaju da Banka podnese zahtev u skladu sa ovim ugovorom, Garant će imati pravo da neposredno nakon toga plati Banci, kao potpuno i konačno izmirenje svojih obaveza iz ovog ugovora, iznos Zajma koji je na dan pomenutog plaćanja ostao neotplaćen, zajedno sa kamatom koja je prirasla do tog dana i svakim drugim Garantovanim iznosom koji je Zajmoprimac dužan da plati na taj dan. Uz to, Garant je dužan da plati i bilo koje obeštećenje koje je plativo u skladu sa članom 4.02 B. Ugovora o finansiranju u slučaju da Zajmoprimac svojevoljno prevremeno otplati preostali iznos Zajma na dan plaćanja iz ovog člana.

- 3.05 Garancija iz ovog ugovora ostaće na snazi sve dok svi Garantovani iznosi ne budu u potpunosti i bezuslovno plaćeni ili izmireni.

Član 4.

Subrogacija

- 4.01 Kada Garant izvrši plaćanje prema Banci on ima pravo na subrogaciju, do iznosa tog plaćanja, na prava i mere koje se odnose na pomenuto plaćanje a koje Banka ima protiv Zajmoprimca. Ovo pravo na subrogaciju neće se ostvarivati na štetu Banke.

Član 5.

Izmene Ugovora o finansiranju

- 5.01 Banka se može saglasiti sa bilo kojim izmenama Ugovora o finansiranju ukoliko se njima ne povećava iznos koji je Zajmoprimac dužan da plati shodno Ugovoru o finansiranju. Banka će obavestiti Garanta o svakoj izvršenoj izmeni.
- 5.02 Uoči svakog datuma dospeća bilo kog Garantovanog iznosa, Banka može odobriti Garantu produženje roka do tri meseca. Garant će biti obavešten o svakom pomenutom produženju roka.
- 5.03 Banka ne može da menja uslove Ugovora o finansiranju osim u skladu sa čl. 5.01 i 5.02 ovog ugovora, ili osim uz prethodnu pisanu saglasnost Garanta, pri čemu Garant ne sme da se uzdrži od davanja iste bez razumnog obrazloženja.

Član 6.

Garancija Evropske zajednice

- 6.01 Garancija koja se ovim putem daje nezavisna je od bilo kakve garancije koju sada ili u budućnosti Banka može da dobije od Evropske zajednice (u daljem tekstu: EZ). Garant se ovim putem odriče svakog prava na uplatu ili obeštećenje od EZ.
- 6.02 Ukoliko EZ izvrši plaćanje prema Banci na ime bilo kog Garantovanog iznosa, EZ će imati pravo na subrogaciju u skladu sa pravima Banke iz ovog ugovora i može tražiti povraćaj od Garanta u visini iznosa koji ostane neizmiren u skladu sa ovim ugovorom.

Član 7.

Porezi, naknade i troškovi

- 7.01 Poreze ili fiskalne naknade, zakonske troškove i druge rashode koji mogu nastati u toku sprovođenja ovog ugovora snosiće Garant. Garant će izvršavati ovde predviđena plaćanja bez ikakvih umanjenja ili zadržavanja po osnovu poreza ili fiskalnih naknada.

Član 8.

Zakon, jurisdikcija i jezik

- 8.01 Ovaj ugovor spada u nadležnost zakona Velikog vojvodstva Luksemburg.
- 8.02 Mesto izvršenja ovog ugovora biće sedište Banke.

- 8.03 Sporovi koji proisteknu iz ovog ugovora biće prosleđeni Sudu pravde Evropske zajednice.

Strane ovog ugovora odriču se bilo kakvog imuniteta ili prava na prigovor prema jurisdikciji pomenutog suda. Odluka Suda koja bude doneta u skladu sa članom 8.03 ovog ugovora biće konačna i obavezujuća za strane bez restrikcija ili ograničenja.

- 8.04 Sva dokumenta ili obaveštenja koja budu podneta Banci shodno odredbama ovog ugovora moraju biti sačinjena na engleskom jeziku ili uz njih mora biti priložen zvaničan i propisno overen prevod na engleski jezik.

Član 9.

Završne odredbe

- 9.01 Svako obaveštenje i druga prepiska koja se bude vodila u skladu sa ovim ugovorom mora biti u pisanoj formi i poslata na adresu navedenu dole ili na adresu koju primalac prethodno navede u pisanom obaveštenju kao svoju novu adresu za ovu namenu.

– za Garanta: Kneza Miloša 20
11000 Beograd
Republika Srbija

– za Banku: Voulevard Konrad Adenauer 100
L-2950 Luxembourg.

- 9.02 Tačke Preambule čine sastavni deo ovog ugovora.

POTVRĐUJUĆI NAVEDENO dole potpisani su saglasni da se ovaj ugovor sačini u tri (3) originalna primerka na engleskom jeziku. Svaka strana ovog ugovora je parafirana od strane Garanta i Banke.

Beograd, 16. jula 2007. godine

REPUBLIKA SRBIJA
koju zastupa dr Mirko Cvetković, ministar
finansija, u ime Vlade kao zastupnika
Republike Srbije

U ime i za račun
EVROPSKE INVESTICIONE BANKE
Manfredi Tonci Ottieri, Associate Director
Peter Coveliers, Senior Loan Officer

Član 3.

Ovaj zakon stupa na snagu osmog dana od dana objavljivanja u „Službenom glasniku Republike Srbije - Međunarodni ugovori”.