

The Director General

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Mr Jaume García Villar
El Presidente del
Instituto Nacional de Estadística
Paseo de la Castellana, 183
28046 Madrid
Spain

Subject: Public-Private Partnership by Autonomous Community of Aragon

Ref.: Your letter dated 21 June 2010

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 concerns the classification of the assets that are linked to a road network project run by the Autonomous Community of Aragon.

Documentation provided

- Report of the Working Group of National Accounts (INE, Banco de España, IGAE).
- English translation of the bidding documentation for one of the eight sectors.
- English translation of a note from the Roads General Directorate of Aragon related to the divisibility of the road network.

Description of the case

The road network in Aragon has been divided into 8 zones or sectors.

Therefore there will be 8 different contracts submitted to a competitive procedure.

In each sector, a private partner will assure various works on the road stretches, including new construction, expansion, improvement, major repair, their maintenance and their operation. Including the construction phase, the length of each contract will be 38 years.

The initial investment is globally estimated at € 630 million.

During the operational phase, the partner will receive payments from the Community of Aragon linked to the availability of the infrastructure. These payments will be determined on the basis of precise quantitative indicators covering various aspects.

A specific issue in this project refers to the value of the works that will be carried out. The construction of completely new roads will only form a minor part of the total investment.

The report of the Spanish Working Group explicitly refers to the dedicated chapter in the MGDD where, both in the 2nd edition (additional chapter on long term contracts) and the forthcoming 3rd edition (Chapter VI.5 on PPPs) it is stated that: *The contract may refer either to a new asset or to significant refurbishment, modernisation or upgrading of existing assets, including assets already owned and managed by government but provided that the expenditure for renovation, etc., will represent a predominant part of the value of the asset after renovation.*

It is the opinion of the Spanish Working Group that the term "predominant" should be intended as greater than 50%. Under these conditions, on the basis of an analysis for each individual sector, as mentioned above, it appears that this condition will be met only in 5 sectors, whereas it will not be the case for the 3 other sectors.

Therefore, the Working Group considers that for the latter 3 sectors, the assets should be classified with the Aragon government and the related gross fixed capital formation expenditure would be recorded in the government accounts.

The Working Group is asking Eurostat for its opinion on this analysis.

Methodological analysis by Eurostat

After examination of the provided documentation, and after careful consideration of the position of the Working Group, Eurostat has reached the following preliminary conclusions.

Applicable accounting rules

- Manual on Government Deficit and Debt (MGDD), 2nd edition; additional chapter (Long term contracts)
- Manual on Government Deficit and Debt, forthcoming 3rd edition, chapter VI.5 (Public-private partnerships)

Analysis by Eurostat

Eurostat fully supports the view that each of the 8 sectors (zones) must be considered separately as regards the statistical treatment for EDP purpose. Eurostat understands that each sector could be entrusted to different partners ("concessionaires"). Even if one partner could successfully bid for several sectors, the contractual provisions would still apply separately. Therefore, all methodological analysis must be carried out at the level of each contract.

Eurostat agrees with the interpretation of the Working Group, i.e. that in case of renovation, the term "predominant" in the MGDD (second and third editions) should at the very least mean "more than 50%" (in other terms, a capital expenditure higher than the value of the asset before the renovation).

Eurostat has taken note that for two of the contracts the above-mentioned share would be exactly at 50%, which by the application of the principle should effectively result in a classification of the related assets as government assets and therefore considering the contracts as maintenance contracts.

However, Eurostat would like to have more information on the methodology according to which this ratio has been calculated, as well as on the reliability of the data used for the calculation of the estimates of the value of future works and the initial value of the roads.

Moreover, Eurostat has also taken the initiative to analyse the provisions of the PPP contract.

As regards the construction risk, Eurostat would have at this stage some reservations about the provisions in 56.5, § 2 and 3, (pages 84-85) where it appears that the impact of penalties would be strongly limited during the construction phase, notably for the first four years, where normally a large part of the capital expenditure should take place. This would represent a strong limitation on the risks of the project resting with the private partner, which would remain with the government at least for the early years of the contract.

As far as the availability risk is concerned, although Eurostat considers that some indications of a significant transfer to the private partner are contained in the contract, it is difficult to fully assess whether the deduction mechanism would have a noticeable impact on the revenue of the partner. Eurostat has also noted that there is no progressive impact after one day of unavailability.

Finally, Eurostat has not found in the documentation whether government could or will take part in the financing of the project and whether government units could or will grant some guarantees to the private partners' financing. These aspects may have an important effect on the assessment of PPPs contracts and therefore Eurostat would welcome further information on these aspects.

Conclusion

At this stage, Eurostat agrees that the contracts for each zone (sector) set up for the roads network in Aragon must be considered separately. It also agrees that the appropriate interpretation of the MGDD's term "predominantly" is for the new capital expenditure to be greater than the initial value of the asset (i.e. the new capital expenditure should represent at least more than 50% of the asset value after construction work).

However, in order for Eurostat to provide a final opinion about this PPP project, additional information is requested.

Open issues

Eurostat would like to receive:

Information on the methods used for the estimation of the cost of the works planned by the private partner and for the valuation of the road network before development.

Data on the initial value of the assets and on the cost of the construction for each of the 8 sectors (zones).

The opinion of the Working Group of National Accounts on the actual impact of the penalties in the construction phase.

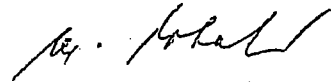
A confirmation if government will take part in the financing of the capital expenditure and/or will grant guarantees to the private partner's financing.

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 1st September 2010.

Yours sincerely,



Walter Radermacher

Marie BOHATA
Deputy Director General