



EUROPEAN COMMISSION  
EUROSTAT

Directorate D Government Finance Statistics (GFS)

Luxembourg  
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Statistics Lithuania  
National Accounts Department  
Ms Daiva Jurelevičienė  
First Deputy Director General  
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**Subject: Ex-post consultation on the statistical recording of a PPP agreement in Kaunas District Municipality, signed on 26 May 2020**

**Ref.: Your letter of 14 August 2020  
Statistics Lithuania's emails of 22 September 2020 and 9 February 2021**

Dear Ms Jurelevičienė,

Following your letter under reference, Eurostat would like to provide you with its opinion on the accounting classification of the assets in the PPP contract in subject (from now on, *the agreement*), as requested by the Lithuanian statistical authorities.

### ***Description of the case***

The Kaunas District Municipality and a private party signed the agreement on 26 May 2020. It foresees the modernisation of a swimming pool, the construction of a new school building, the construction of an annex to an existing school, the reconstruction of a building dedicated to research activities and of an annex to it. The construction of these assets will be finished within two years following the date of the signature, with a capital investment of 13,243,717 Euros.

The agreement also encompasses the provision of certain services during the 13 years following the construction phase.

### ***The accounting issue***

In view of the signing of the agreement on 26 May 2020, the Lithuanian statistical authorities asked Eurostat, on 14 August 2020, for an ex-post opinion concerning the appropriate statistical recording of the project in national accounts and in the EDP statistics. The Lithuanian statistical authorities provided Eurostat with a copy of the agreement, in Lithuanian and English, as well as their opinion regarding the accounting classification.

Eurostat replied on 3 September 2020 by requesting some preliminary clarifications and pointing out that the documentation provided was incomplete for the purpose statistical

analysis. In particular, it stressed that the information on the project's final financial model had not yet been made available. Following this feedback, the Lithuanian statistical authorities provided Eurostat with the answers to the preliminary questions on 22 September 2020, and with the final financial activity model on 9 February 2021.

#### *Documentation provided (English translations)*

- Partnership agreement
- Settlement and Payment Procedure (Annex 3 to the agreement)
- Parties' Risk Sharing Matrix (Annex 4 to the agreement)
- List of mandatory insurance contracts (Annex 5 to the agreement)
- List of Associated Companies (Annex 6 to the agreement)
- Preconditions for entry into force of the Agreement (Annex 8 to the agreement)
- Direct arrangement (Annex 9 to the agreement)
- Requirements for assets returned (Annex 10 to the agreement)
- Financial activity model

#### ***Methodological analysis and clarification by Eurostat***

##### *Applicable accounting rules*

Eurostat has carried out its analysis based on ESA 2010, the Manual on Government Deficit and Debt (MGDD 2019) in particular chapter 6.4 Public-Private Partnerships (PPPs) and the Guide to the Statistical Treatment of PPPs, published jointly by the EIB and Eurostat in September 2016 (PPP guide)<sup>1</sup>.

##### *Eurostat view*

Based on the information reviewed, Eurostat supports the view of the Lithuanian statistical authorities that the agreement does not include combinations of provisions that would indicate the recording of the PPP assets on government balance sheet.

Eurostat has not received three annexes to the agreement: the procurement conditions (Annex 1), the tender (Annex 2) and the specifications (Annex 7) because the Lithuanian statistical authorities did not consider them relevant for this analysis. Therefore, this opinion is valid insofar as the mentioned annexes do not include any provision that materially affects the distribution of risks and rewards within the agreement. Eurostat notes, for example, that the agreement refers the criteria for considering the construction completed to the specifications and to the tender (see Articles 9.3.5 and 9.3.7). The Lithuanian statistical authorities have confirmed that the specifications in Annex 7 of the agreement meet the guidance prescribed in the PPP Guide, in particular that the criteria used for determining whether construction of the asset is complete do not influence the statistical treatment if they are (i) objective and clearly set out in the PPP contract and (ii) robust.

Eurostat also notes that there are some provisions in the agreement that, although they do not alter the overall economic substance of the project, have some high or moderate importance

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<sup>1</sup> [https://www.eib.org/attachments/thematic/epec\\_eurostat\\_statistical\\_guide\\_en.pdf](https://www.eib.org/attachments/thematic/epec_eurostat_statistical_guide_en.pdf)

in its accounting analysis and should be closely monitored by the Lithuanian statistical authorities:

a) Changes in the law

Article 38.7 of the agreement stipulates the distribution of risks following a fundamental legislative change:

If the Private Partner has taken all reasonably practicable measures to secure additional funding but has not been able to do so within 60 (sixty) days of the Fundamental Legislative Change (...), the Public Partner undertakes to reimburse the additional Costs of the Private Partner (...) in accordance with the procedure prescribed by paragraph ... of the Agreement.

The agreement defines a fundamental legislative change as “a change in the special legislation which adversely affects the rights and obligations of the Parties under the Agreement”. A change in the special legislation “means a change in the Lithuanian or European Union legislation governing the performance of Works and provision of Services or the rights and obligations of the shareholders of the Private Partner arising from the activities of the Private Partner”.

Eurostat’s view is that provisions that allocate change-in-law risk to the Authority do influence the statistical treatment if they include the Authority taking the risk of changes in law that are general in nature. The Lithuanian statistical authorities should therefore monitor whether risks assumed by the Public Partner following article 38.7 of the agreement derive from law changes that relate solely to the project, to the Partner or to similar projects or businesses. If this is not the case, this issue is of moderate importance to the statistical treatment.

b) Uninsurability

In relation to the requirements for the Private Partner to obtain the relevant insurances, the agreement foresees an exception if the costs of such insurances would exceed five per cent of the Annual Remuneration for the relevant period (see article 33.3). Eurostat’s view is that provisions that assess the commercial viability of insurance by reference to insurance costs above a specified level do influence the statistical treatment if they are likely to apply in a scenario other than disruption in the insurance market. The Lithuanian statistical authorities should monitor whether the threshold of five per cent mentioned in the agreement is enough to demonstrate the existence of such disruption. If this is not the case, this issue is of high importance to the statistical treatment of the agreement.

### ***Conclusions***

Eurostat supports the view of Statistics Lithuania that the agreement does not include combinations of provisions that would indicate the recording of the PPP assets on the balance sheet of government. Notwithstanding the above, Eurostat calls the Lithuanian statistical authorities to closely monitor two provisions of high or moderate importance in the accounting analysis.

### ***Procedure***

This view of Eurostat is based on the information provided by the Lithuanian statistical authorities. If this information turns out to be incomplete, or the implementation of the operation differs in some way from the information presented, Eurostat reserves the right to reconsider its view. In this context, we would like to remind you that Eurostat is committed to adopt a fully transparent framework for its decisions on debt and deficit matters in line with Council Regulation 479/2009, as amended, and the note on ex-post advice, which has been presented to the CMFB and cleared by the Commission and the EFC. Eurostat is therefore publishing all official methodological advice (ex-ante and ex-post) given to Member States on its website.

Yours sincerely,

*e-signed*  
Luca Ascoli  
Director

