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EUROSTAT

Directorate D: Government Finance Statistics (GFS) and quality

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Subject: Ex ante consultation on the PPP Region of Epirus Waste Management

Ref.: ELSTAT request dated 16 November 2016

Dear Ms. Stravropoulou,

Thank you for the document analysing whether and how specific contract provisions may influence the statistical treatment of the PPP Region of Epirus Waste Management Project. Following your request, please find below Eurostat's view on the issues raised by the Special Secretariat of PPP.

1. THE ACCOUNTING ISSUE FOR WHICH A CLARIFICATION IS REQUESTED

The issue to be assessed is the influence of two specific contract provisions as regards the on or off government balance sheet recording of the project. In particular, the contract provisions to be analysed refer to refinancing gains and the relationship between the expiry of the contract and the profit (IRR) of the Partner.

1.1. Documentation provided

ELSTAT provided a note with its analysis on this case as well as the file prepared by the Special Secretariat of PPP. The PPP contract has not been provided at this stage.

1.2. Description of the case

The issue concerns the recording of the assets of the waste management system in the Region of Epirus, a PPP contract foreseen to be signed soon.

The Private Partner will be responsible for the Design, Financing, Construction, Maintenance and Operation of the infrastructure of the waste treatment facilities in the Region of Epirus, according to specific volume and quality standards for the assets and services.

The Partner will be reimbursed through monthly availability payments from the Region of Epirus starting by the end of the construction. At the end of the contract period (27 years), the assets will remain in the legal ownership of government.

The total project cost is EUR 48.872.058, which breaks down as follows: Equity EUR 11.706.077, Senior Long Term Debt (Alpha Bank) EUR 11.706.077, VAT (Alpha Bank) EUR 5.459.904 and EU grant (NSRF) EUR 20.000.000.

Eurostat has been requested to confirm how the following contract provisions would affect the statistical treatment of the project:

1) Refinancing gains

"The authority is entitled to the share of any refinancing gain that results from identifiable actions of government. The Authority shall share in the refinancing gain to the extent that an action of government has led to improved terms of finance becoming available for the project, up to 100%".

2) Relation between expiry of the contract and IRR of the Partner

Instead of expiring after the 27 years originally foreseen, the contract shall expire sooner if a specific IRR is reached. Also, the contract shall be extended if the Partner did not reach a predetermined amount of profit within the 27 years originally foreseen.

2. METHODOLOGICAL ANALYSIS

2.1. Accounting provisions

The general rules to be applied when assessing the statistical treatment of a PPP project are defined in ESA 2010 chapter 20 (20.276-20.290) and in Eurostat's Manual on Government Deficit and Debt (chapter VI.4).

Besides, the Eurostat analysis below is also based on the "Guide to the Statistical Treatment of PPPs" (the 'Guide'), jointly released by Eurostat and the European PPP Expertise Centre (EPEC). The provisions in this Guide are applicable to PPP projects reaching financial close after the publication of the Guide (29 September 2016).

2.2. Eurostat's analysis

Refinancing gains

Concerning refinancing gains, the provisions in section 14.6.2¹ of the Guide state that:

*Eurostat's view is that there are two different approaches to refinancing gain sharing that **do not influence the statistical treatment**:*

- The first approach is where the PPP contract states that the Authority is entitled to the share of any refinancing gain that results from identifiable actions of government. This

¹ Refinancing gains

approach is intended to allow the Authority to share in a refinancing gain to the extent that an action of government has led to improved terms of finance becoming available for the project. An example would be Authority (or government) action that improves the Authority's credit rating, causing the financing market to reconsider the project's risk profile and offer more favourable finance terms. The Authority simply giving its approval to the Partner proceeding with a refinancing (e.g. where the Authority's approval is required because the refinancing gain would increase its termination liabilities) is not, in Eurostat's view, a specific action of government that would entitle the Authority to a share of the refinancing gain; and

- The second approach is where the PPP contract states that the Authority is entitled to a specified share (no greater than one third) of any refinancing gain. Under this approach, no assessment is made of whether the refinancing gain results from the actions of the Authority or the Partner or other factors. Under this approach, specifying that the Authority is entitled to a share of more than one third of any refinancing gains automatically leads to the PPP being ON BALANCE SHEET for government.

Eurostat's view is that the PPP contract may adopt either one of the two approaches described above. Any provisions that attempt to combine the two approaches or that adopt any alternative approach to refinancing gain sharing automatically lead to the PPP being ON BALANCE SHEET for government.

Following the above, Eurostat understands that the provisions for refinancing gains as described in section 1.2 (in line with the first approach above) would not influence the statistical treatment as long as they are not combined with the second approach or any other alternative approach.

Relation between expiry of the contract and IRR of the Partner

Concerning the link between the duration of the contract and the profitability of the partner:
a) The provisions in section 15.4² of the Guide state the following:

*Eurostat considers provisions that link the PPP contract's expiry to the Partner having generated a specific amount of revenue or profit to be akin to a cap on Partner revenue or profit, which **does influence the statistical treatment** and would automatically lead to the PPP being ON BALANCE SHEET for government.*

Following the above, Eurostat considers that the possibility for the contract to expire sooner if a specific IRR is reached, would automatically lead to the PPP being on balance sheet for government.

b) The provisions in section 4.10.3³ of the Guide state the following:

*Eurostat's view is that any form of minimum use or minimum revenue guarantee **does influence the statistical treatment** and automatically leads to the PPP being ON BALANCE SHEET for government.*

² Caps on partner profits or revenues

³ Minimum use/revenue guarantees in PPP contracts with demand based payments

The possibility to extend the contract if the Partner did not reach a predetermined amount of profit would be considered as a form of minimum revenue guarantee. Following the above, this would likely lead to the PPP being on balance sheet for government in a contract with demand based payments.

3. CONCLUSION

Eurostat's view has been expressed in the previous section and is summarised below:

- The provisions for refinancing gains as described in section 1.2 would not influence the statistical treatment as long as they are not combined with other approaches.
- The possibility for the contract to expire sooner if a specific IRR is reached, would automatically lead to the PPP being on balance sheet for government.
- The possibility to extend the contract if the Partner did not reach a predetermined amount of profit would likely lead to the PPP being on balance sheet for government in a contract with demand based payments.

It is recalled that Eurostat's role is limited to the assessment of the statistical treatment of existing PPP contracts and that it is out of the scope of Eurostat's mandate to advise on the drafting of PPP projects.

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 currently available and the assumptions made above, 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. Eurostat therefore publishes all official methodological advice (ex-ante and ex-post) given to Member States on its website.

Yours sincerely,

(e-Signed)

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Director