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- FINAL FINDINGS -

EDP dialogue visit to Spain
27-28 November 2017

Executive summary

Eurostat undertook an EDP dialogue visit to Spain on 27-28 November 2017 as part of its regular visits to Member States and with the aim to assess the existing statistical capacity, to review the implementation of ESA 2010 methodology, to review the recording of specific government transactions, and to assure that provisions from the ESA 2010 Manual on Government deficit and debt and recent Eurostat decisions are duly implemented in the Spanish EDP tables and national accounts.

First, the follow-up of the action points of the previous EDP dialogue visit were reviewed, and Eurostat took note that all action points have been implemented.

As regards the delimitation of general government, a detailed discussion took place on the application of market / non market test. In this context, the discussion mainly focused on fees charged by rail infrastructure managers services declared as Public service obligation (PSO), i.e. on whether they can be considered as the market output (sale) in the 50 % test or not. Eurostat took note of the explanations provided by the representatives of ADIF, RENFE, and the Ministry of public works and transport and invited the Spanish statistical authorities to reflect on the issues raised in the meeting. It was concluded that ADIF, at least at present, will continue to be classified inside the general government sector

Then Eurostat asked the Spanish statistical authorities to provide a note on the sector classification of several public units, currently classified outside the general government sector, in particular in *Financial corporation* sector.

The discussion continued on the recording of taxes and social contributions, in particular on the results of the statistical model used, which is based on assessments and declarations with a subsequent adjustment of the amounts unlikely to be collected. For practical reasons, Eurostat asked the Spanish statistical authorities to reflect on the possibility to move to the time adjustment cash method in the next benchmarking exercise in 2019.

As regards the Court decisions, Eurostat invited the Spanish statistical authorities to promptly provide information on the situation related to the existing Court cases to Eurostat, which might impact, for sizeable amounts, government expenditure or revenue.

Next, the government operations relating to financial turmoil were discussed along with the accounting consequences for government. All government operations related to financial turmoil were granted through FROB and BFA and reported to Eurostat. In particular, the early repayment of COCOS by Unicaja in 2017, issued in 2013 by its subsidiary CEISS, was discussed in detail. Eurostat expressed its view that a correct recording in national accounts, avoiding the revision of the time series, would be through revaluation. The Spanish statistical authorities agreed to consider this proposal by April 2018 EDP notification.

Concerning the Public Private Partnerships (PPP), Eurostat enquired about the work of the *Technical Committee on national accounts* on the classification of the PPP projects and asked the Spanish statistical authorities to provide to Eurostat additional information on PPPs in the context of EDP notifications.

Afterwards, the discussion focused on the liquidation process of eight concessionaires of the toll motorways. The State has the responsibility, called *Responsabilidad Patrimonial de la Administración* or RPA, to take over the assets at the current value and not their debt. Currently, the amount of the RPA for the eight motorway concessions is estimated to about 2 billion euro in 2018, which would impact the government deficit and debt of the central government. Any further settlements would be recorded in the year when the settlement is agreed.

The Spanish statistical authorities and Eurostat also examined the new law on public works, adopted in 2017, and agreed that the legal changes have no consequences for the national accounts recording.

Concerning the Energy performance contracts (EPCs), the Spanish statistical authorities confirmed that they are planning to produce a template for gathering all necessary information for the accounting of EPCs, as soon as the Guide on statistical treatment on EPC is produced by Eurostat. The Spanish statistical authorities further explained that most EPCs are run at the level of local governments and pointed out the difficulties in collecting all necessary information in order to decide on their sector classification.

Regarding the emission permits, Eurostat concluded that the current method used to calculate taxes seems to be legitimate. Eurostat appreciated the note, explaining the difficulties encountered when filling in the questionnaire on emission permits.

Regarding decommissioning, Eurostat and the Spanish statistical authorities agreed that the public corporation ENRESA would be re-classified inside the general government sector.

Some other issues were also discussed such as capital injections, guarantees, military equipment expenditure, debt assumptions, debt cancellations and debt write-offs. It was noted that the recordings applied are in line with Eurostat rules. Eurostat took note that the current cash recording for local government for EU funds is not fully in line with Eurostat rules, but that the possible impact on government accounts is negligible.

Eurostat welcomed the transparent, well-structured and comprehensive approach by the Spanish statistical authorities to the EDP related work. Eurostat appreciated also the documentation provided by the Spanish statistical authorities prior to and during the EDP dialogue visit.

Final findings

Introduction

In accordance with article 11(1) of Council Regulation (EC) No 479/2009, as amended, on the application of the Protocol on the excessive deficit procedure annexed to the Treaty on the Functioning of the EU, Eurostat carried out an EDP dialogue visit to Spain on 27-28 November 2017. A few technical issues, not covered in the EDP dialogue visit, were followed-up by Eurostat and the Spanish statistical authorities via videoconference on 12 December 2017.

The delegation of Eurostat was headed by Mr Luca Ascoli, Head of Unit D1 (Excessive Deficit procedure and methodology). Eurostat was also represented by Mr Martim Assunção, Ms Simona Frank and Mr Philippe de Rougemont. The Directorate General for Economic and Financial Affairs (DG ECFIN) and the European Central Bank (ECB) also participated in the meeting as observers. Spain was represented by the *Instituto Nacional de Estadística* (National Statistical Institute - INE), *Intervención General del Estado* (Audit Office - IGAE), *Banco de España* (Bank of Spain - BdE) and *Ministerio de Economía, Industria y Competitividad* (Ministry of Economy). The representatives from the *Ministerio de Fomento* (Ministry of public works and transport), ADIF and RENFE participated for the issue related to the Public service obligation.

Eurostat carried out this EDP dialogue visit in order to review the implementation of ESA 2010 methodology, to assure that rules of the ESA 2010 Eurostat Manual on Government Deficit and Debt are complied with and to make sure that Eurostat decisions are duly implemented in the Spanish EDP and Government Finance Statistics (GFS) data.

The main aims of the dialogue visit were to discuss the delimitation of the general government and market / non market test, to review the implementation of accrual principle, focusing mainly on taxes and the model used for the amounts unlikely to be collected and to review the recording of specific Government transactions.

With regard to procedural arrangements, the *Main conclusions and action points* would be sent to Spain for review. Then, within weeks, the *Provisional findings* would be sent to Spain for review. After this, *Final Findings* will be sent to Spain and the Economic and Financial Committee (EFC) and published on the website of Eurostat.

Eurostat appreciated the documentation provided by the Spanish statistical authorities prior the EDP dialogue visit. Eurostat also thanked the Spanish statistical authorities for their co-operation during the visit and consider that the discussions were transparent and constructive.

1.1. Review of institutional responsibilities in the framework of the EDP data reporting and government finance statistics compilation

Introduction

The Spanish statistical authorities explained that the institutional responsibilities in the framework of reporting data under the EDP have not been changed since the last EDP dialogue visit.

The National Statistical Institute (*Instituto Nacional de Estadística – INE*) is the autonomous body responsible for the compilation of national accounts, which includes the non-financial accounts of the general government. Regarding the EDP notifications, INE compiles data for Gross domestic product (GDP) in the EDP table 1 and the Gross National Income (GNI) in the EDP table 4. INE transmits EDP notification tables to Eurostat.

The Bank of Spain (*Banco de España – BdE*) has the responsibility for financial accounts and for the compilation of data related to government debt. Regarding EDP notifications, BdE compiles the general government debt data in the EDP table 1 and it is responsible for the compilation of the EDP tables 3 and 4, except the Gross national income (GNI).

The Audit Office (*Intervención General de la Administración del Estado – IGAE*) is the management centre for public accounting and it is responsible for the compilation of the non-financial accounts of the general government, in accordance with the article 125 of the General Budget Law 47 of 2003. Regarding EDP notifications, IGAE compiles data on general government deficit / surplus data and on interest in the EDP table 1 and it is responsible for the compilation of EDP tables 2.

Discussion and methodological analysis

The Organic Law 6/2013, among others, formally recognized the national *Working group of national accounting*, composed of INE, IGAE and BdE, under the name *Technical committee of national accounts (Comité Nacional de Cuentas Nacionales)*.

It recognized the three institutions as competent bodies to compile national accounts of the general government and public corporations, maintaining full professional independence and functional autonomy in the exercise of their respective responsibilities and powers conferred on the European and national regulation. In the exercise of their duties, they may conduct actions directly aimed at the verification and checking of the information provided by institutional units belonging to the state and local governments.

The Spanish statistical authorities explained that the Rules of procedure, regulating the *Technical Committee*, have not been adopted yet due to pending opinion of the legal service of the Ministry of Justice on the nature of the Committee and its functions due to possible overlap with the existing legislation. However, it was stressed that the *Technical Committee* continues to work under the Administrative Procedure Acts (Acts 39/2015 and 40/2015) which determines functioning of *collegiate organs of government*.

Findings and conclusions

Action point 3: As regards the implementation of the provisions of Organic Law 6/2013, the Spanish statistical authorities agreed to provide the Rules of Procedures, by which the *Technical Committee* will be regulated.

Deadline: As soon as the document is adopted.

1.2 Data sources and revision policy, EDP inventory

Introduction

Under this item of the agenda, Eurostat enquired about data sources, revision policy and the current version of the ESA 2010 EDP inventory.

Discussion and methodological analysis

Regarding data sources, the Spanish statistical authorities explained that there have been no changes since the last EDP dialogue visit. The detailed description of the data sources by government sub-sector is described in the EDP inventory, publicly available on the Eurostat website¹.

The Bank of Spain explained that the database used for the compilation of financial accounts (*Quarterly Financial Accounts of the Spanish Economy – FASE*) combines indirect (non-financial accounts) and direct sources. Eurostat asked about data sources used for the compilation of liabilities of *Cash and Currency* (F.2), as this information seemed to be missing in the EDP inventory. The Bank of Spain confirmed that the Treasury's and Bank of Spain's data are used. F.2 liabilities refer only to the issued coins.

Further the Spanish statistical authorities explained that there have been no changes in the revision policy. The basic information of *April (first) notifications* is revised and complemented with half-finalised data in *October notifications (second)*. For the completion of the finalised accounts, information is improved with flows of other sub-sectors, additional information supplied by various reporting departments and from annual accounts of foundations and public corporations (*October t+1 notification*).

Finally the discussion focused on the EDP inventory. The current ESA 2010 EDP inventory is published on the website of Eurostat as well as nationally on the website of IGAE. Eurostat noted that the bridge table between public accounts and national accounts data has not been provided yet. INE agreed to provide it by the end-2017.

Spain confirmed that there is no need for an update of the published version of the EDP inventory. Yet Eurostat asked the Spanish statistical authorities to update the part on data sources for F.2 liabilities, as already discussed under this item of the agenda.

¹ <http://ec.europa.eu/eurostat/documents/1015035/7110762/ES-EDP-Inventory-201512.pdf/74f2283d-562a-4bc1-a41b-a247b3841152>

Findings and conclusions

Action point 4: The Spanish statistical authorities agreed to provide the Bridge table (Annex to the EDP inventory).

Deadline: *end-December 2017*²

Action point 6: Eurostat asked the Spanish statistical authorities to include the information on data sources for F.2 liabilities in the EDP inventory.

Deadline: *mid-January 2018*³

2. Follow-up of the EDP dialogue visit of 9-10 July 2015

Introduction

All action points from the 2015 EDP dialogue visit have been implemented by the Spanish statistical authorities.

Discussion and methodological analysis

Regarding the Action point 1 "As regards the implementation of the provisions of the Organic Law 6/2013 of 14 November 2013 creating the Independent Authority for Fiscal Responsibility, the Spanish statistical authorities agreed to provide the Rules of Procedures to Eurostat as soon as the three institutions involved in the committee adopt them", the Spanish statistical authorities explained that for the time being the Rules of procedures have not been adopted yet, as discussed under point 1.1.

Findings and conclusions

Eurostat took note that all Action points were implemented.

See also Action point 3 under item 1.1.

3. ACTUAL DATA OCTOBER 2017 EDP REPORTING – ANALYSIS OF EDP TABLES

Introduction

Eurostat thanked the Spanish statistical authorities for their timely and accurate transmission of EDP tables and the relating questionnaires.

Discussion and methodological analysis

Eurostat asked the Spanish statistical authorities to produce the separate EDP 3B tables for the main entity (3B1) and for the *Other government bodies* (3B2). These tables can be very

² The bridge table was provided on 29 December 2017.

³ The proposal was provided on 20 February 2018.

useful for the verification of the EDP data, allowing directly crosschecking with the EDP table 2A and consequently speeding up the EDP assessment.

Findings and conclusions

Action point 5: Regarding the EDP tables 3B, the Spanish statistical authorities agreed to provide separate tables for the main entity (3B1) and for the other government bodies (3B2) of the EDP notification tables.

Deadline: *October 2018 EDP notification*

4. METHODOLOGICAL ISSUES AND RECORDING OF SPECIFIC GOVERNMENT TRANSACTIONS

4.1. Delimitation of general government, application of market / non-market rule in national accounts

4.1.2. Implementation of the new MGDD⁴ (2016 edition)

Introduction

Eurostat published an updated MGDD in March 2016. Several chapters were significantly revised. During the 2017 April EDP Notification, Eurostat had asked about the implementation of the provisions of the new MGDD. The Spanish statistical authorities explained that all chapters were fully implemented, except for the chapter III.7 *Impact on government accounts of transfer of decommissioning costs* and for the chapter VI.5 *Emission trading allowances*. The implementation of these two chapters was discussed under the point 4.3.6 of the agenda.

Discussion and methodological analysis

Regarding the new chapter on Public units in liquidation, Eurostat noted that several public units in liquidation have been reclassified inside the general government sector (S.13) in the last years and enquired how many of such units are still classified outside S.13. The Spanish statistical authorities explained that there are about 40 - 50 public units in liquidation, of which some might be still active. They are usually re-classified inside S.13, in line with the MGDD, as soon as the 50 % test is no longer met.

Findings and conclusions

Action point 7: Eurostat asked the Spanish statistical authorities to provide the list of units in liquidation, currently classified outside S.13, accompanied by the 50 % test for the last 3 years.

Deadline: *end-January 2018⁵*

⁴ Manual on government deficit and debt

⁵ The list was provided on 20 February 2018.

4.1.2. Changes in sector classification due to ESA 2010

Introduction

The application of the sector classification rules were discussed under this point of the agenda on the basis of the EDP inventory chapter *Sector classification of units*. The competent body responsible for the classification of public units is the *Technical committee of national accounts*, composed of IGAE, INE and the BdE. The institutional sector in which public units are classified depends amongst other, on the compliance with the market / non market test (50 % test).

Prior to the meeting, the Spanish statistical authorities provided to Eurostat a list of units classified in the general government sector, by sub-sectors, which was discussed during the meeting.

Discussion and methodological analysis

The Spanish statistical authorities explained that there have been no substantial changes since the last EDP dialogue visit.

The participants reviewed the main changes in the list of units classified in general government sector since the last Eurostat EDP dialogue visit in 2015. Most of units were re-classified to the general government sector due to non-complying with the 50 % test. Eurostat enquired also about some units that were removed from the general government sector. The Spanish statistical authorities explained that the main reason was that the units did not exist anymore or that they were merged with other government units.

Findings and conclusions

Eurostat took note on these explanations.

4.1.3. Application of the market/non-market test

The market / non market (50 %) test is generally being implemented on a unit by unit basis every 5 years. However, for companies with liabilities higher than 0.01 % of GDP and the units close to the threshold of 50 %, the market / non market test is implemented on a yearly basis. In case a public unit has no activity, it is automatically classified inside the general government sector (S.13).

When sales, as defined in ESA 2010, exceed 50% of production costs, the unit is classified in the Non-financial corporations sector (S.11).

Under this item of the agenda were mainly discussed the fees charged by rail infrastructure managers services declared as *Public service obligation* (PSO). For this point of the agenda the representatives of ADIF, RENFE and the Ministry of public works and transport (*Ministerio de Fomento*) were present.

Introduction

End-July 2017, the Spanish statistical authorities asked for consultation on the correct ESA 2010 accounting treatment of fees charged by rail infrastructure managers for services declared as PSO, i.e. whether they can be considered as the market output (sale) in the 50 % test or not.

As the issue was rather complex, Eurostat proposed technical details to be further discussed in the forthcoming EDP dialogue visit and that the representatives from the Ministry of public works and transport, ADIF and RENFE would be present.

The main legal background:

The *Spanish General State Budget Act* - dated 27 June 2017 - ordered the activation of the Rail Sector Act 38/2015, which transposed the Directive 2012/34/EU into the Spanish law.

The *Directive 2012/34/EU* aims to ensure the transparency and non-discriminatory access of all rail companies to railway infrastructures and establishes the charges for the minimum access package and for access to infrastructure in different form and for different types of services, including service declared as PSO.

The *Regulation (EC) 1370/2007* aims to define the framework governing the means by which competent authorities ensure the provision of public transport services offering higher service frequencies, better quality or lower fares than the market would otherwise provide. More specifically, it sets out the conditions under which authorities securing services operated in accordance with PSO should compensate the service provider, and the mechanisms to be applied in procuring such services by contract.

PSO is defined as "*a requirement defined or determined by a competent authority in order to ensure public passenger transport services in the general interest that an operator, if it were considering its own commercial interests, would not assume or would not assume to the same extent or under the same conditions without reward*".

The *Commission implementing Regulation (EU) 2015/909* of 12 June 2015 on the modalities for the calculation of the cost that is directly incurred as a result of operating the train service aims to establish direct costs and non-eligible costs.

The *Spanish Rail Sector Act 38/2015* defines, in line with the above mentioned EU laws, the provision of public service and the compensation which the service provider is entitled to receive for operating the services under the terms and conditions established by the PSO. Fees for the use of the infrastructure must be equivalent to the costs directly attributable to the operation of the rail service.

Discussion and methodological analysis

Firstly, the representatives from ADIF presented the issue. The *Spanish General State Budget Act of 27 June 2017* ordered the activation of the *Rail Sector Act 38/2015*, which defines that

fees for the use of infrastructure must be equivalent to the costs directly attributable to the operation of the rail service.

Up to now, ADIF received the compensation for operating services declared as PSO from:

- Revenues from the fees for the use of infrastructure and facilities paid by the rail operator.
- Budgetary contributions - in order to cover a part of the costs of maintenance activities, circulation and safety.

The infrastructure manager ADIF is a government controlled unit, currently classified inside general government sector (S.13). The Spanish statistical authorities explained that in the case that the fees for services declared as PSO would have been recorded, in national accounts, as sales then ADIF could be re-classified in the *Non-financial corporations* (S.11), as its sales would exceed 50 % of its costs of production.

The revenue that ADIF received so far from RENFE for the services declared as PSO, cover about 10 % of costs associated with infrastructure. For the public passenger transport services declared as PSO, RENFE receives compensation from the State.

RENFE is classified in the *Non financial corporation sector* (S.11).

With the new system, the compensation for operating PSO will no longer be paid through direct budgetary contributions, which are not considered, in national accounts, as sales in the 50 % test.

According to the new system, ADIF shall prepare a proposal of rates for the charges established in Articles 97 and 98 of the Rail Sector Act 38/2015. In compliance with the provisions of Article 100 of the Act, this proposal must be subject to a consultation with rail companies and a report from the National Commission for Markets and Competition (CNMC)⁶.

The consultation process is as follows:

- Firstly, the proposal for updating or reviewing the rail charges is sent to rail companies;
- Secondly, meetings are held with the rail companies in the presence of CNMC;
- Thirdly, the rail companies may send their observations;
- Finally, ADIF studies these observations and the report issued by the CNMC, and if appropriate, ADIF incorporates the suggestions made. The CNMC only recommends its suggestions;
- Once the proposal is approved by ADIF's Board of directors, the proposals are passed on to the Ministry of public works and transport to be included in the Draft General State Budget.

The representatives of ADIF explained that the CNMC gave a positive opinion on the method used as well as on the estimates calculated by ADIF in 2017. The representatives from ADIF, RENFE and the Ministry of public works and transport emphasized that government is not

⁶ Government body classified in S.1311

intervening in the consultation process as its role is limited only to include in each year's General State Budget the proposal for updating the fees sent by ADIF.

At present, a government controlled company, RENFE, is the only rail operator in Spain, pending the liberalisation of the market in 2023. During the meeting, it was confirmed that the same compensation for the PSO would be paid to a private or a public company if they would exist, although at this stage, there is only one public railway operator and the market will be liberalised only in 2023. When this happens, only one PSO operator would be chosen in a tender process. At that time RENFE will compete with other private operators. Currently, RENFE does not compete with private producers through tendering for the PSO contract, so it is the only beneficiary of this contract

Therefore, at this stage the hypothetical fees paid for the same service / product to different operators cannot be compared.

The representatives of ADIF underlined that ADIF is a public entity and its goal is not to incur profit, but to have balanced accounts. As a cost model is used for the calculation of PSO, the fees would in fact increase whenever there would be an increase of costs of ADIF. Consequently, RENFE (and government) would pay higher fees, as ADIF would transfer the increase of costs to be paid, to government. Eurostat questioned whether this would not necessarily mean that the service received would be higher. In such circumstances, Eurostat doubted on whether revenue based on costs plus margin could be considered as a real sale and being economically significant price.

Then Eurostat asked about the composition of the Board of ADIF. It was explained that eight members out of ten are in fact government officials. Eurostat underlined that a composition of boards is one of the qualitative criteria to define autonomy of decision, to be assessed by the statistical authorities. This raises a serious issue concerning the governance of such entities and the implication of the above could also have an impact by itself on the sector classification of such entities in national accounts.

The Spanish statistical authorities explained that the situation regarding the composition of the Board of directors is in fact similar in other railways companies, i.e. RENFE and ADIF-AV. Eurostat doubted that, the meeting between RENFE and ADIF to decide on the amount to be paid from RENFE to ADIF would in fact reflect a real market situation given the composition of the boards of both companies.

Eurostat thought that its opinion on this issue was rather clear after discussions held about the governance in a public corporation ICO. The Spanish statistical authorities argued that this criteria applies only to financial institutions. Eurostat disagreed to this and was of the opinion that it should be applied to all government controlled units. Nevertheless Eurostat agreed not to take any decision regarding governance at this stage and hence on the sector classification of ADIF and RENFE as the situation across Member States seemed not to be harmonized. It mentioned that this issue might be further discussed in one of the methodological task forces.

The Spanish statistical authorities supported this idea. However they expressed concerns on whether a consensus among Member States could be reached. Once again, they argued that

the issue of governance could be relevant only in the cases when it is not possible to apply the 50 % test, such as in the case of financial institutions.

Eurostat expressed its concern that all entities involved in this case are in fact public entities controlled by government, which also, in addition, have a majority of their members in the boards of both public entities concerned, i.e. RENFE and ADIF. Because of the above, the situation seems to be rather circular, as the whole process is entirely controlled by government from beginning to end, therefore, casting some doubts whether this reflects a real market situation.

The Spanish statistical authorities also explained that financial operations of these units are subject to a limit defined by government, such as for the raising a new debt. For example, ADIF is not authorized to raise new debt by itself as it would need a prior authorization of government. In any case, this would have to be included in the budget (*Ley General de Presupuesto*). The representative of ADIF confirmed that, so far, ADIF never asked for an increase of the limit. The same limitations are in fact in place also for RENFE and ADIF-AV.

Afterwards the actual calculation of charges under the new system was discussed. The statistical treatment of PSO has direct implications for the delimitation of general government. Depending on whether these payments are treated as sales for the market / non market test or not, the outcome of the 50 % test might be different and this could in theory lead to the reclassification of ADIF outside the general government.

The representatives of ADIF presented its calculation. The infrastructure manager ADIF prepares a proposal for the charges established in Articles 97 and 98 of the Rail Sector Act 38/2015. Charges are calculated on a cost basis and the final amount to be paid will depend on the unit amount of the charges calculated and the actual production of the operators measured in train/km term.

The charges calculated by ADIF apply the criteria established in the Rail Sector Act 38/2015 as follows:

- Use of historic costs to identify and quantify the costs incurred by rail infrastructure managers for the provision of services of the access package and for access to infrastructure connecting service facilities;
- Identification among the above costs of those that are non-eligible;
- Identification of the costs that Article 97 of Act 38/2015 considers recoverable through the mark-up provided for in Mode B (Article 97.5.2.b);
- Establishment of costs directly attributable to the operation of the rail service as the difference between the costs described in the points above.

To calculate the underlying costs of the charge for using lines forming part of the General Interest Railway Network, ADIF has identified activities related to the provision of services of the minimum access package and for access to infrastructure connecting service facilities as follows: capacity management, circulation management, circulation safety, and the maintenance and conservation of the infrastructure. In addition, the mark-up for Mode B (use

of railway lines) charges has been applied to the remaining underlying costs corresponding to PSO services.

Every year ADIF should calculate the costs directly attributable to the rail services provided and proposes charges for the following year. It is an ex-ante model and although it does not allow settlements to be made at the end of the year, Eurostat however understood that any possible deviation (i.e. losses incurred in one year) would be compensated in the following year.

The representatives of ADIF clarified that the charges are applied to the traffic generated (i.e. trains per kilometre) and are paid on a monthly basis by RENFE to ADIF for modes B and C only. At the end of the year, there is no additional settlement made.

During the meeting, it was also presented a detailed table showing the differences between the two systems (see below).

ADIF – ESTIMATED PROCEEDS FROM NEWCHARGES STRUCTURE VS PROCEEDS IN 2016

Amounts in thousands of euros

2016 traffic data

CHARGES FOR THE USE OF LINES RFIG NLSF	ESTIMATED PROCEEDS NEW CHARGES STRUCTURE	CHARGES FOR USE OF LINES RFIG LAW 39	PROCEEDS 2016
Charge mode	Lines NOT A	Charge mode	Lines NOT A
Mode A: Allocation of capacity	145,923	Mode A: Access	3,622
Mode B: Use of railway lines	208,091	Mode B: Capacity reserve	51,036
Mode C: Use of ETP transformation and distribution facilities	44,625	Mode C: Circulation	16,379
MINIMUM ACCESS	398,639	SUM	71,036
MARK-UP CHARGE MODE B	238,418	Mode D: Traffic	
TOTAL	637,057	TOTAL	71,036

When looking at the breakdown of the charges, as presented in the Table above, Eurostat noted that the mode A is not linked to volume, as the amount is fixed, whereas the mode B depends on the use of trains (train/km) while the mode C is related to the consumption of energy, which ADIF provides to RENFE.

Eurostat explained that in order to record subsidies in national accounts as subsidies on products (and as a sale in the 50 % test), the crucial point would be the existence of a direct link between the amounts granted to the corporations and the effective level of the activity (volume) carried out. This seems not to be the case for the mode A as the amount is fixed and it is not linked at all to the volume.

Eurostat also noted that the mark-up for Mode B (use of railway lines) charges is applied to the remaining underlying costs corresponding to PSO services and represents about 37 % of estimated fees charged by ADIF for services declared as PSO. It seems that, with this mark-

up, all costs are passed to third parties, which are considered to be non-eligible in the Article 4 on Non-eligible costs of the provisions of the Regulation 909/2015. Eurostat questioned whether the mark-up could be considered as a subvention on product and as a sale in the 50 % test.

Moreover, this mark-up may be collected only provided that the market can bear it and while the optimal competitiveness would be assured, while the market is still not liberalised in Spain and currently there is only one public railway operator.

Furthermore, Eurostat noted that the new system does not seem to change significantly in substance compared to the previous system. ADIF received under the previous system compensation directly from the government budget (585 million euro), plus the payments related to PSO from RENFE (71 million euro). Under the new system the amount received for the PSO is almost the same as in the former system, i.e. 637 million euro, with the unique difference, compared to the previous system, that the whole part is paid by a unit controlled by government (RENFE), which is then directly compensated by government.

In addition, Eurostat remarked that the Spanish General State Budget Act ordered the activation of the Rail Sector Act 38/2015, which transposes the Directive 2012/34/EU into the Spanish law on 27 June 2017. This means that, in 2017, ADIF received direct budgetary contributions for the first six months of 2017 and the revenues paid by RENFE under the new system applied only for the second part of 2017.

Findings and conclusions

Eurostat took note of the explanations provided by the representatives of ADIF, RENFE, and the Ministry of public works and transport and invited the Spanish statistical authorities to reflect on the issues raised in the meeting.

The subject of the classification of ADIF was discussed. It was concluded that ADIF, at least at present, will continue to be classified inside the general government sector (S.1311).

Action point 1: The Spanish statistical authorities will provide a detailed calculation item by item of the components included in the revenue and expenditure of the companies, showing which part are to be included in the sales and which ones not, of the market non market test for ADIF, ADIF-AV and RENFE. Furthermore each item will have to be properly justified – for the last three years.

Deadline: *mid-February 2018*⁷

Action point 2: The Spanish statistical authorities will provide a note on the calculation of the amortization of ADIF, ADIF-AV and RENFE in line with the national accounts principles.

Deadline: *mid-February 2018*⁸

⁷ The calculation was provided on 20 February 2018.

4.1.4. Government controlled entities classified outside the general government (public corporations)

Introduction

The Spanish statistical authorities provided, prior to the meeting, an updated Questionnaire on government controlled entities classified outside general government, which was discussed under this point of the agenda.

Discussion and methodological analysis

Eurostat thanked the Spanish statistical authorities to provide the updated version of Questionnaire, including the 2016 data. The method of identification and classification of public units has not changed since the last EDP dialogue visit. The process of classification of public corporations controlled by government is explained in detail in the EDP inventory.

Eurostat, together with the Spanish statistical authorities, reviewed the list of government controlled entities and discussed some specific cases.

Firstly, the Spanish statistical authorities confirmed that all public universities are classified inside the general government sector.

Then, Eurostat enquired about the units controlled by government, classified in the sector *Financial corporations* (S.12). The Spanish statistical authorities confirmed that the qualitative criteria are being applied in line with the MGDD and said that only around ten government controlled units are classified outside S.13, in S.12, some of them being financial institutions with deposits.

Eurostat asked to analyse the public units currently classified in S.12 (in NACE⁹ 65¹⁰ and 66¹¹), and in particular to investigate whether government has any implications in these units.

Eurostat noted that the market / non-market test for some units was just above 50 % in the last three years and asked the Spanish statistical authorities to closely monitor such units.

Further, Eurostat explained that it closely monitors public entities in all Member States, classified in "*Land transport and transport via pipelines*" – NACE 49, in particular railways. In this respect, Eurostat asked to receive a detailed calculation of the 50 % test with the link to the financial statement for companies with liabilities higher than 0.01 % of GDP, classified in NACE 49. As this was already asked for RENFE and ADIF (see Action point 1), Eurostat asked this to be provided for *Ferrocarril metropolitana de Barcelona* and *Metropolitano de Tenerife*.

Then, Eurostat observed that a number of units, controlled by state and local governments, are classified in NACE 84 (*Public administration and defence; compulsory social security*).

⁸ The note was provided on 20 February 2018.

⁹ Statistical classification of economic activities in the European Community

¹⁰ Insurance, reinsurance and pension funding, except compulsory social security

¹¹ Activities auxiliary to financial services and insurance activities

Eurostat underlined that NACE 84 may point at products not sold at economically significant price, with ESA 3.26 and 3.84 requiring a classification of such units inside the general government. The Spanish statistical authorities agreed to examine the sector classification of these units.

Eurostat also detected some units, controlled by local government, having NACE activity 79, i.e. *Travel agency, tour operator and other reservation service and related activities*. Eurostat questioned what could be considered as a sale for such units. The Spanish statistical authorities agreed to check whether the sector classification of public units classified in NACE 79 is correct.

Next, the sector classification of public units with their main activity as *Public housing* was discussed in more detail. The Spanish statistical authorities explained that the same procedure is applied for these units as for the rest of public corporations, i.e. the sector classification of units with liabilities higher than 0.01 % of GDP are reviewed on an annual basis. Prior the mission, a note on public units engaged in rental housing was provided, including a list of units classified inside (S.13) and outside of the general government (S.11). All units at the level of central government are classified inside S.13 while only one unit controlled by state government being classified in S.11. Most public units are found at the level of local governments and about one third of them are classified outside general government. The Spanish statistical authorities explained that the total debt of units controlled by local government classified in S.11 amounts to about 0.06 % of GDP. In most of the cases, these units are financed through the rent of their dwellings.

It was further explained that the situation varies across local governments (municipalities) as each municipality decides on its level of public housing. The government involvement might be in the form of subsidies, providing the land or paying the difference for rents. Whenever the government pays a part of the rent, it might be paid either directly to the tenant or the company involved in social housing. In the case of the latter, government payments are not considered as a sale and such units are classified inside S.13.

In general, social housing renting is very limited in Spain and it is not provided via housing associations.

Findings and conclusions

Eurostat took note of the classification process of public corporations controlled by government.

Action point 8: The sector classification of *Consorcio de compensacion de seguros, CESCE, Cofivacasa CERSA, SAECA* and *Fondo de liquidacion asica*, currently classified in S.12, will be analysed by the Spanish statistical authorities.

Deadline: *end-February 2018*¹²

¹² The note was provided on 20 February 2018.

Action point 9: The Spanish statistical authorities will provide a detailed calculation of the market non market test with a link to the financial statements for *Ferrocarril metropolitana de Barcelona* and *Metropolitano de Tenerife*.

Deadline: *end-February 2018*¹³

Action point 10: The Spanish statistical authorities agreed to examine the sector classification of those units where the NACE classification is 84 (public administration) and are currently classified outside S.13.

Deadline: *end-March 2018*

Action point 11: The Spanish statistical authorities will check whether the sector classification of public units in NACE 79 (travel agencies) is correct.

Deadline: *end-March 2018*

4.2. Implementation of accrual principle

4.2.1. Accrual taxes and social contributions

Introduction

The Spanish statistical authorities use a statistical model based on assessments and declarations, with a subsequent adjustment of the amounts unlikely to be collected for taxes (VAT, taxes on products, taxes on income and corporation taxes) and social contributions. This econometric model for the estimation of the amounts unlikely to be collected was developed by INE, and it is based on a system of accumulated averages.

The model estimates the part of pending entitlements for each fiscal period that are unlikely to be collected and due pending payments that are going to be collected in the subsequent fiscal years. This adjustment for taxes and social contributions unlikely to be collected is applied from 1998 onwards.

The Spanish statistical authorities provided, prior to the meeting, an updated note on taxes and social contributions, including data on total revenue from assessment and declarations, cash received and amounts of taxes and social contributions not collected.

Discussion and methodological analysis

INE explained that, as a first step, a temporary adjustment is made in order to ensure that the accrual principle is respected. This adjustment is reported in the EDP tables 2.

Then the model is applied to taxes and social contributions. The objective is to estimate the revenues unlikely to be collected, through the observation of historical series of statements and collection of each tax or social contributions. This estimate is based on an extrapolation of the observed behaviour of the rights accruing each year and its effective year of collection.

¹³ The calculation was provided on 20 February 2018.

Regulatory changes or improvements in collection management might influence the behaviour, i.e. changing their short-term characteristics. Therefore, the estimate is not based only on data observed in the long term as stronger weights are given to more recent history of tax collection.

Eurostat, together with the Spanish statistical authorities, reviewed the *Table on uncertain revenue adjustment model*, including data on accrual and cash data, tax accrued - but not collected, adjustments for uncertain collection, revenue from closed exercise (taxes accrued in previous years) and stock of accounts receivable.

The Spanish statistical authorities explained that government budget includes accrual taxes for the central government.

Eurostat compared cash and accrual data for the last 15 years and observed that cash data is higher than accruals for the whole period for about 0.1 % of GDP. When looking at the historical trend, it was noticed that the model seems to work rather well under normal circumstances, while in time of crisis, accrual taxes are overestimated and in the time of economic growth, accrued taxes are underestimated. The latter can actually be observed in the last years of recovery of economic growth. Though, over a longer period of time, the model appears to be working rather well.

When looking more closely to the time series for the social contributions, the reverse situation to taxes can be observed. Over the period of 15 years, the accrual data is slightly higher than cash data.

In general, Eurostat considered that the model used is quite complex and it appears to produce satisfactory results under normal circumstances. However Eurostat thought that it would be more convenient to use the other method, which is also in line with the *Regulation 2516/2000 regarding taxes and social contributions*, i.e. time adjustment cash data. The Regulation allows that taxes and social contributions recorded in national accounts may be derived from two different data sources, either from assessment and declarations (the method currently used by Spain) or from the time adjustment cash data.

The main reasons for which Eurostat encouraged the Spanish statistical authorities to change the current method were the following:

- The current model is very complex and adjustments need to be made in different cycles of economy (crisis / economic growth) as the model works well only under normal circumstances;
- The model does not react immediately;
- The time adjustment method is already used by the majority of Member States;
- The time adjustment method does not require revisions or very limited ones, which is an important factor for the quality of forecasts made by the DG ECFIN;
- And, finally, both the Spanish statistical and Eurostat would spend less time on adjusting the model / verifying the results of the model, as the estimations made are based on cash data and hence are readily available and can be easily checked.

Eurostat stressed that the final decision on whether to change the current method used, was to be left to the Spanish statistical authorities, and encouraged them to reflect on its proposal.

Then, the regulatory tax changes in the recent years and their possible impact on government deficit were discussed in more details. The Spanish statistical authorities explained that the *Royal Decree 596/2016* created a new management system for VAT, which is based on the *Immediate Provision of Information System (Sistema de Información Inmediata)*. The new system entered into force on 1st of July 2017.

The above mentioned Royal Decree modified Article 61 and introduced an increase of 10 days in the deadline for submitting monthly VAT self-assessments. Before this change, the deadline for submission finished on the 20th of the following month. Under the new decree, monthly VAT returns must be filed during the first thirty calendar days of the month following the monthly settlement period. This modification would imply that only 11 months of VAT income would be recorded in the 2017 budget, instead of 12 months as it has been up to now.

However, for the purpose of the national accounts and EDP, VAT income is recorded in line with the accrual principle. Consequently, the monthly VAT revenue, accrued in November and December 2017 and submitted to the National Treasury in January / February 2018, would still be recorded in 2017. The Spanish statistical authorities confirmed that there would be no impact on national accounts data (and government deficit) due to the change of the *Royal Decree 596/2016*, as the amounts collected in January / February 2018 would be moved back to 2017 in line with the accrual principle. About 4 billion euro are expected to be collected in January / February 2018, which corresponds to the revenue accrued in November / December 2017. In the EDP tables, the adjustment would be made for this amount under *Other accounts receivable - Temporary adjustments* in order to compensate for the amounts of revenue collected in 2018, but accrued in 2017. Eurostat took note of these explanations.

Findings and conclusions

Action point 12: Regarding taxes, Eurostat analysed the model used for the amounts unlikely to be collected and noted some shortcomings in different cycles of economy. For practical reasons, Eurostat asked the Spanish statistical authorities to reflect on the possibility to move to the time adjustment cash method (TAC) which is in line with the Regulation 2516/2000. The change is not expected to be done immediately, but it might be implemented in the next benchmarking exercise in 2019. The Spanish statistical authorities agreed to reflect on this issue.

Deadline: *end-April 2019*

4.2.2. Recording of deferred tax assets

Introduction

The Royal Decree-Law 14/2013 of 29 November 2013 on urgent measures, to adapt Spanish Law to EU regulations on the supervision and solvency of financial institutions, introduced

an amendment of the consolidated text of the corporate income taxes (CIT), which have modified the treatment of deferred tax assets (DTAs).

The new law allows banks and other companies to transform a portion of DTAs into direct refundable tax credits from January 2014 onwards. The reference date for the application of the new rules was 1 January 2011. DTAs covered by this reform are those stemming from provisioning for (i) credit insolvencies, (ii) foreclosed assets and (iii) pension funds for the company's employees. For the cases mentioned above, credit claims would only materialise in the following situations:

- The company is not able to generate enough profits to offset remaining DTAs within a 18-year period. In this case, the unused amount of tax credits will become refundable in public debt.
- Insolvency or liquidation procedure of the company: in this case, the overall amount of remaining DTAs registered in the books of the company is automatically transformed into direct claims.
- Accounting losses at the end of a concrete year: in this case, DTAs will be transformed into refundable tax credits for the proportion of the losses compared to the sum of capital and reserves of the company.

In 2014, Eurostat published a Guidance Note on *Treatment of DTAs and recording of tax credits related to DTAs in ESA 2010*.¹⁴ This guidance note clarifies the treatment on DTAs in national accounts and proposes guidance on the recording of tax credits related to DTAs under ESA 2010. The note concludes that DTAs are not to be recorded in national accounts, unless they give rise to a claim with the features of a tax credit, which is to be recorded in line with the provisions of ESA 2010.

The note provides guidance on the fact that *payable tax credits* related to DTAs should be recorded in national accounts as expenditure for their full amount, at the time they are recognised by government.

Discussion and methodological analysis

The Spanish statistical authorities confirmed that DTAs are recorded in line with the Eurostat Guidelines, and are recorded at the time when they are recognised by government. Up to now, the amounts of DTAs converted into *payable tax credits*, were rather negligible, i.e. 4 million euro and 2 million euro in 2015 and 2016 respectively.

Eurostat further enquired about the announcement of the *Banco Santander*, which bought the *Banco Popular*, to ask for 500 million euro of DTAs to be converted into *payable tax credit*, due to past losses of *Banco Popular*. The Spanish statistical authorities confirmed that this conversion would impact government deficit in 2017, in line with the Eurostat's Guidance Note on DTAs.

¹⁴<http://ec.europa.eu/eurostat/documents/1015035/2041357/Guidance-Note-on-Deferred-tax-assets.pdf/42b7934b-a509-4df4-9317-19a1f9900d8e>

Findings and conclusions

Eurostat took note of the explanations.

4.2.3. Accrued interest

Introduction

The methodology for the calculation of government accrued interest payable was discussed.

Due interest together with premiums and discounts are recorded in the budget of all general government sub-sectors on a cash basis. The *Working Balance* (i.e. budget) thus includes the effect of *premiums and discounts*, which are spread over the life of an instrument. The repayment of discount is identifiable from debt repayments. Premiums are recorded in national accounts as a negative expenditure.

Accrued interest is valued by each instrument, by the Directorate-General of the Treasury and Financial Policy. The interest is accrued over the life of the security.

Prior to the meeting, the Spanish statistical authorities provided a table on recording of interest.

Discussion and methodological analysis

Eurostat noted that interest is included under *Other accounts receivable / payable* in the case of *Deposits* (F.2) and *Loans* (F.4) and wondered why this approach was chosen. The Spanish statistical authorities confirmed it and explained that the same recording is used also in the ESA table 27. In any case, the amounts concerned are very small.

Further, Eurostat and the Spanish statistical authorities examined the table on interest provided prior the meeting. Eurostat noted that the table seem to be consistent between stocks and flows. However, at this stage, the comparison between the table on interest and the EDP tables is not possible, as Spain is currently not providing the split of the EDP table 3B1 and 3B2. The Spanish statistical authorities already agreed to provide this split (see Action point 6).

Eurostat observed that FISIM are decreasing more than liabilities over the years. The Spanish statistical authorities agreed to further investigate this trend.

Findings and conclusions

Action point 17: Regarding the table on interest, Eurostat asked the Spanish statistical authorities to check on the main reasons for falling of the FISIM over the last years.

Deadline: *end-January 2018*¹⁵

4.2.4. EU flows

¹⁵ The note on this issue was provided on 20 February 2018.

Introduction

EU flows are recorded according to Eurostat rules, in public accounts, for the central and state government as well as for the social security sub-sector, while for the local government subsector amounts are being recorded on a cash basis. The Spanish statistical authorities underlined that the amounts involved are very small for local government. This issue was already discussed in the context of previous EDP dialogue visits.

Prior to the meeting, the Spanish statistical authorities provided a table on the recording of EU flows.

Discussion and methodological analysis

The Spanish statistical authorities confirmed that EU flows in the local government sub-sector are being recorded on a cash basis and that the amounts involved are not significant.

The information is available for each fund and sub-sector in the *Directorate-General for EU Funds*.

EU flows transit through an account in the Bank of Spain with no impact on the government budget. This bank account is deemed to be owned by the *Rest of the World*, in national accounts. The only impact in the budget is when government is the final beneficiary. No advance payments are included in the budget. The Spanish statistical authorities also confirmed that advance payments held in the account of the Bank of Spain bear interest paid by government. In 2017, such payments amounted to about 70 million euro.

Eurostat asked at what time the certification of the expenditure is made and whether there is any time lag between the certification and actual payments. The Spanish statistical authorities explained that usually there is no delay, unless the EU suspends payments and expenditure has to be further justified.

Regarding the questionnaire provided prior to the mission, Eurostat took note that the table itself seem to be consistent and that the data on co-financing are not included in the table.

Findings and conclusions

Eurostat took note that the recording of EU flows seem to follow the Eurostat rules in the central and state government as well as in the social security sub-sector, while cash recording is applied to the local government sub-sector, but the impact on government accounts is estimated to be negligible

4.2.5. Military equipment expenditure

Introduction

The recording of military equipment follows Eurostat rules. Amounts are being recorded on a delivery basis from direct sources (i.e. Ministry of Defence).

During the 2015 EDP dialogue visit, Eurostat questioned whether advances provided to suppliers of military equipment, classified as *loans* (F.4), were correctly recorded in national accounts and proposed to the Spanish statistical authorities to re-classify them as *trade credits and advances* (F.8). The Spanish statistical authorities re-classified these loans as *trade credits and advances* in the context of the October 2015 EDP notification.

Discussion and methodological analysis

The issue of the re-classified loans as trade credits, as agreed during the 2015 EDP dialogue visit, was raised again during the October 2017 EDP notification, when Eurostat observed, in the Table on military equipment of the Questionnaire relating to the EDP notification tables, repayments of these so called "*loans*". During the 2015 EDP dialogue visit, Eurostat was under the impression that these loans were amortised when the delivery took place and that there were no cash repayments.

The Spanish statistical authorities confirmed that loans to domestic and foreign providers are real, and they have to be repaid in cash. The Ministry of Defence must then pay to the suppliers, the equipment received, according to a pre-established schedule, which generally coincides with the repayment schedule of granted loans.

On the basis of this information, Eurostat asked the Spanish statistical authorities to investigate again this issue in order to decide whether these "*advances / loans*" paid to military suppliers have the nature of loans or of trade credits in national accounts.

Findings and conclusions

Action point 18: The Spanish statistical authorities will provide detailed information on the nature of the "*loans*" provided to military suppliers, currently recorded as trade credits (F.81) and to reflect whether they are to be considered as loans or trade credits.

Deadline: *end-February 2018*¹⁶

4.2.6 Court decisions

Introduction

Under this point of the agenda, several ongoing court cases were discussed in more detail. Prior to the meeting, the Spanish statistical authorities provided a note on current open court cases.

Discussion and conclusions

The Spanish statistical authorities explained that there are currently several open court cases at the level of central and state government. It was underlined that, in none of those cases, a final Court decision has been reached yet and therefore no impact on government deficit is

¹⁶ The note was provided on 20 February 2018.

expected in 2017. The recording in national accounts will be in line with the *MGDD chapter II Court decisions with retroactive impact*.

ESA 2010 20.189 states that, *when a Court of Justice rules, as a definitive judgement, that a compensation must be paid, or a transaction reversed, the time of recording of the expenditure or revenue is when the right of one party (and the obligations of the counterpart) is irrevocably established, if the amount to be paid (or retroceded) is precisely fixed.*

Eurostat stressed the importance of providing timely information on current open court cases so that the DG ECFIN can include them in their forecasts.

Findings and conclusions

Action point 16: Eurostat invites the Spanish statistical authorities to promptly provide information on the situation related to the existing Court cases to Eurostat, which might impact, for sizeable amounts, government expenditure or revenue.

Deadline: *as soon as available*

4.3 Recording of specific government transactions

4.3.1 Government operations relating to financial turmoil

Introduction

The Spanish statistical authorities provided, prior to the meeting, a note on current and planned government operations relating to the financial crisis and the accounting consequences for government.

Discussion and conclusions

In 2016, government operations related to financial turmoil were granted through FROB and BFA (both classified in S.13), and they are reported in the *Supplementary table for reporting government interventions to support financial institutions*. Such operations were:

- Conversion of subordinated debt into SAREB;
- Rulings in favour of hybrid instrument holders in *Bankia*;
- Compensations paid in favour of *Bankia* shareholders;
- Guarantees for the sale of *Banesto* and others.

The above mentioned table is publicly available on the Eurostat website¹⁷. In addition, also the Deposit Guarantee Fund (also classified in S.13) granted aids to financial institutions, which correspond to the *Asset Protection schemes* granted in the sale of *Caja de Ahorros del Mediterráneo* (CAM). The grants made by the Deposit Guarantee Fund are not reported in the above mentioned table, in line with Eurostat guidelines.

¹⁷ <http://ec.europa.eu/eurostat/web/government-finance-statistics/excessive-deficit/supplementary-tables-financial-crisis>

Then, Eurostat enquired about the operations undertaken in 2017, which would be reported in the April 2018 EDP notification. The Spanish statistical authorities explained that payments of compensation related to *Asset Protection Schemes* and judgements in favour of hybrid instrument holders of Bankia took place also in 2017.

In addition, a sale of the *Banco Popular* to the *Banco Santander* took place in June 2017, which will have no impact on government deficit as FROB, in this context, provided no aid. However the sale has raised numerous court appeals, which might have an impact on government deficit in the future.

In 2017, *Unicaja* repaid early, to the FROB, 604 million euro of Cocos¹⁸ issued in 2013 by its subsidiary *CEISS*. These Cocos were recorded at that time as a capital transfer, with an impact on government deficit, in line with Eurostat instructions.

The issue of Cocos issued by *Banco CEISS* in 2013 was firstly discussed in the 2013 EDP dialogue visit. At that time the European Commission had concluded that the restructuring plans for *Banco CEISS*, were in line with the EU state aid rules, and Spain committed to sell it. The equity of *CEISS* was not big enough to absorb losses. The bank's recapitalisation was firstly foreseen to be formalised through the subscription of ordinary shares (by FROB). As the capital injection was considered not to be recoverable and therefore the market value was considered nil, it was agreed to be recorded as a capital transfer.

The capital injection into *CEISS* was finally achieved through Cocos, and not by the subscription of ordinary shares. Later in 2013, *Unicaja* acquired the compromise to redeem these liabilities in the case these two banks were merged, which then happened in early 2014. Due to this commitment, the Spanish statistical authorities decided, in the context of the April 2014 EDP notification, to change the recording in national accounts to a financial transaction (F.5 – *shares*), without an impact on government deficit. Eurostat considered that, as the purchase of convertible contingent securities was not considered recoverable when it took place and the capital injection was based on the information available at time when the merge between *CEISS bank* and *Unicaja Banco* was not foreseen, the capital injection into *CEISS* should be considered as a capital transfer. Consequently the Spanish statistical authorities recorded it, as a capital transfer with an impact on government deficit.

On the basis of this recording in 2013, the Spanish statistical authorities considered that the repayment of Cocos should be recorded as a positive capital transfer for government in 2017, in order to apply a symmetric recording. This could be assimilated to a loan, as an obligation for the repayment was established.

Eurostat argued that the issue is rather complex as it could be assimilated either to a loan or to a capital injection and stressed that recording in national accounts is not always symmetric.

In addition, Eurostat also pointed out the current discussions held in the EDPS WG related to *Defeasance structure* and renovation of the *2009 Guidance note on the statistical recording of public interventions to support financial institutions and financial markets during the*

¹⁸ Convertible contingent securities

financial crisis. The new proposals suggest a possibility of backwards revision and allows for asymmetric recording.

The Spanish statistical authorities further argued that this was not a capital injection through *Shares* (F.5), but in the form of *Securities* (F.3), bearing interest. Eurostat replied that it was told in 2013 that the investment has an F.5 as nature, the way in which it was originally recorded in national accounts. On the basis of this information received from the Spanish statistical authorities, Eurostat made the decision to be recorded as a capital transfer.

Furthermore the Spanish statistical authorities explained that these Cocos are currently recorded in financial accounts as F.3 and not as F.5, the same as the Cocos subscribed by *Liberbank* and *Caja3*. Eurostat asked the Spanish statistical authorities to confirm the recording of Cocos in financial accounts for these two entities. Nevertheless, in these two cases, Eurostat agreed for Cocos to be recorded as a financial transaction.

Eurostat agreed that the instrument used is an hybrid instrument between F.3 and F.5. In the accounts of the bank it is recorded as an increase of capital (F.5), but bears interest. The Spanish statistical authorities underlined that Cocos were entirely paid by Unicaja to FROB, as agreed at the time of the merge. The Spanish statistical authorities also explained that the dividend paid was not tested for a super-dividend test, as it was considered as a normal interest. In addition, it was not paid only to the government, but also to other shareholders.

Eurostat stressed again that the decision to record it as a capital injection, was based on the information available at that time, which was received by the Spanish statistical authorities. Eurostat also mentioned that the new proposals discussed in the EDPS WG recommends a possible revision backwards and allows for asymmetry. At this stage, the process is still not finalised and Eurostat has to decide how to treat the repayments of Cocos. As already explained, Eurostat considered that however one option would be to revise backwards the historical data, i.e. in 2013. The Spanish statistical authorities did not support this recording as the accounts for the year 2013 are considered final.

On the other hand, Eurostat did not agree with the proposal made by the Spanish statistical authorities, to record revenue in 2017. This seemed not to be justified by fact that the subscription of Cocos was recorded as F.3.

Eurostat stressed that, in these circumstances, the correct recording in national accounts, avoiding the revision of the time series, would be through revaluation and asked the Spanish statistical authorities to consider its proposal.

Findings and conclusions

Action point 19: Regarding the government operations relating to financial turmoil, Eurostat asked the Spanish statistical authorities to verify the recording of Cocos issued by Liberbank and Caja3 in financial accounts in 2013.

Deadline: *mid - January 2018*¹⁹

Action point 20: Regarding the repayment of Cocos by *Unicaja* (parent company of the bank CEISS) in 2017, Eurostat expressed its view that a correct recording in national accounts, avoiding the revision of the time series, would be through revaluation. The Spanish statistical authorities will consider this proposal.

Deadline: *April 2018 EDP Notification*

4.3.2 Public-Private Partnerships (PPP), concessions and others

Under this point of agenda Public-Private Partnerships (PPP), concessions, Extraordinary Road Investment Plan²⁰ and Energy performance contracts were discussed in detail.

Public-Private Partnerships (PPP)

Introduction

The legal framework of contracts concluded by government bodies is the Law 30/2007 of 30th October, *de Contratos del Sector Público* (LCSP). LCSP applies directly to central government and local governments as well as to the Autonomous Communities (State Government). Contracts concluded by government bodies must comply with LCSP, including contracts classified as PPPs. However, not all contracts under LCSP are PPPs as defined by the MGDD. Therefore the specific terms of each contract must be examined in order to determine whether it is a PPP or not.

The *Technical committee of national accounts* regularly sends letters to enquire on PPP operations at sub-national levels, with an obligation for government units to report PPPs at least once a year, with a description of contractual arrangements, administrative and technical details.

The updated list of all PPP projects was provided to Eurostat prior to the meeting, including details such as amounts involved and whether the PPP is recorded on the balance sheet of the government or the private partner.

¹⁹ The information was provided on 20 February 2018.

²⁰ Plan Extraordinario de Inversión en Carreteras (PIC)

Discussion and methodological analysis

Firstly, the late reporting of PPPs was discussed, in particular the PPP from Mallorca, which had been unreported for about 14 years and it was reported for the first time in the October 2017 EDP notification. Eurostat took note that the impact on government deficit was however very limited, about 0.01 % of GDP. The Spanish statistical authorities explained that the municipality of Mallorca did not report it and it was discovered by the Spanish statistical authorities only in 2017. They also underlined the fact that this PPP was signed in 2004, before the rules on PPPs were put in place.

Eurostat asked whether all PPPs are fully reported at this stage as it appears that PPPs are fully reported at the level of central and state government, while this seems not to be the case for the local government, where previously unreported PPP contracts still appeared.

The Spanish statistical authorities explained that they had several meetings with municipalities and it is not possible to have any more unreported PPPs. In any case, only two municipalities (*Baleares* and *País Vasco*) have the competence over roads and the rest of municipalities do not have the competence to incur expenditure by building roads under PPP contracts. In addition, under the new law on public works, it is obliged to report PPPs to the *Technical Committee of national accounts*; otherwise the contract would be deemed to be annulled.

Eurostat took note of these explanations and encouraged the Spanish statistical authorities to closely monitor the situation and inform Eurostat about any changes.

Moreover, Eurostat noted that there seems to be a time lag between the time when the contract is signed and when the contract is finally assessed by the *Technical Committee*. Currently, during this time the PPPs are not recorded on the balance sheet of government. Eurostat recommended that it would be more appropriate to put the pending PPPs on the balance sheet of government until the decision on their classification is made, as it is however more likely that they would end up on the balance sheet of government. The Spanish statistical authorities explained that this is not possible due the legal constraints. So Eurostat asked the Spanish statistical authorities to provide on a regular basis, a list of all PPPs on which the Spanish statistical authorities have already some information and the contracts have already been signed, but where the *Technical Committee* has not yet decided on their sector classification.

Prior to the meeting, the Spanish statistical authorities also provided the list of ongoing and planned PPPs. The Spanish statistical authorities explained that the procedure for the analysis and the classification of PPPs has not changed and that individual PPP contracts are analysed by the *Technical committee*.

A majority of PPPs in the central government and all PPPs in the local government sub-sectors are classified on the balance sheet of government. The majority of PPPs were observed in the state government sub-sector, of which about half are classified on the balance sheet of government.

The Spanish statistical authorities confirmed that, in the case of renegotiation and / or legal changes of the contract, the *Technical committee* receives all necessary information to correctly classify them in line with the current rules. Eurostat asked to receive the list of contracts which were legally changed.

Findings and conclusions

Action point 13: Regarding the Public Private Partnerships (PPPs), Eurostat asked the Spanish statistical authorities to provide to Eurostat on a regular basis, a list of all PPPs on which the Spanish statistical authorities have already some information and the contracts have already been signed, but the Technical Committee has not yet decided on their sector classification. Eurostat would also like to receive a list of the contracts which were legally changed.

Deadline: *before each EDP notification*

Concessions

Introduction

A list of concessions signed in years 2013-2017 was provided to Eurostat together with the new law on public works.

Discussion and methodological analysis

Firstly, the Spanish statistical authorities presented the new law on public works, adopted in 2017. It applies to both, PPPs and concessions. The new law is adapted to the EU Directive and it mainly impacts the process of formalization of contracts and has no impact on national accounts recording. The last revision of the law on public works incurred in 2015, and it was mainly related to the calculation of the liability of the *Responsabilidad patrimonial de la administración* (RPA) (current value of the assets). The law established criteria under which assets can revert back to government, in the case of bankruptcy of the concessionary. Government is obliged to take over the assets, but not its debt. The 2015 law limited the maximum amount of the RPA, so that the concessionaire did not receive a guaranteed recovery of the investment. The 2017 change of the law did not change RPA.

The Spanish statistical authorities and Eurostat examined the articles of the new 2017 law regarding force majeure, economic-financial equilibrium, financing, penalties and early termination of the contracts and concluded that there are no consequences for the national accounts recording. Furthermore, the Spanish statistical authorities explained that the *Technical Committee of the national accounts* have to be pre-consulted on the impact in national accounts, prior the signing of each public contract. This is a new feature, established in the 2017 law on public works.

Then, Eurostat enquired about the liquidation process of eight concessionaires of the toll motorways. The Spanish statistical authorities explained that these cases are still open in Court. It was confirmed that all concessionaires concerned are private companies:

- Henarsa (R2 y M-50)
- Accesos de Madrid (R3/R5 y M-50)
- Madrid Sur (R4 y M-50)
- Eje Aeropuerto (M-12)
- Madrid - Toledo (AP-41)
- Madrid - Levante (AP-36)
- Aucosta (AP-7, Cartagena - Vera)
- Ciralsa (AP-7, Circunvalación Alicante)

In accordance with the situation of different bankruptcy proceedings, it is considered that the eight concessions will revert to the State (Ministry of public works and transport) in 2018. The assets will be delivered to a government controlled units SEITTSA, classified within the central government sector. Therefore, the Gross Fixed Capital Formation (GFCF) will be recorded for the amount of the *Responsabilidad Patrimonial de la Administración* - RPA (Administration's Patrimonial Responsibility), impacting government deficit and debt.

The Spanish statistical authorities stressed that the Court would make the decision only on the liquidations process, while the Ministry of Public Works²¹ is in charge to calculate the RPA. It has a period of six months for its determination, counted from the delivery of assets. Therefore, at the time of the delivery of assets, the RPA would be calculated by the Ministry of Public Works. If concessionaires would not agree with the calculated value, they could appeal to the Court. When the final settlement is available, its value would be updated in the year of the final decision of the Court.

Eurostat enquired about the possible impact on government accounts. The Spanish statistical authorities explained that, although the debt of these companies is not guaranteed by government, the State has the responsibility for the RPA, i.e. government has to take over the assets at the current value, but not the debt of companies. Currently, the amount of the RPA for the eight motorway concessions is estimated to about 2 billion euro in 2018, which would impact the government deficit and debt of the central government. Any further settlements would be recorded in the year when the settlement is agreed, for example by the Court decision. The Spanish statistical authorities confirmed that government made no payments to the concessionaires during the concession.

The Spanish statistical authorities explained that it is expected that once SEITTSA would take over the assets of the above mentioned eight concessionaires, a new tender for concession would be launched either in 2018 or 2019.

Besides, it was explained that not all expropriations have been paid yet, as there are still some cases open in Court. These expropriations would have to be paid by the concessionaires; nonetheless, as they are in liquidation, the expropriations fall under the responsibility of government. Consequently, the government deficit would also be impacted by the payments for expropriations enacted by final judicial decisions. The impact would be in the year of the

²¹ *Ministerio de Fomento*

Court ruling. The amounts are estimated to be about 500 million euro. These amounts were partly already included in the budget.

Findings and conclusions

Action point 14: In the context of the new Law on public works²², published on 9 November 2017, Eurostat encourages the Spanish statistical authorities to submit to Eurostat newly signed contracts on concessions and PPPs in cases where the amounts are relatively sizeable and there are doubts on how are to be recorded in national accounts.

Deadline: *as soon as available*

Extraordinary Road Investment Plan (Plan Extraordinario de Inversión en Carreteras PIC)

Introduction

The PIC includes a number of actions, such as priority roads, which might be managed in a Private Public Partnerships (PPP) and may be financed through the European fund EFSI²³ (Juncker Plan). The PPPs would be governed in the form of availability payments for which will be paid a monthly fee.

The Plan provides for an initial investment of about 5 billion euro of over 20 contracts to be spread over the next 3 years. The PPPs are planned only at the level of the central government sub-sector.

Discussion and methodological analysis

The Spanish statistical authorities explained that the first phase of the Plan was initially planned to start at the end of 2017 or in 2018, although no concrete actions have been launched yet at this stage.

It is foreseen that the construction and availability risk would be transferred to private partners. The reduction in the fee would be automatic and proportional and would fall to zero if road is not available. In this way the majority of the risks would be transferred to private sector and, consequently, the investment is expected not to have an impact on the government deficit. The concessions will be granted for 30 years.

All projects would have to be pre-consulted with the *Technical Committee of National accounts*. The public tender would be launched only at the moment when all phases of the project would have been resolved favourably (i.e. environmental aspects, national accounts recording, etc.)

²² Ley 9/2017, de 8 de noviembre, de Contratos del Sector Público

²³ European Fund for Strategic Investments

Findings and conclusions

Eurostat took note of these explanations and asked to be informed on any further developments.

Energy performance contracts (EPC)

Introduction

In September 2017, Eurostat published a guidance note on the recording of EPCs in government accounts. In the meeting, the discussion focused on the implementation of this guidance note.

Discussion and methodological analysis

The Spanish statistical authorities explained that they requested the information on the existence of the EPCs in Autonomous Communities and municipalities, and in particular on whether EPCs have been signed with private contractors and if yes, on the amounts involved.

In the responses received up to now, the government units declared mainly not to have contracts of this type and if they do, the amounts involved are negligible. The only relatively sizeable EPC was found in Madrid. It was further explained that the contracts signed have been made as traditional contracts and not as EPCs, so the monitoring of the amounts involved and the characteristics of such contracts is very difficult.

The Spanish statistical authorities explained that they are planning to produce a template for gathering all necessary information for the accounting of EPCs, as soon as the Guide on statistical treatment on EPC is produced by Eurostat, as announced in the Guidance note. They already met with the representative of the Ministry of Energy and agreed to cooperate in the data collection on EPCs.

Eurostat confirmed to cooperate closely with the EIB on the preparation of the Guide on statistical treatment on EPC, which will tackle the most important issues, such as the duration of contracts, factoring without recourse, payments to private partners linked to saving of energy and financing of government.

The Spanish statistical authorities underlined that most EPCs are run at the level of local government, i.e. 8000 municipalities, which might have many small EPCs and pointed out the difficulties in collecting all necessary information in order to decide on their sector classification. Some EPCs could be even impossible to identify as they might be already reported as GFCF. Eurostat said that many Member States adopted a law, which oblige public authorities to use the specific model for the EPC contracts. Such a model usually provides necessary information to decide on the sector classification of EPCs. The Spanish statistical authorities confirmed to discuss such a solution, which would be used however only on a voluntary basis.

Findings and conclusions

Action point 15: Eurostat took note that the Spanish statistical authorities will produce a template for gathering all necessary information for the accounting of Energy performance contracts (EPCs), immediately after the Guide on statistical treatment on EPC will be produced by Eurostat. Moreover, Eurostat would like to receive, as soon as possible, an assessment on the relatively sizeable EPC contract signed by the Municipality of Madrid.

Deadline: *after the Guide on statistical treatment on EPC is produced by Eurostat*

4.3.3 Guarantees

Introduction

The Spanish statistical authorities provided a list of outstanding guarantees for the central government, by guarantee called and repaid. Also the list of CESCE²⁴ operations, i.e. amounts paid by the State to CESCE, was provided.

Discussion and methodological analysis

The participants reviewed the data on government guarantees for the years 2013-2016, including the debt of companies benefiting from guarantees. In 2016, the outstanding stock of guarantees amounted to about 8 % of GDP. The percentage of guarantees called is very low. Eurostat noted that government is providing a guarantee to a public corporation, currently classified in S.11, *Bidegui Gipuzkoako Azpiegituren*. The Spanish statistical authorities explained that this entity has a concession of the motorway in the Basque country. In this context, Eurostat asked to receive a note on the sector classification of this unit.

The Spanish statistical authorities confirmed that the ‘three calls rule’ is being applied, i.e. repeated calls on a guarantee over three successive years lead, in the third year, to the entirety of the remaining guarantee being treated as if called. However there have been no such calls in the past years.

As CESCE no longer cover the risks of export insurance on behalf of government and this is from 2015 onwards performed directly by the State, Eurostat asked the Spanish statistical authorities to move the adjustment line "*Export credit insurance on behalf of the State*" from "Other adjustments" to "Non-financial transactions not included in the working balance" for years 2015 and 2016 in the EDP table 2A, and rename it in line with the legal changes.

Findings and conclusions

Action point 24: Eurostat asked the Spanish statistical authorities to provide a note on the classification of the public corporation *Bidegui Gipuzkoako Azpiegituren* which has a concession of the highways in Basque country. Eurostat also took note that government provides guarantees to this unit.

²⁴ Compañía Española de Crédito a la Exportación

Deadline: mid-February 2018²⁵

Action point 25: Eurostat asked the Spanish statistical authorities to move the adjustment line "Export credit insurance on behalf of the State" from "Other adjustments" to "Non-financial transactions not included in the working balance" for years 2015 and 2016 in the EDP table 2A, and rename it in line with the legal changes.

Deadline: April 2018 EDP notification

4.3.4 Government claims; debt assumptions, debt cancellations and debt write-offs

Introduction

The participants reviewed the data on government claims and debt cancellation by government for years 2013-2016, submitted by the Spanish statistical authorities before the visit. Debt cancellations towards third countries (Paris club) are made by the *Fondo para la Internacionalización de la Empresa (FIEM)* and *Fondo para la Promoción del Desarrollo (FONPRODE)*. All the transactions carried out by FIEM and FONPRODE are considered as directly carried out by the State, impacting the government deficit.

Discussion and methodological analysis

The main source for debt cancellation in the state and local government sub-sectors is the *IGAE Standardised accounting information questionnaire*. In addition to this questionnaire, also supplementary information from the budget is being analysed.

Regarding the operations carried out by FONPRODE and FIEM, the Spanish statistical authorities confirmed that they are considered to be undertaken directly by the State, as these two entities have no legal personality and are managed by ICO. It was also confirmed that these operations are not included in ICO accounts and consequently there is no need to re-route these operations.

Findings and conclusions

Eurostat took note of these explanations.

4.3.5 Capital injections in public corporations, dividends, privatization

Introduction

Capital injections are analysed according to the rules established in the MGDD, as financial or non-financial transactions. Only injections to profitable companies or to certain international financial institutions are considered to be financial (equity) injections. Most of capital injections are classified as capital transfers.

The list of equity injections for the central and state government is available on a quarterly basis whereas for the local government is available on an annual basis.

²⁵ The note was provided on 20 February.

Discussion and methodological analysis

The Spanish statistical authorities confirmed that the amounts of financial (equity) injections are very small and that the majority of capital injections are classified as non-financial transactions (capital transfers) in national accounts, impacting government deficit.

The list of capital injections classified as capital transfer by sub-sectors was provided prior to the meeting. The main data source to identify capital injections is the IGAE Standardised accounting information questionnaire.

The Spanish statistical authorities also confirmed that capital injections by SEPI on behalf of the State are still recorded, as agreed during the previous EDP dialogue visits, i.e. flows relating to the consolidation or the restructuring of loss-making companies and flows relating to the social liabilities of failed companies are re-routed via government accounts. The list of capital injections by SEPI was provided to Eurostat.

Then, the dividend policy was discussed in more detail. The basic source of information for the identification of dividends received is the amounts recorded in the budget of the three government sub-sectors (central, state and local). Around 90% of dividends received are obtained from two public companies: *Banco de España* and *Loterías y Apuestas del Estado* (LAE). In recent years, dividends were also received from AENA, Canal de Isabel II, and BFA. The Spanish statistical authorities provided to Eurostat, prior to the meeting, a list of dividends paid to government by corporation and their profits.

The Spanish statistical authorities confirmed that ICO pays dividends to government and that it receives no subsidies from government.

Findings and conclusions

Eurostat took note of the explanations regarding the capital injections and dividends paid. Eurostat also took note that ICO receives no subsidies from government.

4.3.6. Others: Financial derivatives, Sale and leaseback operations, UMTS, Emission trading permits, Decommissioning, Fondo de Amortización del Déficit Eléctrico (FADE)

Under this point of agenda Financial derivatives, Sale and leaseback operations, UMTS, Emission trading permits, Decommissioning and FADE was discussed.

Financial derivatives

Introduction

The only type of derivative used is a currency swap.

Discussion and methodological analysis

The Spanish statistical authorities confirmed that the only type of derivative used, are currency swaps. These transactions are recorded as financial transactions in the item

Financial Derivatives and employee stock options (F.7). This treatment of swaps follows the current methodology of EDP statistics. It was stressed that only a negligible number of swaps is undertaken by general government bodies.

The Spanish statistical authorities also confirmed that whenever the foreign currency debt is hedged, the interest on hedged debt is recorded before swaps.

Furthermore they said that they are not aware of any collateral arrangements.

Findings and conclusions

Action point 21: The Spanish statistical authorities will check the amount of debt hedged in the context of the cross-currency swap operations.

*Deadline: end-January 2018*²⁶

Sale and leaseback operations

Introduction

Concerning the Sale and leaseback operations, the established procedures requires all public sector units to report information on any sale and leaseback operations to IGAE.

Discussion and methodological analysis

In recent years, five such operations were identified at the level of the state government sub-sector. In these operations, after the buildings were sold, they have been leased back to the government. Both contracts, sale and leaseback, were analysed by the *Technical committee* and were considered as a real sale. It was confirmed that a *buy back option* was not included in these contracts.

Findings and conclusions

Eurostat took note of these explanations.

UMTS

Eurostat guidance note on mobile phone licenses, explorations and other licenses" of 27 March 2017 has been applied for all licences in the October 2017 EDP notification.

Emission trading permits (ETS)

Introduction

The amounts collected from emission permits sold should give rise to revenue of the type *taxes on production* according to ESA 2010 15.40. The appropriate time of recording is the

²⁶ The requested information was provided on 20 February 2018.

triggering of the event, i.e. the moment emissions of CO₂ are made, to be approximated by the time at which permits are surrendered.

Prior to the meeting, the Spanish statistical authorities provided a filled questionnaire on emission permits and a note describing difficulties encountered when filling in the questionnaire. These two documents were discussed in detail.

Discussion and methodological analysis

Firstly, it was explained that the Office for climate change provides data on emission permits on an annual basis before each April EDP notification.

Then, the Spanish statistical authorities explained the difficulties in filling in the questionnaire on emission permits and presented three different options for the fill in questionnaire:

1. The first option disregarded the allowances from the first and second trading period (2005-2007) so data is available from 2008 onwards. Aviation allowances are not taken into account, but are included in the revenue. The permits surrendered are estimated on the basis of emission made.
2. The second option includes also aviation allowances and the permits surrendered are estimated as in the option 1.
3. The third option modifies data related to the permits surrendered under the second option. The permits surrendered have been estimated by the difference between the emissions made and the CER²⁷s/ERU²⁸s surrendered or exchanged. The starting point of the stock of permits is in 2012.

In addition, they also analysed the information from the annual reports of Spanish companies, whose main activity is electrical production. Emissions from this group of companies represent around 25% of the greenhouse gas emissions that Spanish fixed installations make to the atmosphere each year.

Regarding the table on emission permits, the Spanish statistical authorities pointed out that the table does not take into account secondary market for emission permits or permits which have been cancelled.

The Spanish statistical authorities were also of the opinion that the questionnaire would be better filled in at the EU level, as the total amount of allowances to be auctioned is determined at the EU level.

Moreover, the Spanish statistical authorities explained that the most difficult part was to obtain the information on permits surrendered. However, the three above mentioned methods of calculating the taxes (D.29) showed very negligible differences. On the basis of this analysis and given that the amounts involved are very small, the Spanish statistical authorities considered that the current method used to estimate the permits surrendered seemed to be appropriate. The method used basically spreads cash over the last three years, for example

²⁷ Certified emission reduction

²⁸ Emission reduction unit

D.29 in 2014 corresponds to 1/3 of cash received in 2012, 1/3 of cash received in 2013 and 1/3 of cash received in 2014.

Eurostat appreciated the work undertaken by the Spanish statistical authorities. Furthermore it found their comments very useful as the questionnaire is currently being discussed in the EDPS WG. Eurostat also agreed to check whether ECR/ERU would need to be included in the questionnaire.

Regarding the possibility of recording the emission permits as EU taxes, Eurostat explained that this issue was already discussed in the EDPS WG and recalled that this idea of recognizing the ETS as EU taxes would be reopened once all data on taxes (D.29) and Other accounts receivable is received and analyzed.

Findings and conclusions

Regarding the emission permits, Eurostat concluded that the current method used to calculate D.29 seems to be legitimate. Eurostat also thanked the Spanish statistical authorities for providing the note, explaining the difficulties encountered when filling in the questionnaire on emission permits.

Decommissioning

Introduction

Prior to the mission, a note on decommissioning costs borne by the public authorities was provided, including a proposal on the recording in national accounts.

The main decommissioning costs that have been identified are borne by the *Empresa Nacional de Residuos Radiactivos* (ENRESA). The activity of ENRESA comprises:

- decommissioning of nuclear installations and activities, as described in Chapter III.7 of the MGDD;
- the management and handling of radioactive waste, which occurs in dedicated facilities owned by ENRESA and in plants already dismantled.

Currently ENRESA is classified in S.11, as revenue received for the management of waste management and decommissioning is treated as sale.

Discussion and methodological analysis

The Spanish statistical authorities explained that ENRESA is financed by payments of nuclear operators, mainly electricity companies, but also of other entities generating radioactive waste such as hospitals and industries. There is no distinction between payments for decommissioning and waste management. ENRESA does not receive any funds from the State. The annual payments of nuclear operators cover all current costs of ENRESA, and should also allow for covering the costs of future decommissioning. Consequently, these revenues are fixed at a level higher than the current cost, so that the annual surplus accumulates a provision for future costs.

The Spanish statistical authorities analysed the laws on nuclear energy²⁹ and concluded that it seems that ENRESA does not have autonomy of decision, as its legislation defines it only as an instrument to which is entrusted the management of the General Radioactive Waste Plan as approved by the Government.

In addition, the main revenue of ENRESA comes from the fees for the provision of services for the management of radioactive waste. Although the chargeable event for this tax is the provision of services related to the management of used fuel and radioactive waste generated in the nuclear power plants, as well as their dismantling and decommissioning, its amount is not linked to specific services, but depends on the production of kWh of nuclear origin. There is no direct link between the amounts collected by each nuclear installation and the costs of decommissioning of the nuclear installation. Therefore, this revenue cannot be considered as a sale in national accounts.

On the basis of this analysis, the *Technical committee* considered that ENRESA should be reclassified inside the general government sector (S.1311). The government debt would be reduced as ENRESA holds government securities, which would be consolidated within the general government. Regarding the fees received from nuclear operators, the Spanish statistical authorities proposed to treat them similar to lump sums (financial advance) with a reduction of *Other accounts payable* through *Current transfers* (D.75). On this basis, the ENRESA would have balanced accounts every year.

Eurostat agreed with their proposal.

Findings and conclusions

Action point 22: Eurostat and the Spanish statistical authorities agreed that the public corporation ENRESA, currently classified in S.11, will be re-classified inside the general government sector in the context of the April 2018 EDP notification for year 2017 while the re-classification for years 2010-2016 will take place in the next benchmarking exercise in 2019.

Deadline: April 2018 EDP notification for year 2017 and October 2019 for years 2010-2016

Fondo de Amortización del Déficit Eléctrico (FADE)

Introduction

In the past decade, a significant mismatch had arisen between electricity production costs and the revenue received by electric utilities from electricity consumers through the regulated electricity tariff. Up to 2007, this deficit was covered by a mechanism whereby, at each year-end, electric utilities had financial claims on future consumers, which were legally recognised. Electric utilities assigned these claims to credit institutions and obtained revenues. Credit institutions recorded this operation as a receivable from the assignor of the claims, secured by those claims. In 2010, a new procedure was introduced in order to endow electricity system with a mechanism for financing the accumulated tariff deficit, so that

²⁹ Law 11/2009 of 26 October amending Law 24/1964 on nuclear energy

utilities could obtain necessary liquidity. This mechanism involves the assignment of the related tariff deficit financial claims to a financial vehicle corporation – the Electricity Deficit Amortisation Fund (Fondo de Amortización del Déficit Eléctrico) - FADE.

The FADE was set up under Royal Decree-Law 6/2009 of 30 April 2009. FADE is not a separate legal unit, as it has no autonomy of decision. The Inter-Ministerial Commission has control over FADE, which is a collegiate central government body classified in the central government sub-sector (S.1311), and consequently FADE is classified in S.1311. FADE assets consist of the financial claims generated by electric utilities. The liabilities consist of financial instruments issued (bonds).

Prior to the meeting, the Spanish statistical authorities provided an updated note on FADE, including the relevant amounts.

Discussion and methodological analysis

The Spanish statistical authorities confirmed that the issuance of bonds is recorded as an increase in government debt. The purchase of financial claims is recorded as an acquisition of financial assets under *Other accounts receivable (F.8)* without impacting government deficit. The financial assets recorded will be amortised, as electricity consumers will pay the related surcharge through their electricity tariff up to 2027, as defined by the Royal Decree-Law 6/2009.

The debt issued by FADE reached a peak in 2013 (23 billion euro) and has gradually been reduced from that year onwards, as claims started to be amortised. The funds obtained have been dedicated to reduce liabilities and increase deposits.

Findings and conclusions

Eurostat took note of the explanations of the Spanish statistical authorities on the recording of FADE operations in national accounts.

5. Other issues

5.1 ESA 2010 Transmission Programme

Introduction

Under this item of agenda, issues related to the ESA 2010 Transmission Programme were discussed

Discussion and methodological analysis

The reporting of the statistical discrepancy in the EDP notification tables differs from the convention applied for the reporting in the ESA table 27, which leads to noticeable discrepancies for all years.

Eurostat underlined that the showing of the statistical discrepancy is explicitly stated in ESA 2010 5.244, which was not the case for ESA 95. Eurostat explained that it urges all Member States to implement in full the provisions of ESA 2010 paragraph 5.244a.

Then, Eurostat thanked the Spanish statistical authorities for supplying the seasonally adjusted data and asked them whether they could lift an embargo on its publication. The Spanish statistical authorities explained that they have planned to publish only obligatory series; however they agreed to raise an internal consultation on the proposal of Eurostat to lift the embargo.

Next, Eurostat said that it observed in COFOG³⁰ data a negative amount in the function of *Water supply* (06.3) in 2012, which was explained with the sale of water infrastructure. However as no correspondent non-produced assets (*Acquisitions less disposals of non-produced assets*) amount was observed, it gives an impression that the related land was not sold. The Spanish statistical authorities explained that this was actually a concession, which is currently discussed in the Court. At the end of the concession, the land and fixed assets will be returned to government.

Findings and conclusions

Action point 23: The Spanish statistical authorities agreed to report statistical discrepancy in the ESA table 27 in line with ESA 2010 and the statistical discrepancy reported in the EDP tables and ESA table 27 will be the same.

Deadline: April 2018 EDP notification

³⁰ Classification of the Functions of Government

EDP dialogue visit to Spain, 27-28 November 2017

Draft Agenda

1. Statistical organisational issues

1.1.1. Review of institutional responsibilities in the framework of the EDP data reporting and government finance statistics compilation

1.1.2. Data sources and revision policy, EDP inventory

2. Follow-up of the EDP dialogue visit of 9-10 July 2015

3. Actual data October 2017 EDP reporting – analysis of EDP tables

4. Methodological issues and recording of specific government transactions

4.1. Delimitation of general government, application of market / non-market rule in NA

4.1.1. Implementation of the new MGDD (2016 edition), state of play

4.1.2. Changes in sector classification since the July 2015 EDP visit

4.1.3. Application of the market/non-market test

– Fees charged by rail infrastructure managers services declared as Public service obligation

4.1.4. Government controlled entities classified outside the general government (public corporations)

4.2. Implementation of accrual principle

4.2.1. Accrual taxes and social contributions

4.2.2. Recording of deferred tax assets (DTAs)

4.2.3. Accrued interest

4.2.4. EU flows

4.2.5. Military expenditure

4.2.6. Court decisions

4.3. Recording of specific government transactions

4.3.1. Government operations relating to the financial turmoil

4.3.2. Public Private Partnership, concessions and others

4.3.3. Guarantees

4.3.4. Government claims; debt assumptions, debt cancellations and debt write-offs

4.3.5. Capital injections in public corporations, dividends, privatization

4.3.6. Others: Financial derivatives, Sale and leaseback operations, UMTS, Emission trading permits, Decommissioning, *Fondo de Amortización del Déficit Eléctrico* (FADE)

5. Other issues

5.1.1. ESA 2010 Transmission Programme

5.1.2. Any other business

EDP dialogue visit to Spain, 27-28 November 2017

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