

**Directorate C: National and European Accounts**

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Mr Jaume García Villar  
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**Subject:** Consultation on the classification of the assets in the Public-private partnership (Autovía A-21 del Pirineo motorway in the autonomous Region of Navarra)

**Ref.:** Your letter of 4 October 2010  
Our letter of 21 December 2010  
Your letter of 17 March 2011

Dear Mr García Villar,

Thank you for the information which you have provided to us on this PPP contract.

After careful examination of the issue by Eurostat, I am in a position to inform you of the conclusions that have been reached.

***The case***

The issue for which an opinion is being sought is a determination of the correct EDP accounting treatment of the classification of the assets in the Public-Private partnership (PPP) contract for the construction and operation of the two sections and for the operation of the four already built sections of the A-21 Autovía del Pirineo motorway.

***Documentation provided***

- Report from the Working Group on General Government issues - INE (National Institute for statistics), IGAE (Government Audit Office) and Banco de España) - on the classification of the PPP assets;
- A note prepared by the Comunidad Autónoma de Navarra on the analysis of the PPP contract;
- Specific Administrative Terms and Conditions of the PPP contract A-21 Autovía.
- Additional information, as requested by Eurostat.

### *Description of the case*

The issue for which an opinion is being sought is the determination of the correct classification of the PPP assets "A-21 Autovía del Pirineo motorway".

The Spanish statistical Working Group on General Government issues examined all the documentation related to the above-mentioned PPP contract in order to determine the classification sector of the PPP assets. As a result of this analysis, the Working Group considered that the assets should be classified on the balance sheet of government (S.13), with impact on government deficit and debt.

In line with the Article 8c of the Council Regulation 2103/2005 of 12 December 2005 and following a request of the Comunidad Autónoma de Navarra to INE, INE asked Eurostat for a formal consultation on the classification of the PPP assets in question.

### *Methodological analysis and clarification by Eurostat*

#### *Applicable accounting rules*

- The Eurostat ESA95 Manual on government deficit and debt (MGDD), 3rd edition; chapter (Part VI.5) on Public Private Partnerships

#### *Availability of national accounting analysis*

The Working Group observed that the contract itself does not contain any data on the value of the motorway before and after the works, which would allow the assessment of whether the construction of the two new sections, together with the costs for adaption, renovation and modernisation of the four already built sections, represent over 50 % of the value of the entire motorway. Consequently, it could not be verified whether the contract meets the requirements to be considered a Public Private Partnership for statistical purposes.

However, based solely on the analysis of the transfer of risks, the Working Group considers that the PPP assets should be classified on the balance sheet of general government (S.13), with an impact on government deficit and debt during construction.

The opinion of the Working Group is that the construction risk is not transferred to the private partner as the expropriation risk is assumed by the government.

As the payments to the private partner are made through two fees, one demand based (demand risk) and the other based on the quality of the infrastructure management (availability risks), the opinion of the Working Group is that these risks must be analysed together. These payments are also not considered to guarantee the necessary transfer of the above-mentioned risks to the private partner.

#### *Analysis by Eurostat*

Firstly, the condition for which the contract is to be treated in the National accounts as a Public-Private Partnership is that the construction, renovation and adaption costs represent more than 50 % of total costs (i.e. capital expenditure higher than the value of the asset before the renovation).

On the basis of the additional information provided by the Comunidad Autónoma de Navarra, the contract seems to meet the requirements to be treated in the National Accounts as a Public-Private Partnership.

As far as the construction risk is concerned, Eurostat would like to stress that the issue of the expropriation risk is not explicitly referred to in the ESA95 Manual on government deficit and debt (MGDD) in the chapter (Part VI.5) on Public - Private Partnerships. This aspect of the construction risk needs to be further analysed and discussed, in the context of the future updating of the third edition of the MGDD.

Eurostat observes across Member States that, in some PPP projects involving the use of substantial amounts of land, the government takes on the responsibility to provide the use of land to the private partner for the purposes of the project. In some cases, the land is already owned by the government, but in other cases the government must take steps to acquire the land from existing private owners, including through compulsory purchase operations.

In this context, Eurostat would like to draw attention to the clause 34 of the MGDD, which specifies that "*Construction risk*" covers events related to the state of the involved asset(s) at the commencement of services. In practice it is related to events such as late delivery, non-respect of specified standards, significant additional costs, legal and environmental issues, technical deficiency, and external negative effects (including environmental risk) triggering compensation payments to third parties". In this aspect, it is Eurostat's opinion that the expropriation risk indeed constitute an "additional cost", which will be finally paid by the government and not by the private partner.

In the particular case under analysis, Eurostat understands that it is very likely that most of the expropriation costs will finally be assumed by government, through a particular mechanism where the actual costs are unknown. Therefore Eurostat agrees that there is an "expropriation risk" borne by government.

At this stage, Eurostat notes that the MGDD is not explicit enough on this issue, and that past analysis of other PPP projects has not taken specific note of expropriation risk as a stand-alone factor in statistical classification.

Eurostat intends to bring this issue to the attention of Member States as part of its work on updating the MGDD chapter on Public – Private Partnerships.

### **Conclusion**

On the basis of the above considerations, Eurostat suggests that the Spanish Statistical Authorities maintain the existing classification of the project, pending the completion of discussions at European level on the update of the relevant MGDD chapter.

### **Procedure**

This preliminary view of Eurostat is based on the 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 therefore publishing all official methodological advice (ex-ante and ex-post) given to Member States on the Eurostat website. In case you have objections concerning this specific case, we would appreciate if you let us know before 22 July 2011.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'FL', written over a horizontal line.

François Lequiller  
Director