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Directorate D: Government Finance Statistics (GFS) and quality

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Mr Regis Massant
President
National Accounts Institute
Rue du Progrès 50 B-1210
Brussels BELGIUM

Subject: Sector classification of private Zorgkassen

Ref: Your letter N° T/ICN/2019/000316 dated 14 February 2019

Dear Mr Massant,

With a letter dated 14 February 2019 the National Accounts Institute (NAI) asked for “the point of view of Eurostat” on the sector classification of private zorgkassen¹, a type of non-profit institution (NPI) authorized by regional governments to collect social contributions and/or pay social benefits on their behalf.

1. The accounting issue

The private zorgkassen object of this analysis are not directly involved in the payments related to the main federal social protection schemes (health care, invalidity, pensions, unemployment etc), but rather in the payments related to a **supplementary social protection scheme** defined and managed at regional level.

In the context of the Belgian institutional system, the communities became competent for certain parts of the health care system and non-health personal assistance. In the Flemish community, an additional social protection scheme for non-medical elderly care called the

¹ Zorgkas/zorgkassen can be translated as “health register” or “health fund”, however this last term seems to Eurostat a bit misleading, since all the payments collected by the entities are transferred to the government.

“Zorgverzekering” was established already in 2001; the scheme was partially backed by a compulsory social contribution that must be paid by each member of the Community².

Flanders authorises private institutions (often linked to religious or social movements and that have the legal form of NPIs) to collect, on their behalf, social contributions and/or pay social benefits related to this complementary social protection scheme.

In 2017 NAI analysed six Flemish zorgkassen, and concluded they could be classified outside the government.

Due to the further practical implementation of the Sixth state reform, in which additional competence was transferred to the regions and communities, **there is an increase in the types of benefits paid out by the zorgkassen and a strong increase in the number of similar entities.** The NAI wants to be sure to apply the ESA 2010 rules correctly, and therefore submitted its opinion on the sector classification of the zorgkassen to Eurostat for confirmation.

All the transactions that these entities are performing on behalf of government (all the payments of the social benefits and/or the collection of social contributions) are recorded by NAI directly in the government accounts, according to the principal party recognition.

2. Documents provided or consulted

NAI’s letter dated 14 February 2019; this letter includes an annex with the analysis of six Flemish zorgkassen that NAI prepared for its Scientific Committee in 2017.

Décret relatif à la protection sociale flamande of 24 June 2016:

https://www.etaamb.be/fr/decret-du-24-juin-2016_n2016036210.html

Décret portant organization de l’assurance soins of 30/03/1999.

Arrêté du Gouvernement flamand établissant les conditions de la fixation, du paiement et du recouvrement des subventions allouées aux caisses d’assurance soins dans le cadre de la

Protection sociale flamand, 14/10/2016: https://www.etaamb.be/fr/arrete-du-gouvernement-flamand-du-14-octobre-2016_n2016036550.html

Annual Accounts for the Supplementary Insurance of the Neutrale, Chretienne, Liberale, Independent and Socialistische zorgkassen.

² See article 30 of the Décret of 24/06/2016, translated in non-legal terms e.g. as follows by a zorgkas: «Toute personne résidant ou venant habiter en **Région flamande** et âgée de **plus de 26 ans** est tenue de s’affilier auprès d’une caisse d’assurance. L’affiliation prend cours le 1er janvier de l’année du 26e anniversaire. Un jour de résidence en Région flamande suffit pour être redevable de la cotisation annuelle. Il n’est pas possible de payer une cotisation partielle. Si vous ne prenez pas l’initiative de vous affilier auprès d’une caisse d’assurance agréée, vous serez affilié automatiquement auprès de la Vlaamse Zorgkas (la caisse d’assurance des autorités régionales) ». <https://www.partena-ziekenfonds.be/fr/mutualite-et-avantages/protection-sociale-flamande>

The web-site of an entity operating a zorgkas service (the only one found in French): <https://www.partena-ziekenfonds.be/fr>

3. Description of the case

In the context of the Flemish supplementary social security system, a **public payment institution** exists (named Vlaamse zorgkas³).

Government can however also authorise some private institutions, with the legal form of NPI, to collect social contributions and/or pay social benefits; these are called “Erkende zorgkassen”, “Caisses d'assurance soins agréées”. Citizens can freely choose to be members of the public payment institution/ Vlaamse zorgkas or of the private ones. People who do not become member of a private zorgkas are automatically members of the public one.

The rules for establishing a private zorgkas are defined by Article 15⁴, 16 and 17 of Décret of 24/06/2016, which are similar to the articles already included in the previous Décret of 30/03/1999, but for the addition of the possibility for the entities to execute the interventions related to the new “Flemish social protection scheme”. Article 4 of the *Décret 24/06/2016* defines the social interventions included in the Flemish Social Protection scheme, “Protection sociale flamande”, mainly dedicated to elderly and other users with severe and long-term reduced autonomy needing home assistance⁵.

The tasks of the zorgkassen are defined by Article 19 of the *Décret* of 24 June 2016⁶.

³ Entity established by Article 18 of the Décret of 24/06/2016.

⁴ *Décret of 24/06/2016 Art. 15* : «Pour être agréée, une caisse d'assurance soins doit être établie par les instances suivantes:

1° **les mutuelles, unions nationales de mutuelles et sociétés mutualistes** soumises à la loi du 6 août 1990 relative aux mutualités et aux unions nationales de mutualités et actives dans l'ensemble du territoire de la région de langue néerlandaise et dans la région bilingue de Bruxelles-Capitale ;

2° **la Caisse des Soins de Santé**, visée à l'article 6 de la loi sur l'assurance maladie ;

3° **les entreprises d'assurances** qui relèvent de l'application de la loi du 13 mars 2016 relative au statut et au contrôle des entreprises d'assurance ou de réassurance, et qui sont actives dans l'ensemble du territoire de la région de langue néerlandaise et dans la région bilingue de Bruxelles-Capitale.

Le Gouvernement flamand détermine ce que l'on entend par « être actif dans l'ensemble du territoire de la région de langue néerlandaise et dans la région bilingue de Bruxelles-Capitale ».

⁵ See *Décret of 24/06/2016*, Article 42, 48 and 55.

⁶ *Décret of 24/06/2016 Art. 19*. « Une caisse d'assurance soins remplit les missions suivantes :

1° la caisse d'assurance soins **agit comme guichet unique** pour toute question concernant les dossiers et les droits relatifs à la protection sociale flamande ;

2° elle **examine les demandes et décide des interventions** conformément aux dispositions du présent décret et de ses arrêtés d'exécution ;

3° elle **assure la mise en oeuvre des interventions** conformément aux dispositions du présent décret et de ses arrêtés d'exécution ;

4° elle **enregistre les données relatives aux affiliations**, aux demandes et aux interventions, et fait rapport à l'agence ;

5° elle **encaisse**, selon les dispositions de l'article 30, **les cotisations des affiliés** ;

6° le cas échéant, elle gère ses réserves financières selon les dispositions de l'article 23. ...

Le Gouvernement flamand arrête des règles uniformes pour le contrôle, le fonctionnement, l'organisation, la responsabilisation financière et la gestion des caisses d'assurance soins. »

The main **public payment institution Vlaamse zorgkas is, since 2016, classified in S.1312/** Regional government, and was before classified in S.1314/Social security⁷. In 2018 the Vlaamse zorgkas had 10,6% of the members and 15,9% of the social benefits paid out.

While these entities initially existed only in the Flemish Community⁸, with the practical implementation of the Sixth State reform and the transfer of additional health care and family allowance competences to the Communities and Regions, similar additional private entities were created in 2019 in other regions and communities.

The following are the entities that NAI analysed in 2017 (one entity, DKV, ended its zorgkas activity in 2016 and therefore is not listed below):

- **Neutrale** Zorgkas Vlaanderen
- Mutualite **Chretienne** CM Zorgkas Vlaanderen
- Zorgkas van de **Liberale** ziekenfondsen MOB
- Onafhankelijke (**Independent**) ziekenfondsen - Zorgkas Vlaanderen
- Zorgkas van de **Socialistische** Mutualiteiten.

According to the information provided by NAI, the general characteristics of the zorgkassen above are the following:

- **The entities are private**, most of the time **linked to religious or social movements**. There are no representatives from government sitting in their Governing and Administrative Board.
- Their statutes and social objective must be in line with the *Décret of 24/06/2016* to obtain and keep the license to be a payment institution. The zorgkassen can dissolve themselves or terminate their relation with the government (like DKV did), their statutes have to be approved by the government.
- **The operational costs of the entities** (excluding the payment of benefits or the collection of the contributions) **are financed by the government**, based on a general budget that is divided among the NPI's following a performance key (number of files/amounts). The private companies can actively try to attract clients, taking them away from the other (public or private) payment institutions.
- They cannot perform other tasks, and **the funds they receive from government (to cover the operational costs) cannot be used for other goals** than the operational costs related to the specific social benefit scheme.
- **If the entity is liquidated**, the reserves must be transferred to another entity that has the same function or **reimbursed to the government**.
- The NPIs **do not take the financial risks related to the collection of the contributions or the payment of the benefits**: if some contributions are not paid (by the households), it is not the entity that will have a liability towards government; if government doesn't transfer the money needed to pay the benefits to the zorgkas, the entity will not pay the households.

⁷ See the *EDP Inventory*, January 2019, page 67.

⁸ <https://www.vlaamsesocialebescherming.be/de-zorgkassen>

- The NPIs do not have the rights on the interests on the bank accounts they use to pay the benefits.
- The NPIs **can decide autonomously to step out the system**, without approval of the government.
- **They have the power to decide what they do with the operational funding they receive**: hire staff, pay higher or lower remuneration, invest in IT....
- **They bear the financial risk on their operational costs**: if they run a deficit, their controlling entity should cover it. Government does not provide guarantees or specific financing.

4. Availability of national accounting analysis

NAI attached to the letter dated 14 February 2019 a brief analysis (one and half page) of the six Flemish private zorgkassen, as prepared in 2017 for the NAI Scientific Committee.

In this analysis NAI observed that: “1) Health funds and other insurers may decide independently whether to set up a zorgkas (Article 15 of the Flemish social protection decree). 2) Zorgkassen do not have a government commissioner on their Board of Directors or any other Board member designated by the Flemish government. 3) They enjoy considerable autonomy as to the organisation of the institution (as regards investment in IT infrastructure, running costs and staff costs). 4) They run no financial risks regarding the collection of contributions and payment of insurance benefits, but they do run a financial risk as regards their operating costs. Any operating losses will not be compensated by the government, but must be met by the entities themselves. **Consequently, they can essentially be considered privately-controlled units**, whose task is *to provide care insurance* on behalf of the Flemish government but **which are to a large extent able to decide for themselves how to run their operations. We therefore propose to remove these entities from the list of public institutions.**”

5. Methodological analysis and clarification by Eurostat

5.1 Applicable accounting rules

- ESA2010 Paragraphs 1.78, 20.13 and 20.15

1.78 When a unit carries out a transaction on behalf of another unit (the principal) and is funded by that unit, the transaction is recorded exclusively in the accounts of the principal.

20.13 Non-profit institutions (NPIs) that are non-market producers and are controlled by government units are units of the general government sector.

20.15 Control of a NPI is defined as the ability to determine the general policy or programme of the NPI. Public intervention in the form of general regulations applicable to all units working in the same activity is irrelevant when deciding whether the government holds

control over an individual unit. To determine whether a NPI is controlled by the government, the following five indicators of control should be considered:

(a) the appointment of officers;

(b) other provisions of the enabling instrument, such as the obligations in the statute of the NPI;

(c) contractual agreements;

(d) degree of financing;

(e) risk exposure.

A single indicator can be sufficient to establish control. However, if a NPI that is mainly financed by government remains able to determine its policy or programme to a significant extent along the lines mentioned in the other indicators, then it would not be considered as being controlled by government. In most cases, a number of indicators will collectively indicate control. A decision based on these indicators will be judgmental in nature.

5.2 Eurostat analysis

According to the information provided by NAI, it seems to Eurostat that the private zorgkassen are not providing *care insurance services*, but rather performing purely *administrative services* on behalf of government. For this activity, they receive a compensation from government determined according to the rules established by the *Arrêté du Gouvernement flamand* of 14/10/2016, Articles 7-13.

The issue is essentially if these entities are private independent institutional units selling a service to government, or if they are controlled by government to a point they should rather be considered as belonging to government.

Eurostat investigated the type of activity offered by these entities. The mother entities of the zorgkassen (generally Mutualité, mutual societies) are also offering to their clients other types of services: complementary insurance covering dental treatments, travelling insurance, reimbursement of medical and hospital costs not covered by the public social security⁹. The mother entities present themselves as an access point to all types of social security protection. They provide information on the benefits made available by the federal or state social security schemes (eg sickness, maternity allowance, invalidity allowance etc), and also on the supplementary Flemish social protection scheme (for which they are acting as paying agents), and on the additional and voluntary social protection services produced and provided by the mother entities.

The mother entities (mutual societies) set up separate entities (the zorgkas) to provide all the administrative services related to the Flemish supplementary social protection scheme. The accounts of the mother entity are separated from those of the zorgkas.

Within the Annual Accounts of the zorgkassen, Profit and Loss part, there are two sections:

⁹ See a list of the services offered by one of the few entities operating as zorgkas service that have a web-site in French: <https://www.partena-ziekenfonds.be/fr>

- The first part, “Technical results”, includes the figures related to the collection of social contributions and payments of social benefits, with a zero balance; NAI is rerouting this part to government.
- The second part, “Working results”, is related to the operations, the running activity of the zorgkassen. The only income/revenue that the zorgkassen have on their Profit and Loss are the subsidies paid by government.

Mutualite Chretienne is the largest Zorgkas; the table below includes an overview of its Profit and Loss account. In 2018, Mutualite Chretienne paid out 432 million euro as benefits to its members. Compared to the flows of benefits paid, the total expenditure related to the running of the administrative activity was less than 2%.

Mutual Chretienne	2016	2017	2018
Technical results			
Contributions collected from households	106.222.423	107.594.407	108.799.783
State allowances	93.732.387	177.156.163	326.545.032
Total technical revenue	199.954.810	284.750.570	435.344.815
Benefits paid	-199.954.810	-282.010.971	-432.267.723
Diff=Other technical costs/Code 605,609		-2.739.599	-3.077.092
Balance Technical results	0	0	0
Working results			
<i>Services miscellaneous goods</i>	-5.586.473	-5.634.749	-3.842.835
<i>Salaries</i>	-20.107	-1.554.669	-2.966.316
<i>Depreciation</i>	-1.386.098	-1.016.183	-1.031.465
<i>Impairment losses</i>	-25.116	-30.378	-10.529
<i>Other operation expenditure</i>	-203.100	-300.088	-285.488
Total costs	-7.220.893	-8.536.067	-8.136.633
Operating revenue	6.441.407	8.831.138	8.276.383
Balance Operating results	-779.486	295.071	139.750

NAI explained that if a zorgkas runs a deficit (which is larger than the Working capital), their mother entity and not government covers it.

The profits eventually made by the zorgkas, as appearing from the Profit and Loss Working Results, cannot be distributed or used for other purposes (as is the case for all NPI), but end up in their equity, the Working capital, on their Balance sheet.

If a zorgkas is liquidated, the Working capital must be transferred to another entity that has the same function or reimbursed to the government, and does not go to the mother entity, the mutuality, which set them up. If a normal private NPI is liquidated, what is left goes to its mother company, not to government.

Eurostat is of the opinion that government predefines every aspect of the general policy and of the activity of the zorgkassen, to a point that these private NPIs should be considered controlled by government.

The fact that “government does not have any Board member” (NAI’s analysis, point 2, page 5 of this document) can be considered as irrelevant, since Government determines the general

policy of the NPI, which cannot do anything else but implement the tasks assigned by government.

It is also disputable that the entities “enjoy considerable autonomy in their organisations” (NAI’s analysis, point 3, page 5 of this document), since the Flemish Government sets the rules for the control, operation, organisation, financial accountability and management of the zorgkassen and approves their mandate.

NAI observes that the entities bear the financial risk related to their operations (NAI’s analysis, point 4, page 5 of this document), since the mother entity and not the government will compensate their losses. However in case they make profits that accumulate in the Working capital, if the company is liquidated, it is government (and not the mother company) that has the right to whatever capital is left.

Finally, government is providing 100% of the funds needed to pay the benefits, and also 100% of the revenue the zorgkassen need to run their administrative services.

Government has complete control over the funding streams of the entity and dictates its general policy. ESA 20.309 (i) therefore applies: *“An entity that is fully, or close to fully, financed by the public sector is considered to be controlled if the controls on that funding stream are restrictive enough to dictate the general policy in that area”*.

Government seems to control all the functions, objectives, and operating aspects of the zorgkassen, to finance 100% of their activity, and to have the right to take over whatever is left in case the entities are liquidated.

Eurostat is therefore of the opinion that the zorgkassen are non market non-profit institutions controlled by government, and as such, according to ESA 2010 20.15 b), c), d) and of 20.309 (i) should be consolidated within the government sector.

An additional reason to classify the zorgkassen in government is provided by MGDD 2019 paragraph 100 page 31. This paragraph limits the possibility to rearrange the transactions instead of reclassifying the unit to the cases where the rearranged transaction do not represent the majority of the activity: *“As long as such transactions do not constitute the majority of activities, the entity is not to be reclassified inside general government but the specific transactions are to be rearranged”*.

6. Conclusions

In view of the analysis above, Eurostat concludes that zorgkassen are non market non-profit institutions controlled by government, and as such, according to ESA 2010 20.15 b), c), d), and of 20.309 (i) should be classified in the government sector.

7. Procedure

Eurostat is prepared to give its view on the statistical classification of entities provided that it is in possession of all of the necessary background information.

This view of Eurostat is based on the information provided by the country authorities. If this information turns out to be incomplete, Eurostat reserves the right to reconsider its view.

We would like to remind you that Eurostat is committed to adopting a fully transparent framework for its decisions on debt and deficit matters in line with Council Regulation 479/2009 and the note on ex-ante advice, which has been presented to the CMFB and cleared by the Commission and the EFC. Eurostat therefore publishes all official methodological advice (ex-ante and ex-post) given to Member States, on the Eurostat web site.

Yours sincerely,

(e-Signed)
Luca Ascoli
Director