

Specific government transactions – 7.7 Financial derivatives

If the conditions are not met, or *if government assumes the risks through another mechanism*, (e.g. guarantees, government financing) then the assets are to be recorded in the government's balance sheet. The treatment is in this case similar to the treatment of a financial lease in national accounts requiring the recording of government capital expenditure and borrowing. In borderline cases it is appropriate to consider other criteria, notably what happens to the asset at the end of the PPP contract.

In Spain there are PPPs as defined by the Eurostat Decision of 11 February 2004. There is no specific legal term in for these contracts. They may commonly be termed “*fórmulas de colaboración público privadas*” (‘public-private co-operation formulas’), “*peajes en sombra*” (‘shadow tolls’), “*contratos de concesión de obra pública*” (‘public works concession contracts’) and so forth. But these terms may also apply to contracts that do not meet the requirements to be classed as PPPs.

The legal framework of contracts concluded by government bodies is the Law 30/2007, of 30th October, de Contratos del Sector Público (hereinafter, “LCSP”). LCSP applies directly to Central Government and Local Governments and most of its terms have basic status, and hence bind the Autonomous Communities (State Government) in their implementing regulations.

Therefore, in Spain, 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 Eurostat Decision of 11 February 2004. We must examine the specific terms of each contract to determine whether or not it is a PPP.

As pointed out above, whether or not a contract concluded by a government body is a PPP as defined by the Eurostat Decision can be determined only by examining the contract terms.

No agency, organization, or association deals specifically with PPPs in Spain.

There are PPPs at all three levels of General Government: Central, State and Local.

To determine which contracts concluded by government bodies are “Public Private Partnerships” (hereinafter, “PPPs”) as defined in the Eurostat Decision of 11 February 2004, we need to know the specific clauses and economic and financial terms of each contract. Therefore, to identify the contracts concluded by Spanish government bodies that may be deemed PPPs, the Technical Committee on National Accounts sent to the various cost management centres a definition of PPPs in accordance with the Eurostat Decision, and asked them for specific information about present and intended contracts meeting the requirements to be regarded as PPPs.

However, if the Technical Committee came to know by other means (normally by the media) of the existence of public expenditure projects that could be PPPs, the Committee would accordingly ask the relevant government body for appropriate project information for assessment.

The Technical Committee of National Accounts studies PPP contracts with particular emphasis on the distribution of the relevant risks.

The government sometimes grants guarantees or financing to the private partner. These aspects are taken into account in the assessment of the distribution of the relevant risks.

7.7. Financial derivatives

This part describes the use of financial derivatives and the recording of derivative related flows in EDP tables and national accounts.

Regulation 2558/2001 added a new annex to ESA95 which specified that: *"For the purpose of the Member States' reports to the Commission under the excessive deficit procedure..., "Government deficit" is the balancing item "net borrowing/net lending" of General Government, including streams of interest payments resulting from swaps arrangements and forward rate agreements. This balancing item is codified as EDPB9. For this purpose, interest includes the abovementioned flows and is codified as EDPD41 of streams of interest payments.*"

Eurostat guidance note on Financial Derivatives was published on 13 March 2008.

7.7.1 Types of derivatives used

The only type of derivative used is currency swaps. These transactions are recorded as financial transactions in national accounts in the item F3 securities other than shares and affecting to interest expenditure and deficit in EDP reporting. In relation to EDP debt, this variable includes the effect of currency swaps transactions. This treatment follows strictly the current methodology of EDP statistics.

There are not any occurrences of lump sum payments on swap cancellations, swaptions and/or options on interest, off-market interest rate swaps (IRS), FOREX swaps ,off-market currency swaps or swaps with embedded options.

7.7.2 Data sources

The information is obtained from Spanish Treasury, State Governments and Banco de España Securities data base.

7.7.3 Recording

See answer to question 7.7.1

7.8. Payments for the use of roads

The main issue is whether payments for road, both in the case of tolls and vignettes, should be considered as sale of services or as a tax, when the infrastructures are owned by public units. The issue is important also because the classification of payments made for the usage of roads, either as sales or taxes, influences the assessment of the 50% criterion, which is fundamental for the purpose of assessing whether a given institutional unit (in some cases, a government-controlled entity receiving the payment of the toll or vignette) is a market or a non-market producer.

Specific government transactions - Transactions with the Central Bank - Lump sum pension payments - Pension schemes

Payments for the use of roads will generally be classified as a sale of a service in the case of tolls. They will also be classified as a sale of a service in the case of vignettes whenever users have sufficient choice both in terms of selecting specific roads and of choosing a determined length of time for the vignette.

At present, there is no "toll" system for the use of Government roads.

7.9. Emission permits

There are two main trading systems, where European Union Member States can participate:

The Kyoto Protocol is a 1997 international treaty which came into force in 2005. In the treaty, most developed nations agreed to legally binding targets for their emissions of the six major greenhouse gases.[33] Emission quotas (known as "Assigned amounts", AAUs) were agreed by each participating 'Annex 1' country,

The European Union Emission Trading Scheme (or EU ETS) is the largest multi-national, greenhouse gas emissions trading scheme in the world. It is one of the EU's central policy instruments to meet their cap set in the Kyoto Protocol. The so-called EU emission Allowance (EUA) is traded.

Up to 2012, Spanish government allocated "carbon permits" on a no-charge basis. It has not therefore posted any transactions in the General Government accounts for their assignment.

From 2013, the Spanish government will begin to sell carbon permits. These transactions will be recorded according to the criteria in Chapter VI.6 of the ESA Manual (2013 edition).

The Spanish government has also purchased "carbon permits" under various bilateral and multilateral initiatives. These purchases have been recorded as Central Government expenditure and have effects on Government deficit.

7.10. Sale and leaseback operations

Government sells an asset and immediately leases it back from the purchaser. The issue is whether the sale is to be considered as a "true sale" (transaction in GFCF improving B.9) or the transaction is to be treated differently and an asset should remain on government's balance sheet.

MGDD part VI, chapter VI.3 is dealing with sale and lease back operations

In recent years there have been two operations:

In 2010, a sale of some buildings in S.1312 Sub-sector, amounting to 72 million euros, treated as a sale of gross capital formation.

In 2012, a sale of two buildings in S.1312 Sub-sector, amounting to 17 million euros, also treated as a sale of gross capital formation.

Specific government transactions - Transactions with the Central Bank - Lump sum pension payments - Pension schemes

In these operations, after the buildings were sold, they have been leased to the Government. Both contracts, sale and leaseback, have been analyzed by the Technical Committee and it has been considered that it is a "real" sale, and the subsequent lease meets the characteristics of an "operating lease".

The established procedures for the provision of information require public sector units (Central Government, Autonomous Communities and Local Corporations) to report on any "sale and leaseback" operations that they have carried out or plan to carry out.

7.11. Securitisation

Securitisation is when a government unit transfers the ownership rights over financial or nonfinancial assets, or the right to receive specific future cash flows, to a special-purpose vehicle (SPV) which in exchange pays the government unit by way of financing itself by issuing, on its own account, asset backed bonds.

The classification of the proceeds received by government as disposal of an asset may lead to an impact on the government deficit, when the asset is a nonfinancial asset or if it is determined that a revenue should accrue. All securitisation of fiscal claims should be treated as borrowing, as well as all securitisation with a deferred purchase price clause and all securitisation with a clause in the contract referring to the possibility of substitution of assets. Also if the government compensates the SPV ex-post, although this was not required according to the contract, the operation should be reclassified as government borrowing.

MGDD part V, chapter V.5 and the Eurostat decision of 25 June 2007, "Securitisation operations undertaken by General Government" are dealing with securitisation operations.

There have been no "Securitisation" operations in recent years. The established procedures for the provision of information require public sector units (Central Government, Autonomous Communities and Local Corporations) to report on any "securitisation" operations that they have carried out or plan to carry out.

7.12. UMTS licenses

The sale of UMTS licenses is to be recorded as the sale of a non-financial asset (the license) at the time the license is allocated. Thus, sale proceeds have a positive effect on B.9 in the year when the license is allocated. The actual payment of cash payment does not influence the recording of this transaction.

In some special cases, the sale of UMTS could be seen as a rent for the use of a non-financial asset, recorded over the life time of the license. In this case, the impact on government B.9 is spread over the duration of the license.

MGDD part V, chapter V.2 and Eurostat decision of 14 July 2000 on the allocation of mobile phone licences (UMTS) are dealing with the sale of UMTS licenses.

The treatment of sales of UMTS licences and similar operations has followed the criteria of the Eurostat Decision published in News Release No. 81/2000, dated 14 July 2000, and Chapter VI.2 of the ESA Manual.

Specific government transactions - Transactions with the Central Bank - Lump sum pension payments - Pension schemes

In 2000, the initial sale of UMTS licences took place. The revenue obtained from the granting of licences was treated as the sale of a "non-financial non-produced intangible asset" (electromagnetic spectrum) and recorded under "K.2 Acquisition less disposal of non-produced non-financial assets". The transaction amount was recorded as a single entry in the year that the licences were granted (2000), without considering their terms of payment.

In 2011, a new sale of licences for the use of "public radioelectric domain" took place. As above, the revenue obtained from these licences was treated as the sale of a "non-financial non-produced intangible asset" and recorded under "K.2 Acquisition less disposal of non-produced non-financial assets". The transaction amount was recorded as a single entry in the year that the licences were sold (2011), although payment was partially postponed until 2012.

7.13. Transactions with the Central Bank

The management of asset portfolios and interventions in foreign exchange markets for monetary policy purposes, may generate capital gains for central banks which are liable to be distributed to General Government. The amounts involved may sometimes be very large. Capital gains are not income in national accounts and therefore payments to government financed out of capital gains cannot be recorded as property income but have to be recorded as financial transactions.

It also proposes to apply the rules on capital injections when government makes a payment to the Central Bank. Such payments by government may be made to cover losses made by the Central Bank. Capital losses may occur due to foreign exchange holding losses. Operational losses may occur due to the fact that interest and other operational income do not cover operational costs made by the central bank. Capital losses can not be recorded as equity injection, therefore capital gains and losses are somehow not treated symmetrically. This asymmetrical treatment is nevertheless justified for the purpose of appropriately measuring government deficit.

Distribution of profits by the Banco de España. As explained in section 7.4, the distribution of benefits from the Banco de España is recorded as dividends received (D.42R) by Central Government. The dividends are checked first to ensure that they do not include capital gains from the extraordinary sale of assets, routine intervention in foreign exchange markets, or operations to revalue monetary gold and reserves.

7.14. Lump sum pension payments

The related accounting rules are described in the Chapter III.6 on payments to government from transfer of pension obligations, in the ESA95 Manual on government deficit and debt.

No "lump sum pension payments" have been made for General Government.

7.15. Pension schemes

See the previous version of consolidated EDP inventory, section 7.3

Specific government transactions - Transactions with the Central Bank - Lump sum pension payments - Pension schemes

Definition of pensions

Pension schemes can be found in Spain which cover the following items – disability pensions, early retirement benefits due to reduced capacity to work, old age pensions, anticipated old age pensions, partial pensions and survivors' pensions. Unemployment benefits are not included as pensions, but as social benefits.

Classification of pension schemes

The schemes in Spain may be found in the following table (key to columns below):

	Scheme name	Coverage	Scheme
1	Social security funds	1 to 6	A, E
2	Autonomous pension funds	1 to 6	B *
3	Non- autonomous pension funds	1 to 6	C
4	Non-profit insurance institutions	1 to 6	B

(*) In addition to Autonomous pension funds, in Spain there are pension schemes supported by insurance companies, which are regulated by means of collective insurance contracts. This information is considered net equity of households in life insurance reserves and is not separately available

Key for "Coverage":

- | | |
|--|----------------|
| 1) disability pensions | (disability) |
| 2) early retirement benefits due to reduced capacity to work | (disability) |
| 3) old age pensions | (old age) |
| 4) anticipated old age pensions | (old age) |
| 5) partial pensions | (old age) |
| 6) survivors' pensions | (survivors) |
| 7) early retirement benefits for labour market reasons | (unemployment) |

Key for "Scheme":

- A. social security schemes;
- B. private funded schemes administered by insurance companies or autonomous pension funds;
- C. private funded schemes operated by employers, which maintain special reserves (segregated from other reserves)
- D. private unfunded schemes operated by employers (without special reserves).
- E. social assistance;
- F. other insurance.

Classification of social insurance pension schemes

Special institutional units manage the pensions of civil servants and personnel in the army and the justice sector.

Schemes encouraged by non-profit institutions are included in private funded schemes administered by insurance companies or autonomous pension funds, although they are not significant.

Specific government transactions - Transactions with the Central Bank - Lump sum pension payments - Pension schemes

Definition of social security schemes

There are no social security schemes in which participation is voluntary.

There are no social insurance pension schemes or government social insurance schemes which are not classified as "social security schemes"

Classification of institutional units supporting pension schemes; borderline cases

The following table shows pension funds (categories as in the key under section 7.3.2) classified by sub-sector in the national accounts:

		Categories of pension schemes					
		A	B	C	D	E	F
Institutional sectors/ sub-sectors	S.11	XX	XX	YES	XX	XX	XX
	S.121	XX	XX	XX	XX	XX	XX
	S.122	XX	XX	YES	XX	XX	XX
	S.123	XX	XX	NO	XX	XX	XX
	S.124	XX	XX	NO	XX	XX	XX
	S.125	XX	YES	NO	XX	XX	YES
	S.1311	NO	XX	XX	XX	YES	XX
	S.1312	NO	XX	XX	XX	YES	XX
	S.1313	NO	XX	XX	XX	YES	XX
	S.1314	YES	XX	XX	XX	YES	XX
	S.14	XX	XX	XX	XX	XX	XX
	S.15	XX	XX	XX	XX	XX	XX
S.2							