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EUROSTAT

Directorate D: Government Finance Statistics (GFS)

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**Subject: Article 10 par.1 Council Regulation (EC) 479/2009 clarification request  
Sector classification Teloglion Foundation**

**Reference: Your letter B1-29 of 23/01/2024**

Dear Ms Stravropoulou,

Thank you for the letter requesting Eurostat's opinion on the sector classification of the Teloglion Foundation. In accordance with Council Regulation (EC) No 479/2009 article 10, paragraph 1, after examining your request, please find below Eurostat's view on the sectorisation of the above-mentioned unit in the light of ESA 2010.

## **1. THE ACCOUNTING ISSUE FOR WHICH A CLARIFICATION IS REQUESTED**

The issue to be analysed is the sector classification of the Teloglion Foundation, an art museum located in Thessaloniki.

The Teloglion Foundation is classified in the general government sector. A national court decision issued in November 2020 has ordered ELSTAT to annul the classification of the entity in the general government sector. The decision of the court is based on the argument that the entity is not controlled by general government.

### ***1.1. Documentation provided***

ELSTAT has provided a translation of the court ruling and some documents describing the legal framework that governs the unit.

### ***1.2. Description of the case***

The Teloglion Foundation is a non-profit organisation established in 1972, when the art collection and the entire property of Nestor and Aliki Teloglou were donated to the Aristotle University of Thessaloniki. Following the donation, the university established the Foundation to house the art collection and to make it available to the public.

The Teloglion Foundation is the first open University Gallery and Art Museum in Greece. It gathers paintings, ceramics, metalwork, and others, of all periods and all cultural cycles, including modern and traditional Greek Art.

The unit was established in 1972 by a Decree signed by the Ministers of Finance, Culture and Education. It was established as a public benefit foundation with the legal form of a private law entity. In 2012, a second Decree amended the organization of the Foundation. Among other changes, it introduced new paragraphs as regards the purpose of the entity, the composition of the Board of Directors and the property and resources of the institution.

According to article 3 of its legal framework, the entity is managed by a seven-member Board of Directors, which consists of the Rector of the Aristotle University of Thessaloniki, five Professors of the said University coming from different Schools and a non-university person who has demonstrated a substantial love for art. The first Board of Directors was appointed in the Decree that established the Foundation in 1972. Upon the departure of a member in any way, the remaining members of the Board of Directors shall appoint the replacement of the departing member from the school to which he/she belongs.

According to article 13 of its legal framework, the Foundation's income is derived from a) the institution's properties, b) the grants of the Aristotle University of Thessaloniki, c) any other State grant or other institutions and from other natural or legal entities, d) any donation, inheritance or bequest of a third party to the Foundation, e) income earned from the general activities of the Foundation, f) income of any kind from the sales of studies, copies of the Foundation's works, entrance tickets to the Foundation's events, etc., g) the operation of the shop and the restaurant and h) all kinds of income generated from the exploitation of the institution's property.

According to the general legislation<sup>1</sup> applicable to public benefit institutions, the Greek State has the obligation to ensure the faithful and accurate execution of the will of the testators and donors. To this end, the Greek government has the following powers in public benefit institutions (and in particular in the Teloglion Foundation):

- To approve the establishment of the entity and any subsequent amendment, by presidential Decree
- To approve the budget and the annual accounts. In the budget, no change, nor transfer of credits, is allowed from chapter to chapter or from article to article of the institution's budget, without prior approval of government.
- To approve their management operations for the acquisition or sale of real estate and for the award and execution of projects.
- To approve the dissolution of the entity, by presidential Decree

Moreover, by decision of the Minister of Finance, every year from the year 2021 the State grants an advance payment to the Public Power Corporation (PPC SA) against the annual obligations for the electricity bills of the Teloglion Foundation (together with the bills of other general government bodies). The granting of such advance payments is normally undertaken by the Greek government for entities which are part of government.

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<sup>1</sup> Law 4182/2013 for public benefit companies replaced the previous law 2039/1939

## 2. METHODOLOGICAL ANALYSIS AND CLARIFICATION

### 2.1. *Applicable accounting rules*

Institutional units and groupings of units are defined in ESA 2010 chapter 2. ESA 2.39 defines five indicators of control for non-profit institutions. The distinction between market and non-market producers is introduced in ESA 2010 chapter 3.

ESA 2010 chapter 20 defines the general government sector. It includes specific provisions for control of NPIs (20.15), public control (20.18), public sector control (20.309-20.310) as well as for the market/non-market delineation (20.19-20.31). In the analysis of NPIs' classification, ESA paragraph 20.15 is jointly applied with the indicators of control in paragraph 20.309.

The concept of a government-controlled entity is further elaborated in the Manual on Government Deficit and Debt (MGDD), in chapter 1.2.3.

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

#### a) *Market/ non-market nature*

ESA 20.29 reads: *“The ability to undertake a market activity will be checked notably through the usual quantitative criterion (the 50 % criterion), using the ratio of sales to production costs (as defined in paragraphs 20.30 and 20.31). To be a market producer, the public unit shall cover at least 50 % of its costs by its sales over a sustained multi-year period.”*

According to the information provided to Eurostat by ELSTAT, the ratio of sales to production costs is consistently and significantly below 50% in the period 2013-2022. Therefore, the entity is a non-market producer.

#### b) *Control*

The ESA 2010 sector classification criteria are not based on the legal form of an entity. The fact that the Foundation has the legal form of a private law entity does not necessarily imply that, in national accounts, the entity is controlled by the private sector.

Moreover, the ESA 2010 notion of control is different from the notion of independence. Chapter 1.2.3.1 of the Manual on Government Deficit and Debt states that *“Many government entities operate with legal independence from the council of ministers or core government unit. The fact that public control is determined is a statistical classification issue and should not be interpreted as if the institution was not fully independent”*. For example, parliament is part of the public sector while being independent from government ministers.

The concept of public control of an NPI is defined in ESA 20.15: *“Control of a NPI is defined as the ability to determine the general policy or programme of the NPI”. To determine whether an NPI is controlled by the government, the following five indicators of control should be considered (ESA 2010 20.15): “(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”*.

The appointment of officers

ESA 20.309 (a) on indicators of control reads: “(a) rights to appoint, veto or remove a majority of officers, board of directors etc. The rights to appoint, remove, approve or veto a majority of the governing board of an entity are sufficient to determine control.” In the case of the Teloglion Foundation, six out of the seven members of the Board of Directors must be professors of the Aristotle University of Thessaloniki, which is part of the general government sector. The majority of the Board is therefore made of employees of a government unit. In addition, the members of the first Board of Directors were appointed by law by government. Subsequent replacements of a member are appointed by the remaining members of the Board of Directors, mainly university professors (six out of seven), which are employees of a government unit. All the members of the Board of Directors are therefore nominated by employees of a unit classified within the general government sector. According to ESA 2010 paragraph 20.309 (a) on public sector control, the right to appoint a majority of the governing board of an entity, directly or indirectly, is sufficient to determine control.

#### Other provisions of the enabling instrument

Government approves the budget and the annual accounts of the Teloglion Foundation as well as certain operations, like the sale of real estate. It also approves the establishment of the entity and any subsequent amendment, as well as its dissolution. Therefore, government also exercises control over the Foundation via the enabling instrument as defined in ESA 20.15 (b). According to paragraph 38.b) of chapter 1.2.3.2 of the MGDD, this indicator is enough to determine control of an NPI: “control by government would result if government would have the right...to approve budget or financial arrangements. An NPI would be considered to be controlled by government if approval of government would be required to change the statute of the entity (or the type of activity carried out by the entity), or if the entity could not dissolve itself or terminate any relation with government without such approval”.

#### Degree of financing

The Teloglion Foundation is predominantly financed from grants and donations. According to the information provided to Eurostat, every year the entity receives grants from the Aristotle University of Thessaloniki and from the State, as well as donations from private entities/persons. For most years in the period 2013-2022, government grants were higher than donations from private entities/persons.

Over the period 2013-2022, government grants ranged between 22% and 59% of the total income<sup>2</sup> of the unit. On average, government grants amounted to around 40% of the total income.

In addition, according to the information received, from 2021, the State makes prepayments to the Public Power Corporation (PPC) on behalf the Teloglion Foundation (as well as other government entities). PPC reimburses the amounts prepaid by the State shortly after the entities pay their actual electricity bills.

#### Risk exposure

According to the information provided to Eurostat, the entity does not have debt and had a deficit in most of the years between 2013 and 2022. Each year, the unit receives regular

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<sup>2</sup> Total income includes grants, donations, sales, rentals and other income.

grants from the Aristotle University of Thessaloniki and from the State, as well as occasional grants from both entities but overwhelmingly directly from the State. Such occasional grants covered arrears related to electricity bills and the decrease in sales due to the Covid-19 crisis, amongst others.

By covering the arrears of the entity, the decrease in the sales due to Covid-19 and the prepayment of electricity bills to the PPC from 2021 (see above), government would be exposed to some of the financial risks associated with the activities of the unit.

### Control of the NPI

Based on the appointment of officers and other provisions of the enabling instrument, the Teloglion Foundation is to be considered a government controlled NPI. Each of the two criteria is sufficient by itself to establish government control, in the light of ESA 20.309 (a) and paragraph 38.b) of chapter 1.2.3.2. of the Manual on Government Deficit and Debt. Additionally, public control could also be reinforced by the degree of financing and the risk exposure of government.

According to ESA 20.13, *“Non-profit institutions (NPIs) that are non-market producers and are controlled by government units are units of the general government sector”*.

### **3. CONCLUSION**

Considering the elements above, Eurostat is of the opinion that the Teloglion Foundation should remain classified in the general government sector (S.13), as it is a non-market non-profit institution controlled by government.

### **4. PROCEDURE**

This preliminary view of Eurostat is based on the information provided by the Greek 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-ante advice which was presented to the CMFB and cleared by the Commission and the EFC. Eurostat is therefore publishing on its website all official methodological advice (ex-ante and ex-post) given to Member States.

Yours sincerely,

*(e-Signed)*

Rasa Jurkoniene  
Acting Director