

4.2.2. The "Letzetunnel" - first case of application of Article 11 TP?

In May 1997, during the negotiations on the Transport Protocol, some deputies of the Parliament of Liechtenstein asked their Government to examine the applicability of the basic principles of the Alpine Convention as well as the Transport Protocol to the Austrian project regarding a new tunnel in Feldkirch, some kilometres from the Austrian border to Liechtenstein. This project, called "Letzetunnel", would, among other effects, contribute to link the two motorways which follow the Rhine Valley with only few kilometres distance between each other on both sides of the Rhine. The Letzetunnel project would realise the first intersection-free link between the two sides of the Rhine. As a part of the international route from Stuttgart to Milano, this would make the transit route over the San-Bernardino pass much more attractive and, consequently, influence the traffic flow through Liechtenstein¹¹⁰.

On 14 November 2000, after signature of the Transport Protocol, the Liechtenstein Government stated that, to his opinion, Article 11(2) TP should apply in this case¹¹¹. According to some Members of the Parliament, the project even falls under the prohibition of Article 11(1) TP¹¹². Ever since, the dispute is not resolved¹¹³.

Even if the Letzetunnel project is not part of the TEN-T, it shows clearly where problems and cases of application of the Transport Protocol will lie in the future: Projects which fill the gaps of the existing intra-Alpine motorway networks, thus creating new trans-Alpine connections¹¹⁴. In this context, the interpretation of 'intra-Alpine' and 'trans-Alpine' will be crucial for the application of Article 11 TP and it is already possible to imagine the difficulties arising.

¹¹⁰ Liechtensteinische Gesellschaft für Umweltschutz (LGU), *Verkehr in Liechtenstein – Bestandsaufnahme und Wege für die Zukunft*, Schaan (FL) 2002, p.30.

¹¹¹ Liechtenstein Government, *Postulatsbeantwortung der Regierung an den Landtag des Fürstentums Liechtenstein betreffend Alpenkonvention und Letzetunnel*, Nr. 142/2000, Vaduz 2000, p.21.

¹¹² "Der Letzetunnel fällt unter das Verkehrsprotokoll. Alpenkonvention und Letzetunnel: Landtag nahm Postulatsbeantwortung der Regierung zur Kenntnis", *Liechtensteiner Volksblatt*, 14 December 2000.

¹¹³ "Keine Alternative zu Letzetunnel. Österreichs Verkehrsminister Hubert Gorbach: Baubeginn Ende 2005", *Liechtensteiner Volksblatt*, 2 April 2003.

¹¹⁴ See *supra*, note 106.