

## Plenary session:

The concession model: a powerful and sustainable system in times of dwindling traffic



- Public works and infrastructure concession companies association
- Founded in 1956
- 13 holdings and 41 companies
- 4 of them (ACS, FCC, Abertis and Ferrovial) in the top 10 of PWF ranking
- 78,000 mill of revenues => 7.6% of Spanish GDP
- More than 433,000 employees
- Members of CEOE, CNC, AEC, AENOR, ITS SPAIN, FIEC, ASECAP, IBTTA...

- Integrated ASETA in 2014
- It groups all Spanish private toll concessions







# Advantages of concessions

## Advantages of toll concessions

- Bring forward the beginning of the road construction works
- Enable spare of public funds
- Transfer risks to private counterparts
- More rational construction costs
- Guarantee proper maintenance
- Enable the control of traffic demand
- Enable the internalization of external costs of transport
- It may foster new sustainable mobility services and usages: HOV lanes, mass transit services through express buses and coaches, car pooling...

## In Spain

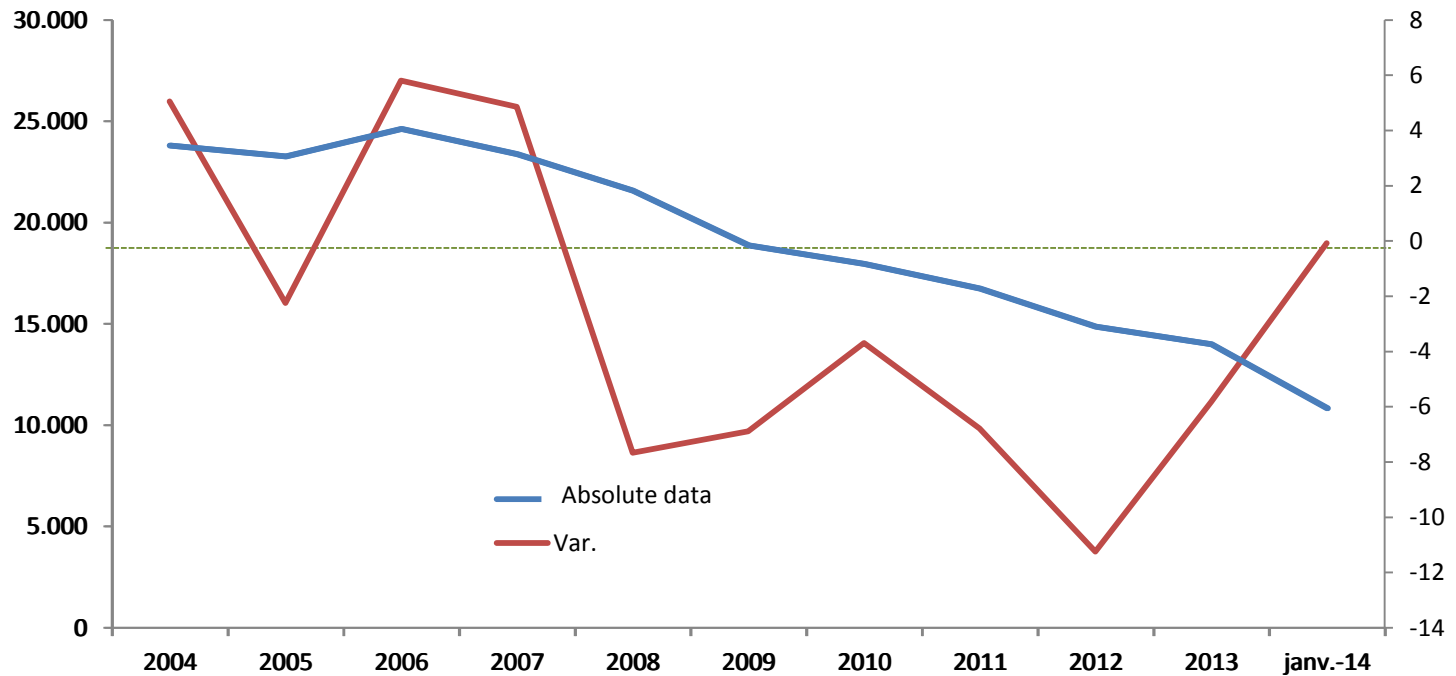
- Past:  Essential tool for the economic takeoff of Spain
  - Today:  Maintenance guaranteed
- Remaining road network maintenance deficit: 6,200 mill. € (\*)



# Spanish case

**Toll sector average traffic (ADT) drop**

42%  
(2007-2013)



**Without parallel roads**

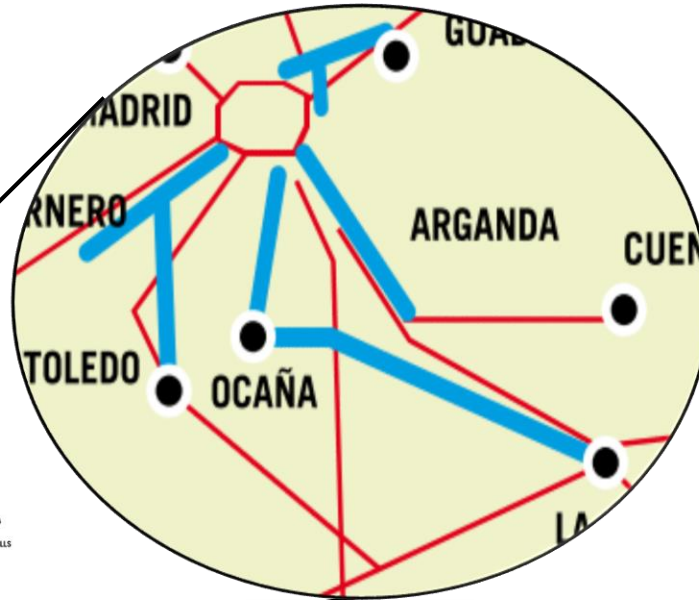
-31.4%

**With parallel roads**

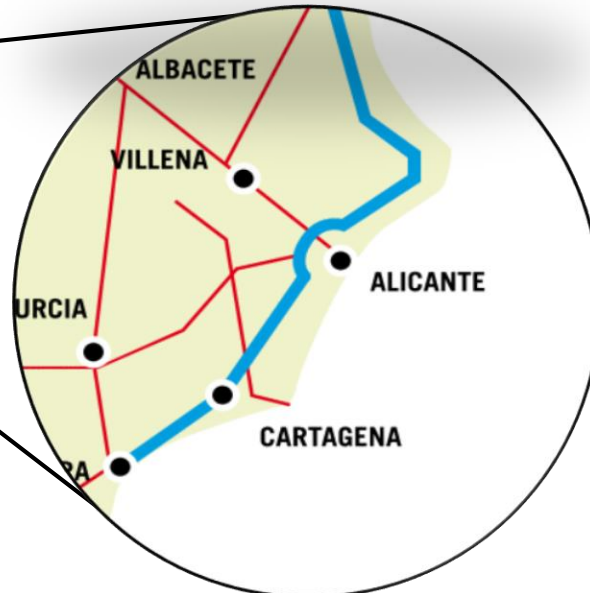
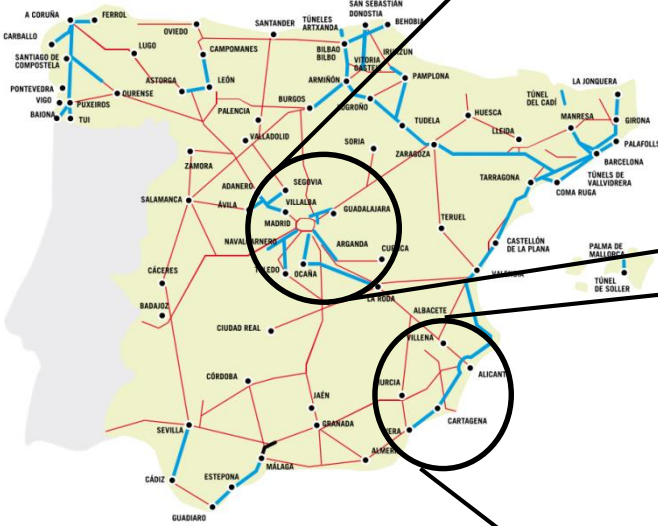
-52.8%



# Toll concessions in bankruptcy



- R2 Henarsa
- R3/R5 Accesos de Madrid
- R4 Aut. Madrid Sur
- M-12 Aut. Eje Aeropuerto
- AP-41 Aut. Madrid-Toledo
- AP-36 Aut. Madrid Levante



- AP-7 Ciralsa
- AP-7 Aucosta

# Why?

**Expropriation land costs**  
387 mill → 2,217 mill

**Construction extra costs**  
473 mill

- Traffic evolution**
- Rump-up phase
  - Impact of the crisis
  - Improvements in parallel roads
  - New parallel roads
  - Traffic on non-toll stretches

**RPA**  
5,300 mill

**First solution**

Law 26/2009    Law 43/2010  
Law 2/2012    Law 17/2012

- Participative loans for 17
- Rebalance to paid
- Compensation account for traffic below 80% up. Up to 2021

**CANCELLED**



**Bankruptcy**



# Alternatives

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## Liquidation

- To courts for RPA payment
- Legal uncertainty
- No more infrastructure concessions
- Impact on public deficit

## Nationalization

- ENA 1984
- Shares owned by the State
- Debt 4,600 changed by bonds issued by the new public company (4.3%)
- Extension of the concessions
- Important loses for stockholders, banks and public works companies
- No impact for contributors
- >50% incomes generating by tolls
- Accepted by UE



# The need...

**Need to complete, improve and maintain the road network**

- National economy
- Road safety
- Environment



**Lack of public funds**

- Impact of the crisis
- Fiscal consolidation conditions
- Eurostat rules



**Private investment**

Cae al 1,5% del PIB, el porcentaje más bajo desde 1964

## La inversión pública se derrumba hasta niveles nunca vistos en medio siglo

- La formación bruta de capital es la partida que más se ha reducido durante la crisis económica
- Las comunidades autónomas lideran los recortes en inversión pública

JAUME VIÑAS | MADRID | 14-04-2014 07:31



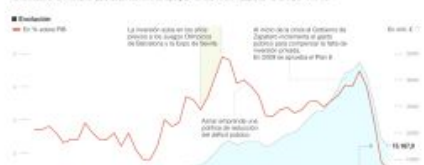
*Public investment falls to levels recorded half a century ago*

*It drops to 1.5% of the GDP, the lower % since 1964*

Temas relacionados: [Inversión pública](#) [Presupuestos autonómicos](#) [Presupuestos Generales Estado](#) [Ministerio de Hacienda](#) [Finanzas Estado](#) [Gasto público](#) [Finanzas autonómicas](#)

### La inversión pública en España

La inversión pública sufrió un descenso en consecuencia. En 2013 se situó en 11.937 millones, el 1,5% del PIB. En el peor momento de la crisis económica del desarrollo que tuvo en 1964, se situó en el mismo nivel. La inversión pública para reducir los costes de la crisis y el medio a largo plazo.



España se mueve entre los extremos. Durante la etapa de expansión económica y también en los primeros compases de la crisis, en 2009, el gasto público alcanzaba el 4% del PIB, uno de los niveles más elevados de la UE y muy por encima de la media de la zona euro (2,6%). Seis años más tarde, y tras una durísima crisis, España se ha convertido en el país de la zona euro con menor gasto en obra civil. En 2013, la partida de





## Lessons learned: new reality

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### Limited financing

- Limited bank financing
- Infrastructure funds

### PROFITABILITY

Worldwide competition with other projects

### RISK

Legal certainty




- Modify current concession legislation framework
- Avoid damaging practices of the administrations



# Demanded changes

## 1- Reasonable risk share allocation:

Risks should be allocated to the stakeholder that can better manage/control them.

- Risks produced by the administrations
  - *Unilateral changes in the contract (ius variandis)*
  - *Actions from other administrations (factum principis)*
  - *Changes in the law* Awarding authority
- Construction and operational risks Concessionaire
- Risks out of control from the stakeholders
  - Force majeure
  - Unforeseeable risk Contract re-balance

## Directive 2014/23/UE: art 5 “Operating risk”

The award of a works or services concession shall involve the **transfer of an operating risk in exploiting** those works or services encompassing demand or supply risk or both.

The concessionaire shall be deemed to **assume operating risk** where, **under normal operating conditions, it is not guaranteed to recoup the investments made or the costs incurred in operating** the works or services which are the subject-matter of the concession.

**The part of the risk transferred** to the concessionaire shall involve **real exposure** to the **vagaries of the market**, such that **any potential estimated loss** incurred by the concessionaire **shall not be merely nominal or negligible**.



## Demanded changes

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### 2- Risk modulation:

The operational risk does not disappear by the fact of introducing modulating measures. Measures to assure sustainability of the service can be compatible if the concessionaire continue having a real exposure and all investments and costs are NOT guaranteed.

- Contributions from the Administration
- Minimum level of incomes guaranteed
- RPA

### Directive 2014/23/UE: Whereas 18 and 19 “Risk limited”

*18. (...) The application of specific rules governing the award of concessions would not be justified if the contracting authority or contracting entity **relieved the economic operator of any potential loss, by guaranteeing a minimal revenue, equal or higher to the investments** made (...)*

*19. The fact that the **risk is limited** from the outset **should not preclude the qualification of the contract as a concession**(...).*



# Demanded changes

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## 3- Economic and financial contract re-balance:

- Exhaustive list of cases of re-balance
- Mechanisms of re-balance (extensions with no limitations; tariff increases, compensations...)
- Procedures and timing: Conciliation

## 4- Others

- Open the door to infrastructure funds
- Promote the use of competitive dialogue in complex contracts
- Increase period for preparing proposals in the bidding process
- Particular fiscal treatment: Strong initial investments

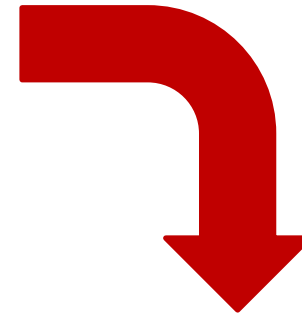


# Conclusions

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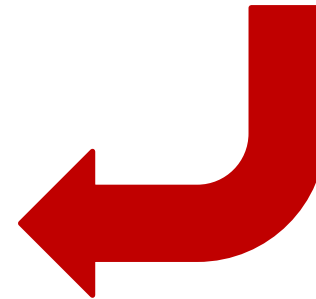
## **Need of private sector**

- Infrastructure investments are still needed
- Limited public funds



## **New scenario**

- Projects with lower traffic
- Economic crisis
- Recent experience
- Financing conditions



## **New framework**

- Better legislative framework
- Better practices
- Mixed concessions: pay per use + subsidies

**Thank you!**

Bruno de la Fuente  
Concessions Director

