

Directorate C: National and European Accounts

Luxembourg,
ESTAT/C-4/FL/JV/GSR/eb D(2011) 1371309

Ms Leszczyńska-Luberek
Central Statistical Office
Al. Niepodległości 208
PL - 00925 Warsaw

Subject: Ex-ante consultation on the statistical recording of the project of construction and operation of A1 motorway *Tuszyn – Pyrzowice* stretch

Ref.: Your letter RN-4/309/11 dated 24 October 2011

Dear Ms. Leszczyńska-Luberek,

Thank you for your letter regarding the project for the construction and operation of A1 motorway Tuszyn – Pyrzowice section. After a detailed examination of the issue, Eurostat is now in position to provide its preliminary opinion on the appropriate statistical recording of this project.

The case

The issue for which an ex-ante opinion is being sought is the appropriate sector classification in national accounts / EDP of assets and underlying financial flows of a Public-Private Partnership (PPP) contract covering construction and operation of a part of the A1 motorway. This contract is currently in a preparation phase by the Polish authorities.

Documentation provided

The Polish authorities provided Eurostat with a document containing a description of the project and some elements of statistical analysis, prepared by the Ministry of Infrastructure, the General Directorate of National Roads and Motorways (GDDKiA) in cooperation with the Central Statistical Office (GUS). The paper presents estimates of cost assumptions, distribution of risks, assumptions concerning availability payments and deduction mechanisms, estimated toll revenues and other relevant information. Whilst it is highlighted that the figures indicated in the document are not definitive and may differ from those obtained in the final offer, it is assured that it will not in any way alter the methodology of calculations or the distributions of risks presented in the paper.

Description of the case

The General Directorate of National Roads and Motorways (grantor) is considering implementing the construction and operation of A1 motorway on Tuszyn-Pyrzowice section (140.9 km length) with a private partner (operator) using the Public-Private Partnership (PPP) contract.

It is estimated that the total project cost will be approximately EUR 1.77 billion. [REDACTED]

[REDACTED] It is assumed that construction will start in April 2013 and shall end after 45 months, in December 2016. The Agreement will be concluded for a 30-year period and end in 2043.

The project is designed as an availability-based project where it is planned that the private partner takes the construction and availability risk, and government assumes the demand risk. Under the agreement, the private partner will be required to build and then operate the section of the motorway at its own expense and risk. Public authorities will be obliged to pay remuneration (i.e. availability payments) to the private partner throughout the operation period, i.e. after completion of construction, provided there is fulfilment of the project parameters and the duties of the private partner.

It is assumed that the motorway will be tolled for all types of vehicles. The tolls will be collected with the use of an electronic charge system (ETC) and will be entirely paid to a special-purpose body, the National Road Fund (NRF), *Krajowy Fundusz Drogowy*. The NRF has an objective to collect funds for financing the preparation, construction, reconstruction, repair and maintenance of national roads in Poland. The revenues from the ETC system in Poland represent NRF incomes and may be dedicated to finance any NRF expenditures. Expenditures are executed on the basis of requests from the General Directorate for National Roads and Motorways.

Methodological analysis by Eurostat

Applicable accounting rules

The Eurostat Manual on government deficit and debt (MGDD) Part VI Leases, licences and concessions is applicable in this case. In particular Part VI.4 Public infrastructure financed and exploited by corporations and Part VI.5 Long term contracts between government units and non-government partners (Public-Private Partnership) are relevant for the analysis.

In interpreting provisions of the MGDD, Eurostat also draws upon its previously provided views in relation to specific national cases. In this instance, Eurostat's views on Portuguese cases of long term contracts (SCUTS) of 8 May 2011 are relevant.¹

Availability of national accounting analysis

In their letter of 24 October 2011, the Polish authorities considered that the PPP contract could be classified outside of the general government balance sheet (off-balance sheet) due to the fact that the construction and availability risks are to be borne by the private partner, whereas the demand risk is to be borne by government.

¹ Final Findings of EDP dialogue and ad-hoc visits to Portugal, 17-18 January 2011 and 14-15 April 2011, Annex 1 "PPP – The Portuguese case" http://epp.eurostat.ec.europa.eu/portal/page/portal/government_finance_statistics/documents/Final_Findings_EDP_dialogue_visit-Portugal-17-18_Jan.201.pdf

Analysis

Eurostat agrees with the analysis of the Polish authorities concerning the distribution of risk in the provisions of the project.

However, concerning the general features of the contract, Eurostat notes the existence of provisions atypical for a PPP-style arrangement in the meaning of the relevant MGDD chapter. Notably, this concerns a system of tolls to be paid directly by the users of the motorway (as usually is the case in concession-type contracts). Eurostat would like to highlight that the MGDD provides a definition of PPPs as contracts where the majority of the payment for the services were made by the government and not by final users. Thus, in order to decide on sector classification of the PPP asset and related financial flows, it is necessary to carefully analyse the economic substance related to the system of tolls, in particular the ownership and the level of toll revenues.

Under the provisions of the proposal, Eurostat recognises that the toll revenues will be separated from the private partner and will be transferred in whole to a special-purpose fund, the National Road Fund (NRF), which is classified to the General Government sector. The public authorities (GDDKiA) will have the full power to introduce tolls on the motorway and will be able to discretionarily charge for the use of the asset. The private partner will have none of these prerogatives and its remunerations will not depend on the road traffic. Eurostat thus considers the government as being its own "concessioner", receiving the direct economic benefits from this asset via the tolls paid by the final users.

In such cases, and as has been the case in recent views expressed by Eurostat on similar cases in Portugal, Eurostat conducts an analysis of the toll revenues in relation to the total cost of service to be incurred by the public authorities. Eurostat considers that a contract where the toll revenues represent more than 50% of the total cost of the service should be classified on balance sheet of the government since, in such a case, the government obtains substantial economic benefits from the asset and thus it must be considered as the economic owner of the asset.

In this context, Eurostat has carefully investigated this project analysing the proportion of toll revenues in relation to the cost of service to be incurred by the government in the form of availability payments to the private partner. [REDACTED]

As a result, Eurostat is of the opinion that the assets constructed by this project should be considered as assets of general government. Thus the costs of constructing the assets should be treated as a gross fixed capital formation expenditure of government during the construction period, with an impact on the government deficit, the counterpart being an increase in government debt under the form of a loan granted by the private partner.

Conclusions

On the basis of the above considerations, in particular that the toll revenues to government cover more than half of the total costs of the project to government, Eurostat is of the opinion that the PPP assets of the contract subject to this consultation must be recorded on the balance sheet of general government. Consequently, the gross fixed capital formation expenditure, and the related flows, including debt, of the A1 stretch *Tuszyn-Pyrzowice* are to be recorded in the accounts of the general government sector.

Procedure

This preliminary view of Eurostat is based on information provided by the country 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 and the note on ex-ante advice, which has been presented to the CMFB and cleared by the Commission and the EFC. Eurostat is thus publishing all official methodological advice (ex-ante and ex-post) given to Member States on the Eurostat website. In case you have any objections concerning this specific case, we would appreciate if you let us know before 9 December 2011.

Yours sincerely,

François Lequiller
Director