

A picture of Europe

FABRIZIO PALENZONA, president of ASECAP, the European toll road concessionaires association and AISCAT, the Italian national version, gave a stirring address at ASECAP's recent Venice summit. This is a summary of his thoughts and opinions, focusing mainly on his home country's position



“No competitive economies may exist without valid transport networks... The creation and smooth operating of the trans-European transportation network... are essential conditions for the success of the Internal Market and to guarantee sustainable mobility in a wider Union.”

These are the words of the European Commission in 2003 in its Communication on the development of the trans-European transportation network; words which are as relevant and pertinent today as they were five years ago. But the Commission added: “However, the network is still challenged by a strong but unbalanced growth of traffic... Transport infrastructure continues to be utilised poorly and funds are missing due to the non transparency of the costs paid by users, the financial resources available with the Union and the lack of a favourable investment climate. The chances that public funds towards such projects may increase significantly in the short-term are scarce.

“For certain projects the use of public-private partnership funding may be expected... but there are too many unknown factors concerning the projects to be built and decisions on transport policies”.

In just a few words it had clearly outlined its objectives, accurate analysis of structural problems and definition of the instruments required. In other words, a plan, an operating plan, to be implemented through close coordination among Member States.

The plan for the creation of a single currency led to the introduction of the Euro in 1999. But this is not the case for the trans-European transport network, which is proceeding at a far slower pace – this is always the case when the building of large infrastructure is involved. Furthermore, we must note that progress is slower in certain States compared to others.

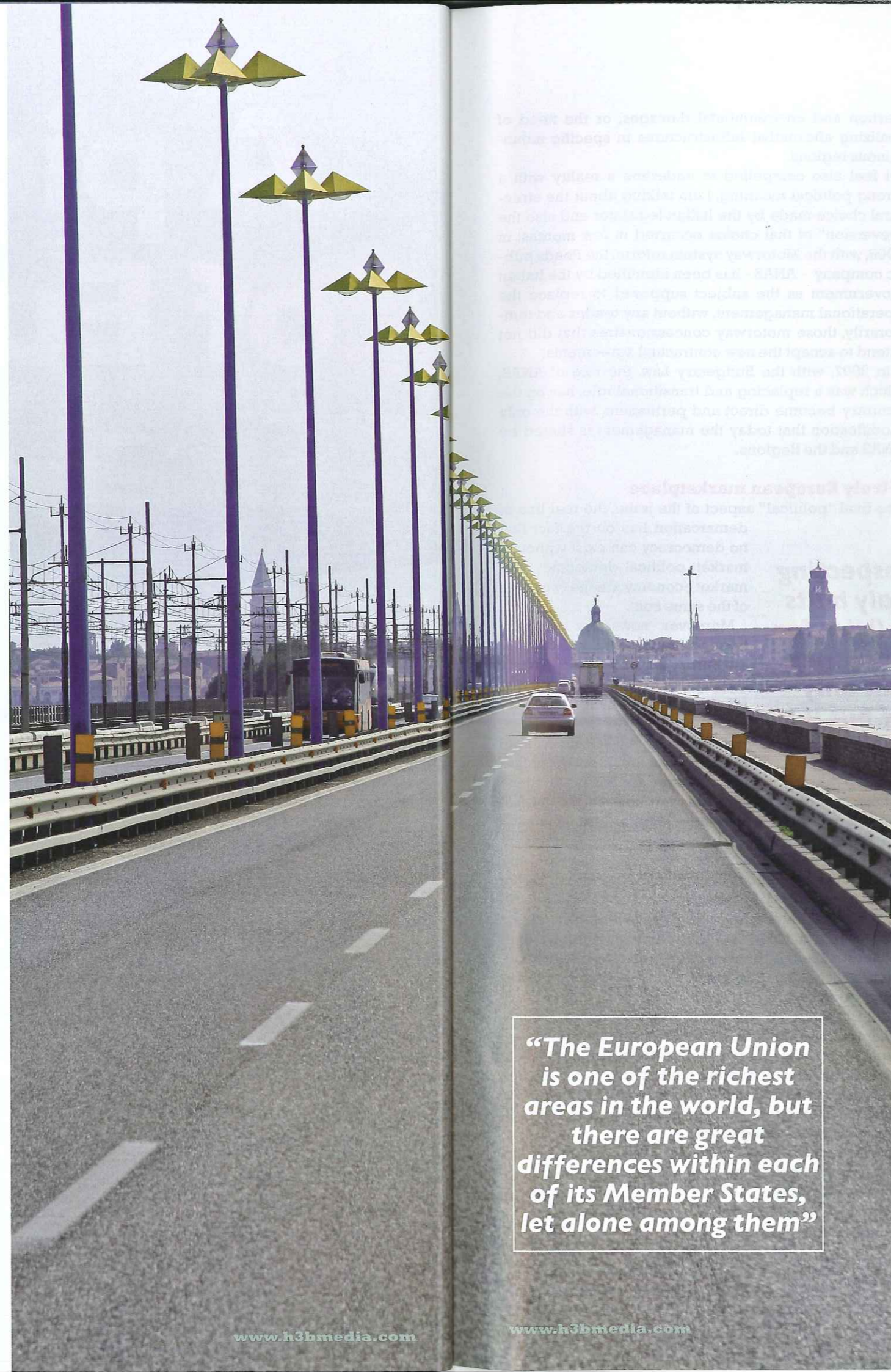
Europe united

A European motorway network, guaranteeing free movement and preparing Europe for the challenge of globalisation is the long-term goal.

To understand what is needed in order to effectively achieve the free movement of people and goods we may compare market operating requirements with those of a living organism, which needs four essential elements: a blood circulation system (the transportation infrastructure), a central nervous system (telecommunication infrastructure), a muscular system (energy infrastructure), and a brain system (training infrastructure) together all known as “trans-European networks”.

The aim is to “connect” all economic operators and all European citizens (including those residing on islands and the territory’s outskirts) to each other, so that all may benefit from the advantages of a space having no internal borders.

Therefore, it is through these large networks that the European Union’s (as well as individual countries’) possibilities for growth and competitiveness run.



“The European Union is one of the richest areas in the world, but there are great differences within each of its Member States, let alone among them”

Indeed, in a global economy characterised by the deregulation of exchanges, companies set up where they find the best conditions to become more competitive. In such a framework, the availability of infrastructure and in particular transportation infrastructure is unanimously considered by economists to be a parameter of a country’s economic and social development.

The European Union is one of the richest areas in the world, but there are great differences within its Member States as well as among Member States. It is clear that the ability of equipping Europe with a standard and shared infrastructure system, is a requirement to avoid that the gap between different regions of the European Union increases further. The trans-European networks, together with the single market, are therefore an essential element to strengthen the European economy and prepare individual countries and Europe to meet the globalisation challenge.

Italy: hit and myth

As an Italian I feel compelled to summarise the current situation in my home country, if only for the sake of denying or confirming what is being widely published in the popular press with particular regard to the motorway sector. Italy is not proving to be pro-European in the way it is applying EC laws that apply to motorways under concession. Italy continues to be plagued by critical areas and elements of risk which do not encourage private investment in public works.

These may be broken-down and looked at as follows:

- Concession rules, and in particular rules for motorway concessions, are much more stringent compared to EC rules, discriminate on the basis of nationality, fall into conflict with the most elementary principles of harmonisation of rules - a prerequisite for a truly competitive market.

- The constraints posed on motorway concessionaires with regard to the organisation of “Groups” in Italy are one of the most evident proofs of such discriminating practice, given that they are factually discriminated with respect to the rest of Europe and with respect to other industrial sectors; Italian motorway concessionaires are forced to reorganise themselves according to rules that are so rigid that we may actually describe them as having to compete with their hands tied.

- The uncertainty of the “rules of the game” discourages investors, given the danger of potentially arbitrary and discriminating interference by the authorities, as underlined by the very same European Commission in connection with our new “reform” of motorway concessions. The failure to harmonise rules – EC and national – therefore weighs more heavily if financing is the trailer, because the movement of capital does not like national fences.

- The “administrative risk” in Italy has grown due to particularly long and cumbersome procedures which guarantee no certainty with regard to the times, and

therefore the costs of the construction of the works; to this we need to add the uncertainty deriving from an unclear juridical status of the Granting Authority and its rights and obligations vis-à-vis concessionaires.

Italy is an important component of Europe, it is a founding state, a fundamental ring in Europe's connection with the Mediterranean basin and the economies of the area. If, by not respecting the rules, Italy halts European policies for transport networks, and with these growth policies too, then it is not only hurting itself but it is hurting all of Europe.

Public address

Another issue widely analysed by the national press in Italy is the creation of public law entities – for the realization of Motorways infrastructures – expressly built like companies and with the participation of ANAS (i.e. by the company that has received from the State, by law, the concession of the Motorway network and to which the realization and the management of the road network of National interest is also given.

We are talking about a reality which has already produced in 2007 a company composed by ANAS and Lombardia Region, called CAL and which has later received a generalised legislative recognition with the Italian Budgetary Law for 2008, whose provisions have already brought to the February 2008 creation of a company composed by ANAS and Molise Region, another composed by ANAS and Veneto Region and in early March we saw the creation of a company composed by ANAS and Lazio Region. The subject being always and only the realization of motorway infrastructures, either as grantor either as direct operator for the execution and maintenance of the infrastructures.

I will not go any deeper for now, - I could analyse the Constitutional consistency of these legislative provisions, for example but I will just briefly say that they do not seem to contain real indications of social utility goals or criteria to which the law itself should be referred to: consequently the absence of these criteria could lead to believe that the principle of legal reserve has not been respected.

Neither do I intend to analyse the issue of how many resources it is possible to get from the toll revenues of newly public motorway infrastructures: I can understand that the local Government are looking for these revenues in order to invest them in new regional infrastructures.

What I will say is...

However, I will restrict myself to just further reflect on the new Community legislation about toll tariffs, which is based on a strict connection between costs – of construction, maintenance and operation – and tolls and which foresees exceptions to these rules only for specific and limited cases, such as the need of tackling con-

gestion and environmental damages, or the need of realizing alternative infrastructures in specific mountainous regions.

I feel also compelled to underline a reality with a strong political meaning, I am talking about the structural choice made by the Italian legislator and also the "reversion" of that choice occurred in few months: in 2006, with the Motorway system reform, the Roads public company - ANAS - has been identified by the Italian Government as the subject supposed to replace the operational management, without any tender and temporarily, those motorway concessionaires that did not intend to accept the new contractual agreements.

In 2007, with the Budgetary Law, the role of ANAS, which was a replacing and transitional role, has on the contrary become direct and permanent, with the only modification that today the management is shared by ANAS and the Regions.

A truly European marketplace

The final "political" aspect of the issue, the real line of demarcation lies on the fact that no democracy can exist without a market: political democracy and market economy are the two sides of the same coin.

Moreover, nowadays competition is a fundamental principle of the European Union, to which Italy belongs, therefore competition is a fundamental principle for Italy too.

However, as it was said in 1996 by the former President of the Italian Antitrust Authority, Giuliano

Amato, "... competition does not exist in the market itself; competition represents a legal order in which all the operators supposed to respect competition are obliged to move ... a system is able to develop and deploy all its dynamism only if the entrepreneur cannot live in peace, only if he is afraid of another competitor in front of him, behind him, at his right, at his left. But this is not the logic that leads our legislation (the National one) ... Our problem is to make entrepreneur's life very difficult concerning competition and less complicated concerning costs and rules".

Unfortunately, 12 years later, a Government whose Mr. Amato is also a Minister, has issued the above mentioned legislation that is going to make public (coming back to the past) the first Motorways infrastructures. I underline the "first", provided that ANAS aims at managing also the other motorways, whose concession contracts will expire in the following years.

Nevertheless it is indisputable, in the economic literature, that the expansion of the public involvement in a country's economy presents limits that cannot be crossed over without negative consequences for the country's overall development. **E**

For more information on ASECAP and AISCAT go to www.asecap.com and www.aiscat.it

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