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REPORT FROM THE COMMISSION

on the investigation related to the manipulation of statistics in Spain as referred to in Regulation (EU) No 1173/2011 of the European Parliament and of the Council on the effective enforcement of budgetary surveillance in the euro area (Commission Decision of 11 July 2014)

{SWD(2015) 105 final}

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EXECUTIVE SUMMARY

On 11 July 2014, the European Commission launched a formal investigation into the possible manipulation of statistics in the Autonomous Community (AC) of Valencia (*Comunidad Valenciana*), Spain. This Decision was taken in accordance with Article 8(3) of Regulation (EU) No 1173/2011 of the European Parliament and of the Council of 16 November 2011 on the effective enforcement of budgetary surveillance in the euro area in combination with Commission Delegated Decision 2012/678/EU of 29 June 2012 on investigations and fines related to the manipulation of statistics as referred to in Regulation (EU) No 1173/2011.

The investigation aimed at assessing whether the serious indications of misrepresentation of deficit and debt data in 2012 could be confirmed and, if so, whether it was a result of intent or serious negligence.

This report presents the findings of the Commission in the light of the investigation conducted, together with the key facts supporting those findings. The written observations submitted by the Kingdom of Spain on the Commission preliminary findings, are also included. The report contains a detailed description of the main reasons for the 1.9 billion euro revision in the government deficit of Spain in 2012 on the basis of an analysis of how government expenditure was compiled, recorded and reported in the AC of Valencia.

The report concludes that severe irregularities took place in the accounting, recording and reporting of expenditure of the AC of Valencia during many years. The accrual principle was not respected, extra-budgetary accounts were used against the rules in place, expenditure was sometimes left unrecorded for considerable periods of time, and the statistical information communicated from the regional authorities of Valencia to the national authorities was misleading, leading to the misreporting of the deficit data for Spain. Consequently, the EDP (Excessive Deficit Procedure) data transmitted to Eurostat did not include part of the expenditure incurred by this region, in breach of ESA 95 rules.

The key role of the IGGV (Regional Audit Office of the AC of Valencia - *Intervención General de la Generalitat Valenciana*) in the events surrounding the non-recording and non-reporting of expenditures is established in the report. The involvement of other institutions (the National Statistical Institute - *Instituto Nacional de Estadística* – INE), the National Audit Office (*Intervención General de la Administración del Estado* - IGAE), the Regional Ministry of Health of Valencia (*Consejería de Sanidad de la Generalitat Valenciana*) and the Regional Court of Auditors of Valencia (*Sindicatura de Cuentas de la Comunidad Valenciana*), is also discussed.

Another key finding of the report is that information on unrecorded expenditure was publicly available through the yearly reports of the Regional Court of Auditors of Valencia, which recommended that the Regional Audit Office of Valencia (IGGV) should ensure a correct recording of such expenditure.

However, the practice of not recording expenditure incurred for considerable periods of time was only brought to an end after the central government introduced a special financing mechanism for unpaid expenditure of the regions in 2012. In this context, it is concluded that an entity (IGGV) belonging to the general government sector of the Kingdom of Spain was seriously negligent concerning the non-recording of expenditure in national accounts. As a result, the data sent by Spain to Eurostat in the context of the EDP reporting was incomplete insofar as significant amounts of health expenditure were not reported.

Based on the findings in this report regarding the behaviour of the authorities of the Member State in the period from 13 December 2011 until the launch of the investigation on 11 July 2014, the Commission may decide to adopt a recommendation to the Council to impose a fine on the Kingdom of Spain, as foreseen in Regulation (EU) No 1173/2011.

List of acronyms used

AC - Autonomous Community (*Comunidad Autónoma*)

B.9 - Government deficit/surplus

CPFF - Fiscal and Financial Policy Council (*Consejo de Política Fiscal y Financiera*)

EDP - Excessive Deficit Procedure

ESA – European System of Accounts

IGAE - National Audit Office (*Intervención General de la Administración del Estado*)

IGGV - Regional Audit Office of Valencia (*Intervención General de la Generalitat Valenciana*)

INE - National Statistical Institute (*Instituto Nacional de Estadística*)

MoF - Ministry of Finance (*Consejería de Hacienda y Administración Pública*)

PGCP - General Public Accounting Plan (*Plan General de Contabilidad Pública*)

PGCPGV - General Public Accounting Plan of the Generalitat Valenciana (*Plan General de Contabilidad Pública de la Generalitat Valenciana*)

SGCAL - Secretaría General de Coordinación Autonómica y Local

SPM - Special Payment Mechanism (*Mecanismo de Pago a Proveedores*)

SQ - Standardised Questionnaire

WG - Working Group

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1. INTRODUCTION

1.1. Background

Since December 2011, [Regulation \(EU\) No 1173/2011](#) on the effective enforcement of budgetary surveillance in the euro area¹, empowers the Commission to launch investigations if there are serious indications of manipulation of statistics, intentionally or due to serious negligence. Certain criteria, procedures and rules relevant for the exercise of this mandate have been laid down in Commission Delegated Decision 2012/678². According to Regulation (EU) No 1173/2011, such investigations may lead to a recommendation from the Commission to the Council to the effect that the Council should impose a fine on the Member State. The fine to be recommended is calculated by the Commission but the Council has the final say on its imposition and size. In case it is found that the Member State has, intentionally or by serious negligence, misrepresented its deficit and debt data, the Council may decide to impose a fine of up to 0.2% of GDP on that Member State.

Member States are obliged to report their annual deficit and debt data to the Commission (Eurostat), in full compliance with European statistical rules and procedures (European System of Accounts, ESA³).

According to Article 16 of Council Regulation (EC) No 479/2009 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community⁴, “*Members States shall ensure that the actual data reported to the Commission (Eurostat) are provided in accordance with principles established by Article 2 of Regulation (EC) No 223/2009. In this regard, the responsibility of the national statistical authorities is to ensure the compliance of reported data with Article 1 of this Regulation and the underlying ESA 2010 accounting rules*”.

¹ Regulation (EU) No 1173/2011 of the European Parliament and of the Council of 16 November 2011 on the effective enforcement of budgetary surveillance in the euro area, OJ L 306, 23.11.2011, p. 1.

² Commission Delegated Decision 2012/678/EU of 29 June 2012 on investigations and fines related to the manipulation of statistics as referred to in Regulation (EU) No 1173/2011 of the European Parliament and of the Council on the effective enforcement of budgetary surveillance in the euro area, OJ L 306, 6.11.2012, p. 21.

³ The relevant reporting described in the current case was made under Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community, OJ L 310, 30.11.1996, p. 1, (ESA 95). Regulation (EU) No 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European system of national and regional accounts in the European Union, OJ L 174, 26.6.2013, p. 1, (ESA 2010) is applicable from 1 September 2014.

⁴ Council Regulation (EC) No 479/2009 of 25 May 2009 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community, OJ L 145, 10.6.2009, p. 1.

Following Article 3 of Council Regulation (EC) No 479/2009, Member States shall report to the Commission (Eurostat) their planned and actual government deficits and levels of government debt twice a year, the first time before 1 April of the current year (year *n*) and the second time before 1 October of year *n*. The data provided in year *n* concern years *n*-1, *n*-2, *n*-3 and *n*-4.

Spain sent its first notification in the year 2012 under the Excessive Deficit Procedure (EDP) to Eurostat on 30 March 2012. The notification contained, amongst other data, the first reported data for the year 2011. After having followed its usual procedure for data assessment, Eurostat validated and published the data of Spain on 23 April 2012, in its EDP Press Release⁵. However, on 17 of May 2012, the Spanish Statistical Authorities informed Eurostat of an increase in the expenditure of regional governments (Autonomous Communities) of about 4.5 billion euro (around 0.4% of GDP), which would impact the Spanish general government deficit, mainly in 2011, entailing an upward revision of the deficit data transmitted in the April 2012 EDP notification.

Eurostat carried out a technical visit to Spain on 24 May 2012. The follow-up actions resulting from this visit were further discussed during an Upstream Dialogue Visit⁶ on 18-22 June 2012 and on 11-14 September 2012. A further ad-hoc visit was carried out in September 2013.

These visits (in particular the last ad-hoc visit in September 2013) were conducted in order to fully understand the revisions of 17 May 2012 and to establish the possible existence of “serious indications” which would justify the initiation of an investigation pursuant to Article 8(3) of Regulation (EU) No 1173/2011, which states that the Commission may “initiate an investigation when it finds that there are serious indications of facts liable to constitute [the relevant] misrepresentation”.

The Autonomous Community of Valencia (*Comunidad Valenciana*, hereinafter referred to as the "AC of Valencia") was identified as presenting significant irregularities, as government expenditure, in particular in the health sector, had been allowed to accumulate over a number of years without being recorded in the public accounts, in breach of the accrual principle⁷.

⁵ The EDP Press release is available at the following link:

<http://ec.europa.eu/eurostat/documents/2995521/5147302/2-23042012-AP-EN.PDF/30b8f91b-4325-4d6b-9c6f-6e699ff87cd5>

⁶ The main objective of the EDP Upstream Dialogue Visit was to review the quality of the EDP reporting system, in particular the primary public accounting ("upstream") data sources. This meeting had been planned already before 17 May 2012, when Eurostat became aware of the misreporting of data from the Autonomous Community of Valencia.

⁷ The accrual principle means that the expenditure should be recorded when undertaken and not when the bill is settled. ESA 95, paragraph 1.57, provides that “*The system records flows on an accrual basis; that is, when economic value is created, transformed or extinguished, or when claims and obligations arise, are transformed or are cancelled*”.

The revision of the expenditure reported by the AC of Valencia for the April 2012 EDP notification, corresponding to the unpaid expenditure, amounted to around 1.9 billion euro.

The reason why the unpaid expenditure was revealed was that, in 2012, the Spanish Government introduced a *special financing mechanism*, the Special Payment Mechanism (SPM) for the payment of arrears incurred by Autonomous Communities' and municipalities. This mechanism was regulated by Agreement 6/2012 of 6 March 2012 of the Fiscal and Financial Policy Council (CPFF) (for the Autonomous Communities, hereinafter "the Agreement"), the Law 4/2012 (for municipalities) and the Law 7/2012 (for both Autonomous Communities and municipalities). The procedure and the calendar for applying for SPM financing were set in the Agreement⁸. The SPM implied that the Autonomous Communities or municipalities should disclose all their unpaid bills in exchange of the payment of such bills directly by central government.

In particular, in order to apply for the SPM, Autonomous Communities had to proceed as follows:

1. Send an application to the National Ministry of Finance (*Ministerio de Hacienda y Administración Pública*, hereinafter referred to as the "National MoF") before 1 April 2012;
2. Send the invoices for the unpaid bills to the National MoF before 15 April 2012;
3. Provide an adjustment plan (Economic and Financial Plan) by 30 April 2012, which had to be validated by the CPFF within 15 days.

The invoices corresponding to unpaid bills had thus already been sent by most regions, via their regional Ministries of Finance, to the National MoF before 17 May 2012. Moreover, the adjustment plans ensuring the ability to repay the loans had already been provided by regions and validated by the CPFF and published on its website. On the same day, the National Statistical Institute (INE) informed Eurostat for the first time about the discovery of unrecorded expenditure in some Autonomous Communities. The Regional Ministry of Finance of the AC of Valencia (hereinafter referred to as the "Regional MoF"), in order to be able to send an application under SPM to the National MoF before 1 April 2012, was therefore in possession of the information on the unrecorded expenditure at the time of the reporting of EDP figures to Eurostat, in the context of the April 2012 notification.

The requirements to be met in order for unpaid bills to be accepted in the SPM for reimbursement were also set in the Agreement. One of the main features and conditions was that the unpaid bills had to correspond to expenditure accrued, recorded and pending to be paid at the end of the year 2011. In order to benefit from the reimbursement of unpaid bills by the central government, the Autonomous Communities and municipalities were thus obliged

⁸ The Agreements for the Autonomous Communities are available at the following link: <http://www.boe.es/boe/dias/2012/04/14/pdfs/BOE-A-2012-5080.pdf>

to disclose the full amount of the existing debts (unpaid bills) with suppliers and, as a consequence, the previously unrecorded expenditure had to be disclosed.

In the course of the exercise, it became evident that some expenditure incurred in 2011 and previous years had not been reported in the April 2012 EDP notification (or in any previous EDP notification). These amounts increased the deficit of Autonomous Communities and therefore the general government deficit by 0.4 % of GDP.

As mentioned above, a significant part of the unreported expenditure was concentrated in the AC of Valencia. It appeared that violations of the accrual principle had been recurrent in this region, as considerable amounts of health expenditure not yet paid and not foreseen in the budget were not reported in any account, be it budgetary or extra-budgetary.

1.2. The formal Commission investigation into suspected manipulation of statistics in Spain as referred to in Regulation (EU) No 1173/2011

On the basis of the visits undertaken and of further analysis of the situation, Eurostat concluded that there were serious indications of misrepresentation of statistics which justified the initiation of an investigation pursuant to Article 8(3) of Regulation (EU) No 1173/2011. It therefore recommended that the Commission opens an investigation into the misrepresentation of EDP data in Spain. On 11 July 2014, the European Commission decided to launch a formal investigation into the possible manipulation of statistics from the AC of Valencia, Spain⁹.

This is the first time that the Commission has drawn on its new powers under Regulation (EU) No 1173/2011 to investigate suspected manipulation of a Member State's deficit and debt data.

The Commission investigating team interviewed in separate meetings representatives of the National Statistical Institute (*Instituto Nacional de Estadística* – INE), the National Audit Office (*Intervención General de la Administración del Estado* - IGAE¹⁰), the Regional Audit Office of Valencia (*Intervención General de la Generalitat Valenciana* - IGGV¹¹), the Regional Ministry of Health of Valencia (*Consejería de Sanidad de la Generalitat Valenciana*, hereinafter referred to as the "Regional Ministry of Health"), the Regional Court of Auditors of Valencia (*Sindicatura de Cuentas de la Comunidad Valenciana*, hereinafter referred to as the "Regional Court of Auditors"), as well as the ex-General Comptroller of the Autonomous Community of Valencia (head of IGGV) for the period 1997-2012, who was

⁹ Commission Decision C(2014) 4856 of 11.7.2014 on the launching of an investigation related to the manipulation of statistics in Spain as referred to in Regulation (EU) No 1173/2011 of the European Parliament and of the Council on the effective enforcement of budgetary surveillance in the euro area. See also http://europa.eu/rapid/press-release_IP-14-822_en.htm

¹⁰ IGAE is responsible for the collection of data on non-financial government accounts and it is also responsible for the translation of public accounts into national accounts (ESA95).

¹¹ IGGV is a specific unit inside the Regional MoF responsible for the compilation, internal control and reporting of the public accounts of the region.

interviewed at his request. The written records of each meeting have been established and signed by all participants.

The quotations that appear in the endnotes (listed as a, b, c...) of this report have been taken from the official records of the above meetings and reproduce exactly the statements made by the representatives of the different institutions interviewed.

This report presents the findings of the Commission in the light of the investigation conducted in accordance with the Commission Delegated Decision 2012/678, together with the key facts supporting those findings. Further factual information concerning the misrepresentation of data in 2012 can be found in the Commission Staff Working Document “Relevant underlying information concerning the misrepresentation of data in the Autonomous Community of Valencia” (hereinafter referred to as SWD) accompanying this report.

It should be noted that when carrying out its investigation into the misreporting of expenditure, the Commission has aimed to uncover the full extent of the problem and how it occurred, in the interest of preventing future cases. It is therefore inevitable that the scrutiny has included facts which antedate the entry into force of Regulation (EU) No 1173/2011 on 13 December 2011. However, the aim of the investigation has been to demonstrate misrepresentation of data that took place after the entry into force of the Regulation. The relevant behaviour of the Member State on which the Commission may base a recommendation to the Council is thus its behaviour in the period from 13 December 2011 until the launch of the investigation on 11 July 2014.

The preliminary findings of the investigation related to manipulation of statistics in Spain as referred to in Regulation (EU) No 1173/2011 were sent to the Kingdom of Spain for its observations on 19 February 2015, as required by Article 6 of Commission Delegated Decision 2012/678. The Commission invited the Kingdom of Spain to submit written observations on the preliminary findings by 19 March 2015. The Kingdom of Spain provided its written observations on 24 March 2015.

In an overall remark to the observations presented by the Kingdom of Spain, it should be noted that some of the observations are concurrent with the pleas presented by that Member State in case T-676/14, Spain v Commission. That case is currently pending before the General Court of the Court of Justice of the European Union. To the extent that the observations presented by Spain relate to legal issues, including regarding its rights to defence, which have been raised by Spain before the Court of Justice, these will be addressed in the context of the Court case. The Commission has therefore, in the context of this report, concentrated on the observations of Spain which relate to the facts of the case.

The written observations on the Commission preliminary findings submitted by the Kingdom of Spain are attached to this final report (Annex). All observations in Annex II of the Spanish

observations, i.e. the list of errors and inaccuracies regarding the facts, were incorporated in the final report¹².

2. MAIN FINDINGS

This section provides a detailed description of the main reasons for the 1.9 billion euro revision in the government deficit of Spain in May 2012 and of the involvement of the different institutions. The AC of Valencia was identified by the Commission (Eurostat) as the only region presenting significant irregularities. Those irregularities were mainly related to the recording of health expenditure. The expenditure from different years which were neither recorded in the AC of Valencia's public accounts nor in the national accounts amounted to a total of 1.9 billion euro.

These amounts had never been reported by IGGV to IGAE^a in the Standardised Questionnaire (SQ)¹³, although the Regional Court of Auditors underlined the existence of amounts concerning unrecorded expenditure in all of its annual reports, from 1988.

Only after the SPM launched by the central government for the payment of arrears of the Autonomous Communities had entered into force, was the 1.9 billion euro reported to IGAE^b, as the main requirement to obtain SPM financing was that the amounts should correspond to expenditure recorded and pending to be paid by the end of 2011.

2.1. The recording of creditor accounts in the General Account of the AC of Valencia by IGGV

Table 1 provides an overview of the creditor accounts in the balance sheet for the period 2001-2011 as compiled by the IGGV.

Table 1: Creditor accounts in the balance sheet of the AC of Valencia, General Account published by the IGGV

Creditor accounts in the balance sheet. Source: IGGV general account of the region (non-consolidated)

Unit: million euro

| | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | New recording 2011 |
|--|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-----------------------|
| Creditor accounts included in the budget | 1,107 | 1,478 | 1,521 | 1,501 | 1,484 | 1,195 | 1,224 | 1,972 | 2,211 | 2,368 | 3,917 | 5,791 |
| Of which, account 409 (*) | N.A. | 21 | 15 | 41 | 25 | 15 | 15 | 40 | 75 | 37 | 344 | 2,218 |
| Extrabudgetary accounts (includes account 411) | -12 | 102 | 204 | 392 | 432 | 490 | 1,254 | 1,130 | 2,755 | 2,711 | 2,640 | 2,640 |

(*) Account 409 is extrabudgetary, but in the old accounting plan it was classified in the group of budgetary accounts. No matter where it is classified, the content of the account is the same: amounts not paid, not foreseen in the budget that should be allocated to the budget of the following year.

Table 1 includes two columns for the year 2011. The second column (the correct recording) is the version published by the IGGV at the end of June 2012, after the deficit revision in May 2012. The first column shows the provisional data sent by the IGGV to IGAE in January 2012, used for the April 2012 EDP notification.

¹² As a consequence the report has been amended.

¹³ The Standardised Questionnaire is used to collect all the information related to the public accounts of the region (more details in the SWD – Section 3.3.3 (The translation of public accounts into national accounts)).

The first line represents the amounts not paid in the year, but foreseen in the budget (public accounts) and therefore reflected in national accounts. As it can be seen in table 1, the behaviour of creditor accounts in the budget is quite stable and the amounts started to increase from 2008.

The third line, extra-budgetary accounts, represents amounts not paid in the year, not foreseen in the budget, but recorded in these account to be allocated to the budget of the following year. The amounts increased considerably in two years: 2007 and 2009. This was due to the recognition of unrecorded expenditure that took place in those years through the approval of specific regional Laws (Article 59bis – sections 2.d and 3 of the Public finance Law) and the signature of different agreements (more details in section 2.5).

The amounts in account 409¹⁴ (second line) were negligible until a correct recording was implemented for the first time for the year 2011 when the SPM entered into force. As a consequence, only minor amounts were reported to IGAE in account 409 before June 2012. The first non-negligible amounts (although still incomplete) concerning the year 2011 were reported in January 2012 (and confirmed in April 2012), after the intervention of IGAE. In the third transmission in June 2012, significant revisions were reported as regards account 409 for the year 2011, confirming the deficit revision of 1.9 billion euro in the AC of Valencia.

Instead of recording in account 409, the AC of Valencia had used account 411¹⁵ for such expenditure. Other regions used only the account 409^c.

2.2. Reporting by the IGGV to IGAE in 2012

Table 2 provides the detailed amounts reported by the IGGV to IGAE in January, April and June 2012 in the tables corresponding to account 409 in the Standardised Questionnaire (SQ). The table shows that not all amounts had been reported by IGGV to IGAE in the SQ sent in January 2012.

¹⁴ Account 409 consists of expenditure, not imputed in the budget of year T, for which the obligation to pay has been recognised (invoice received) and must be imputed to the budget of year T+1. Such expenditure impact the EDP deficit (B.9) of year T. For more details see the SWD, Section 2 (Overview of creditor accounts in the Spanish public accounting plan).

¹⁵ Account 411 consists of expenditure, not imputed in the budget of year T, for which the obligation to pay has not been created, as the expenditure is not matured (the official invoice was not yet received), which must be imputed to the budget of year T+1 once the invoice has been received, after the due date, and the obligation to pay is recognised. Such expenditure impact the EDP deficit (B.9) of year T. For more details see the SWD, Section 2 (Overview of creditor accounts in the Spanish public accounting plan).

Table 2: Amounts in account 409 transmitted by the IGGV to IGAE in the Standardised Questionnaire (SQ) in January, April and June 2012

| Unit: million euro | | Used for April 2012 EDP notification | | | Used for the October 2012 EDP notification | |
|---|------------------------|--------------------------------------|---|--------------------|--|-------------------|
| Table in the SQ | | SQ sent January 2012 | Added by phone call after IGAE inquired | Total January 2012 | SQ sent April 2012 | SQ sent June 2012 |
| A7 | General Administration | 33 | 0 | 33 | 37 | 163 |
| C7 | Other units | 139 | 5 | 144 | 174 | 174 |
| E7 | Health | 0 | 323 | 323 | 257 | 2,048 |
| F7 | Social Services | 1 | 0 | 1 | 1 | 7 |
| TOTAL | | 173 | 328 | 501 | 469 | 2,392 |
| January 2012 (EDP April 2012) -June 2012 (EDP October 2012) | | | | | | 1,891 |

In the January 2012 data collection exercise, IGAE contacted IGGV and questioned the amount of the data reported in account 409, as it had been noticed that amounts reported in this account were extremely small. IGGV reported, as a result, by telephone, an additional expenditure of about 300 million euro, previously not included in the SQ. IGAE then included this additional information received by telephone in the data sent to Eurostat in the context of April 2012 EDP notification. IGGV officially reported these data, via the SQ, only on 30 April 2012.

The amount of 1.9 billion euro for unpaid bills was not transmitted to IGAE in either of the versions of the SQ sent by the IGGV at the end of January and at the end of April 2012. However, by the end of April 2012, the same unpaid bills included in the amount of 1.9 billion euro had already been sent by the Regional MoF to the National MoF, and the Economic and Financial Plan for 2012-2014 of the region of Valencia, which also included this amount, had been submitted to the CPFF.

At the beginning of May 2012, both the invoices and the adjustment (Economic and Financial Plan) started to be analysed and checked by the National MoF and the CPFF. It was only at that moment that IGAE was informed by the National MoF^d about the 1.9 billion euro revision involving the AC of Valencia. IGAE immediately contacted the IGGV in order for the information to be confirmed. In a telephone conversation, the IGGV confirmed that the additional debt was about 1.8 billion euro, but that it was not possible to know the exact amount at that stage, as data was still under validation. IGAE then raised the issue in the Spanish Technical Committee of National Accounts¹⁶ and it was decided to immediately communicate these facts to Eurostat (on 17 May 2012), even though the figures were still under validation.

The figures for unpaid bills, recorded in account 409 for the first time, were finally transmitted officially by IGGV to IGAE at the end of June 2012.

¹⁶ It is composed of INE, IGAE and the Bank of Spain and its role is limited to the classification of units and to methodological issues.

The largest part of the unrecorded unpaid bills, reported officially in June 2012 (1.9 billion euro), was generated in 2011. An amount of 862 million euro was attributed to 2011 while more or less 1 billion euro was attributed to the years prior to 2011 as follows: 29 million euro to 2008 and earlier years, 378 million euro to 2009 and 624 million euro to 2010.

Table 3 shows the main events as regards the flow of information between the IGGV and IGAE listed in chronological order. The amount of 1.9 billion euro was included in the "Adjustment plan for 2012-2014" submitted by the AC of Valencia to the National MoF in April 2012, but not included in the SQ transmitted to IGAE by the end of April 2012, even though the deadline for both submissions was 30 April 2012¹⁷.

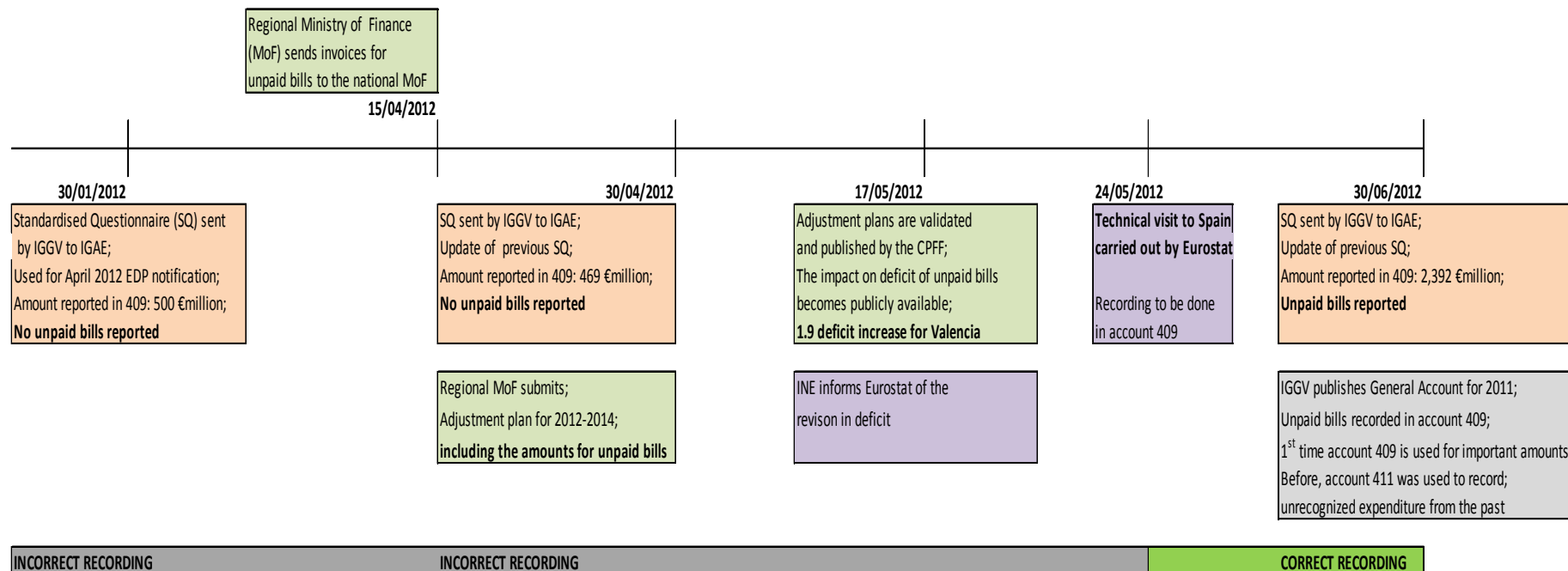
The following conclusions can be drawn as regards the recording of health expenditure in the AC of Valencia:

- Only negligible amounts¹⁸ were recorded in account 409 until the SPM was launched (in March 2012) as shown in line 2 of table 2. A correct recording was only achieved for 2011 after the revisions of the figures, carried out in order to benefit from the SPM (June 2012, affecting account 409 of year 2011).
- Important amounts of unrecognised debt from previous years were recorded and recognised in account 411 as shown in line 3 of table 1.
- The amounts concerning account 409 for 2011 sent by the IGGV to IGAE were revised by 1.9 billion euro between the transmissions of January 2012 and June 2012.
- The expenditure reported for 2011 in account 409 in the SQ sent in June 2012, includes amounts corresponding to previous years.

¹⁷ This figure was deemed solid enough by the regional authorities in Valencia to be sent to the national authorities in order to benefit from the Special Payment Mechanism, but not solid enough to be sent to IGAE in order to show the real amount of unrecorded health expenditure. This indicates that data were available at the regional level, but were not sent by IGGV to IGAE in the context of April 2012 EDP notification.

¹⁸ Or, for some years, no amounts at all.

Table 3: Communication between the IGGV and IGAE in chronological order



2.3. The reporting of unrecorded expenditure by the Regional Court of Auditors

Every year, in June, the IGGV provides the General Account of the AC for the year T-1 to the Regional Court of Auditors. In November, the Regional Court of Auditors submits a draft version of its assessment report to the IGGV for comments. The IGGV circulates the draft report to all the entities in the region that may be concerned and gathers all the comments/amendments that are then forwarded to the Regional Court of Auditors for a possible update of the report. The Regional Court of Auditors analyses the comments and decides, one by one, whether they should be taken into account in the final version of the document. The final version of the report for the year T-1, including the amendments, when considered appropriate by the Regional Court of Auditors, is approved and published by December of year T.

Every year, the comments on behalf of all entities involved, that had been sent by the IGGV to the Regional Court of Auditors for a possible amendment of the report, were published by the Regional Court of Auditors as Annex II¹⁹ to the report, including the decision and the subsequent explanations of the Regional Court of Auditors for taking (or not taking) them into account.

The annual reports of the Regional Court of Auditors on the general account of the AC of Valencia reported the existence of unrecognised (and unrecorded) expenditure in the region from 1988. Table 4 shows the stock of unrecognised expenditure by year, for the period 1988 – 2011, as mentioned in the reports of the Regional Court of Auditors²⁰.

All reports of the Regional Court of Auditors over the years, thus, outlined the existence of significant amounts of unrecognised expenditure related to the health sector. The reports from the Regional Court of Auditors recommended (at least from 2003 onwards) the recording of these unrecognised expenditure related to the health sector in account 409, in line with Rule 5 of the Accounting Instruction for the AC of Valencia (*Instrucción de Contabilidad de la Generalitat*). The Regional Court of Auditors detailed the amounts of unrecorded expenditure each year. However, the IGGV never took any action to implement the recommendations^e.

The Regional Court of Auditors, thus, recommended to the regional government (the *Consell*) to adopt measures for the liquidation and payment of the remaining stock of unrecognised expenditure. In this context, it recommended analysing and regularising expenditure

¹⁹ All the reports are available at the following link:

<http://www.sindicom.gva.es/web/informes.nsf/vInformesCastellanoCGGV?SearchView&idioma=castellano&query=field%20Titulo=anexo%20or%20field%20Titol=anexo%20or%20field%20claves=anexo&check=1&nomVista=Informes+castellano+-+Cuenta+general+de+la+GV&vista=vInformesCastellanoCGGV&qOriginal=anexo>

²⁰ The reports of the Regional Court of Auditors concerning the general account of years 1988-2013 can be found at the following link:
<http://www.sindicom.gva.es/web/informes.nsf/vInformesCastellanoCGGV?OpenView&start=1&Count=20>

corresponding to previous years in the creditor accounts. In addition, the report of the Regional Court of Auditors recommended elaborating the budget relating to the health sector according to the real situation, as the current version hindered the application of the principles of effectiveness, efficiency, economy and legality. To solve this situation, different measures were implemented by the regional government from the year 2007 onwards (signature of agreements, recognition of the past debt) and it was recommended that such measures continued to be adopted until the situation was balanced.

At the beginning, the full amount of expenditure not recognised in a given year was immediately imputed to the following year and, in addition, the amounts were quite small, making the total impact limited. However, from 1993 onwards, only part of the expenditure not recognised in a given year, and not the full amount, was imputed to the following year. As a consequence, the amounts of expenditure not yet paid, not foreseen in the budget and not reported, gradually increased to reach considerable amounts.

In the reports from the Regional Court of Auditors, it was stated that the data was provided by the Regional Ministry of Health and therefore publicly available^f.

During the investigation, the Regional Court of Auditors confirmed that it always received all necessary accounting information at the requested dates from the Regional Ministry of Health and that the cooperation with the ministry had always been very good in this respect^g.

The Regional Ministry of Health usually provided information on health expenditure to the Regional Court of Auditors between February and May every year. The date varied every year and it depended on when the Regional Court of Auditors asked for it. Usually, the Regional Ministry of Health had this information available at the beginning of the year and promptly provided it to the Regional Court of Auditors. In 2006, exceptionally, the Regional Ministry of Health sent the complete amount of unrecorded health expenditure incurred in 2001-2005 directly to IGGV at the beginning of the year^h.

Table 4: Amounts of unrecognised (unrecorded) expenditure detailed in the reports of the Regional Court of Auditors

Unit: million euro

| Year | Unrecognized Expenditure | Reference | Link to the report | % of unrecognized expenditure imputed to budget of the following | % of unrecognized expenditure not imputed to following year |
|-------------------------|--------------------------|----------------|---|--|---|
| 1988 | 24.5 | 13.2.2 | http://www.sindicom.gva.es/web/informes.nsf/0/7ED932E37B2D89C9C1257211002C3406/\$file/88VII.pdf | 100% | 0% |
| 1989 | 12.0 | 2.5.b), 11.3 | http://www.sindicom.gva.es/web/informes.nsf/0/FE78A748C9951364C125721000391B88/\$file/89VII.pdf | 100% | 0% |
| 1990 | 63.6 | 2.4.f), 4.7.d) | http://www.sindicom.gva.es/web/informes.nsf/0/F165391EBC95D8B5C12571FD002A38DE/\$file/90VII.pdf | 100% | 0% |
| 1991 | 95.6 | 2.4.d), 4.4 | http://www.sindicom.gva.es/web/informes.nsf/0/9F861B063101A3A1C12571FB003986EF/\$file/91VII.pdf | 100% | 0% |
| 1992 | 33.9 | 4.3, 15.e) | http://www.sindicom.gva.es/web/informes.nsf/0/A9D05DAD187B1DB2C12571F7003D53F6/\$file/92VII.pdf | 100% | 0% |
| 1993 | 50.9 | 4.4 | http://www.sindicom.gva.es/web/informes.nsf/0/93DEDBE0A3F785B3C12571F4002D07E3/\$file/93VII.pdf | 12% | 88% |
| 1994 | 88.1 | 2.4 | http://www.sindicom.gva.es/web/informes.nsf/0/DD6EBAD994C6EC4BC12571F0003B5249/\$file/94VII.pdf | 0% | 100% |
| 1995 | 178.2 | 2.4 | http://www.sindicom.gva.es/web/informes.nsf/0/4EA5B8B04CF0FF9C12570D60039FB62/\$file/95CVII.pdf | 94% | 6% |
| 1996 | 62.9 | 2.4 | http://www.sindicom.gva.es/web/informes.nsf/0/02B6A6DCABDE2FB6C12570D60029E982/\$file/96CVII.pdf | 93% | 7% |
| 1997 | 191.4 | 2.4.2 | http://www.sindicom.gva.es/web/informes.nsf/0/AB233C4C9771008FC12570D5003CBFE5/\$file/97CVII.pdf | 98% | 2% |
| 1998 | 344.9 | 2.4.2 | http://www.sindicom.gva.es/web/informes.nsf/0/54B5FAC803B41A3BC12570D20045515D/\$file/98CVII.pdf | 83% | 17% |
| 1999 | 338.1 | 2.4.2 | http://www.sindicom.gva.es/web/informes.nsf/0/110725455807BD1CC12570D00049D5D5/\$file/99CVII.pdf | 57% | 43% |
| 2000 | 445.1 | 2.4.2 | http://www.sindicom.gva.es/web/informes.nsf/0/D60C8AA2AC1F26FAC12570CE00325BE8/\$file/00CVII.pdf | 46% | 54% |
| 2001 | 643.5 | 4.3.2 | http://www.sindicom.gva.es/web/informes.nsf/0/0D0F73ABAA4EBCB0C12570CB0045522D/\$file/01CVII.pdf | 47% | 53% |
| 2002 | 840.5 | 4.3.2 | http://www.sindicom.gva.es/web/informes.nsf/0/491E691ED6D84E43C12570CB0034EC83/\$file/02CVII.PDF | 36% | 64% |
| 2003 | 1,121.3 | 4.3.2 | http://www.sindicom.gva.es/web/informes.nsf/0/ACDF5C75264DF25FC12570BC003B77C8/\$file/03CVII.pdf | 43% | 57% |
| 2004 | 1,240.1 | 4.3.2 | http://www.sindicom.gva.es/web/informes.nsf/0/8B8A1302179A54ECC12570DF00308BFB/\$file/04CVII.PDF | 30% | 70% |
| 2005 | 1,129.8 | 2.1.c), 8.1.g) | http://www.sindicom.gva.es/web/informes.nsf/0/D81BD32BABA363F5C12573B100446B8A/\$file/05CVI.pdf | 25% | 75% |
| 2006 | 1,224.4 | 2.1.c), 8.1.g) | http://www.sindicom.gva.es/web/informes.nsf/0/EEC5B83032458B03C1257248002C9884/\$file/06CVI.pdf | 21% + big amount in account 411 | around 10% |
| 2007 | 562.9 | 2.1.d), 8.1.g) | http://www.sindicom.gva.es/web/informes.nsf/0/90BE8262F5D1CDF5C125751B002CD842/\$file/07CVI.pdf | 46% | 54% |
| 2008 | 1,061.0 | 2.1.d), 8.1.g) | http://www.sindicom.gva.es/web/informes.nsf/0/1599791B22614DA2C125768E00495C53/\$file/08CVI.pdf | 26% + big amount in account 411 | around 0% |
| 2009 | 962.6 | 3.1.d), 8.1.f) | http://www.sindicom.gva.es/web/informes.nsf/0/C70D02311ADD9F98C1257801002B513C/\$file/09CVI.pdf | 34% + small amount in account 411 | around 50% |
| 2010 | 1,602.3 | 3.1.d), 8.1.f) | http://www.sindicom.gva.es/web/informes.nsf/0/8FC2E0021E79B8D6C1257968002DB8DD/\$file/10CVI.pdf | 34% + small amount in account 411 | around 50% |
| 2011¹ | 300.5 | 3.1.e) | the report was published in December 2012 and it includes revised data that was sent to Eurostat in the context of 2012 October EDP notification http://www.sindicom.gva.es/web/informes.nsf/0/80054832E39EEBCC1257C3C002D37FB/\$file/11C_VI.pdf | | |

¹In April 2012, when data were sent to Eurostat in the context of the April 2012 EDP notification, the amount of unrecognised expenditure amounted to 1.842 million euro.

The Regional Court of Auditors offered to provide to IGGV all information (should IGGV not have access to it) on unrecorded unpaid bills in the health sector, as described in the public report of the Regional Court of Auditors of 2010ⁱ. In spite of this offer, IGGV never asked the Regional Court of Auditors to provide it with this data.

The Regional Court of Auditors sent its reports to about 60 persons in different bodies of the Autonomous Communities, including the Regional Ministry of Health and IGGVⁱ. Draft reports were sent to IGGV for distribution to managers who drafted the observations. The final report (with its conclusions and recommendations) was sent to all managers of the different bodies and to the IGGV.

It appears from the investigation that management centres (such as the Regional Ministry of Health) do not have the power to account the expenditure incurred but not paid in account 409 or in similar accounts for that purpose (something which only IGGV could do), but only in the budgetary accounts. Under the Public Finance Law it is the IGGV in the AC of Valencia which is responsible for making sure that expenditure is recorded according to the accrual principle. The correct implementation of the accrual principle is a pure accounting issue.

2.4. Working Group on health expenditure created in the framework of CPFF

In 2007, the CPFF established a Working Group (WG) on health expenditure with the main aim to analyse such expenditure²¹. All 17 regions were represented by the regional ministers of health and accompanied by the regional General Comptrollers (heads of the Regional Audit Offices). Valencia was represented by the Regional Ministry of Health and the Regional MoF, the latter being the direct hierarchical superior of IGGV. IGAE also participated in this WG.

Three Autonomous Communities (Andalucía, Cataluña and Valencia) represented 75% of the total expenditure pending to be allocated to the budget by the end of each year (see table 5). There was however a substantial difference between them. In Andalucía and Cataluña the amounts had been correctly recorded in the extra-budgetary accounts (409 or similar) and reported to IGAE accordingly. In Valencia they were not.

²¹ The 2007 report of this WG is available on the website: <http://www.meh.es/Documentacion/Publico/PortalVarios/Grupo%20de%20Trabajo%20Gasto%20Sanitario.pdf>

Table 5: Health expenditure pending for budget allocations by the end of each year provided in the reports of the WG on health expenditure, 2007

Unit: thousand euro

| | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 |
|-----------------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| Andalucía | 1,086,077 | 975,389 | 1,178,710 | 1,303,220 | 1,357,858 | 1,498,278 | 1,573,254 | 1,570,740 |
| Aragón | 0 | 0 | 0 | 0 | 0 | 43,399 | 118,568 | 34,404 |
| Asturias | 0 | 0 | 0 | 35,211 | 66,606 | 128,979 | 144,551 | 116,132 |
| Baleares | 0 | 0 | 0 | 0 | 27,861 | 53,690 | 57,980 | 56,789 |
| Canarias | 28,145 | 58,924 | 45,734 | 53,594 | 48,625 | 184,937 | 17,370 | 48,738 |
| Cantabria | 0 | 0 | 0 | 20,748 | 19,110 | 33,271 | 41,525 | 28,130 |
| Castilla y León | 0 | 0 | 0 | 0 | 0 | 150,408 | 258,643 | 233,738 |
| Castilla-La Mancha | 0 | 0 | 0 | 0 | 0 | 71,119 | 0 | 93,000 |
| Cataluña | 1,234,950 | 1,341,047 | 1,444,787 | 1,530,882 | 1,769,734 | 2,175,896 | 1,928,310 | 1,536,480 |
| Comunidad Valenciana | 344,934 | 337,292 | 469,777 | 643,691 | 817,696 | 1,111,633 | 1,222,924 | 1,112,924 |
| Extremadura | 0 | 0 | 0 | 0 | 14,400 | 73,959 | 123,014 | 118,960 |
| Galicia | 62,832 | 102,318 | 128,396 | 168,220 | 93,811 | 218,061 | 389,832 | 176,661 |
| Madrid | 0 | 0 | 0 | 0 | 125,038 | 223,579 | 407,618 | 281,115 |
| Murcia | 0 | 0 | 0 | 0 | 45,480 | 93,025 | 153,134 | 165,148 |
| Navarra | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1,075 |
| País Vasco | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| La Rioja | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 2,756,938 | 2,814,970 | 3,267,404 | 3,755,566 | 4,386,219 | 6,060,234 | 6,436,723 | 5,574,035 |

In the case of the AC of Valencia, there were considerable amounts of unpaid bills related to health not recorded in any account. As IGAE also participated to these meetings, they became aware of these “unrecorded unpaid bills”.

During the investigation, IGAE confirmed that the non-recording of health expenditure in Valencia was first spotted in 2007, after the report of CPFF Working Group on Health expenditure.

In this context, IGAE had asked IGGV to confirm the amounts included in accounts 409 and 411, and IGGV had confirmed that the data sent to IGAE by it was correct.

In 2007, the AC of Valencia signed the first Agreement through which it recognised a large amount of previously unrecorded bills via account 411. In 2007, the AC of Valencia reported to IGAE, for the first time, previously unrecorded unpaid bills, broken down according to the different years in which the expenditure should have been recorded. IGAE, therefore, assumed that all previously unrecorded unpaid bills were now recorded either in account 411 or in the budget^P.

The investigation concluded that IGAE did not have any relations, either direct or indirect, with the Regional Court of Auditors or with any other external control body. There is no existing agreement between IGAE and the Regional Court of Auditors. IGAE has access to the reports of the Regional Court of Auditors only once they are published. These reports were checked on a regular basis only from 2009 onwards. However, the reports concerning data of year T-1 are usually available at the earliest only in December of year T, whereas the data has to be reported to Eurostat already in April.

During the investigation IGAE reported that it regularly asked IGGV why such considerable amounts, reported in the reports of the Regional Court of Auditors, were not recorded in the accounts of the region. IGGV replied that they did not have any information in order to check whether the data reported by the Regional Court of Auditors was correct.

This led IGAE to believe that these amounts would be included at the latest in the budget of January/February of the following year. IGAE underlined that they needed the collaboration of the IGGV and that the reports of the Regional Court of Auditors did not provide enough details to be used directly in national accounts, as IGAE asks for more detailed information in their SQs than what is available in the report of the Regional Court of Auditors. With just the information from the reports of the Regional Court of Auditors it was not possible, according to IGAE, to make the necessary national accounts adjustments.

In addition, IGAE had no powers to unilaterally amend data sent by IGGV and no means to verify whether the data sent by IGGV was correct. IGAE could only ask for additional clarifications on the data and must accept the data officially sent by Autonomous Communities. If the outcome of the questioning by IGAE is that the regions confirm the data sent, IGAE must accept this.

It is to be underlined that the Autonomous Communities have the possibility to send revised data to IGAE, via the SQ, up until the 15 March of a given year, in order for them to be included in the April EDP notification. Revised SQs were sent by some regions, but never by AC of Valencia.

According to IGAE, when the quality of the data sent by the AC of Valencia was questioned, IGGV confirmed the data which had originally been sent.

2.5. Partial recognition of the unrecorded expenditure via account 411

When the stock of unrecorded expenditure by the end of year 2006 had risen to a considerable level (see table 6), the regional government adopted measures with a view to recognizing part of the expenditure.

Table 6 details how the amounts of unrecorded expenditure were dealt with. Starting from the stock of unrecorded expenditure at the beginning of the year, every year some amounts were deducted (the amounts imputed to the budget of that year and the amounts to be recognised in account 411) and some amounts were added (the unrecorded expenditure generated that year) to obtain the new stock of unrecorded expenditure by the end of each year.

Table 6: Details of the stock of unrecognised (unrecorded) expenditure in the AC of Valencia

DETAIL OF THE STOCK OF UNRECOGNIZED EXPENDITURE. Source: Regional CoA reports

Unit: million euro

| | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011* |
|---|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Stock of unrecognized expenditure beginning of year | 1,240 | 1,130 | 1,224 | 563 | 1,061 | 963 | 1,602 |
| Amounts from previous year imputed to the budget of that year | -377 | -283 | -254 | -258 | -275 | -326 | -259 |
| Recorded in account 411 | | | -847 | | -786 | -96 | -106 |
| Debt from previous years to be allocated to account 411 | | | | | 96 | | |
| Unrecognized expenditure generated in the current year | 267 | 377 | 439 | 756 | 866 | 1,062 | 637 |
| Stock of unrecognized expenditure end of year | 1,130 | 1,224 | 563 | 1,061 | 963 | 1,602 | 1,874 |

Source: Court of Auditors report for year 2005-2010

* 2011 data are based on the cut-off date of April 2012 and does not include the revision of data reported in October 2012.

The report of the Court of Auditors published in December 2012 confirmed that previously unrecorded expenditure were, for the first time, recorded in the account 409 and consequently reported to Eurostat in the context of October 2012 EDP notification. However, the 2012 report revealed that 300 million euro of expenditure incurred in 2011 were still not recorded in the accounts.

In practice, part of the unrecorded expenditure was removed from the stock of unrecognised debt and included in account 411 (integrated in the public accounts) from the year 2007 onwards. Two regulatory changes were implemented, which, according to the regional government, allowed the recognition of unrecognised debt in account 411.

Firstly, the "*Ley de Hacienda Pública de la Generalitat Valenciana*" (Public Finance Act²²), which sets out the budget system and the accounting framework and forms the basis for the control of public accounts in the region, was modified several times as concerns the recognition of expenditure. By Law 12/2004 of 27 December, its article 59 was extended with the inclusion of an article 59bis, setting the framework for the non-recognition of payment obligations under certain circumstances. Later, through Law 10/2006 of 26 December, two new sections (2.d and 3) were added to article 59bis. These new sections 2.d and 3 would have enabled the adoption of specific mechanisms for the allocation of incurred but unrecognised expenditure to budgets of future years, in case of insufficient budgetary provision to meet past and present payment obligations.

²² The Public Finance Act of the *Generalitat Valenciana* is available at the following link: http://noticias.juridicas.com/base_datos/CCAA/va-dleg260691.html

Article 59bis, in its original version, states as follows:

“1. In cases in which, under the applicable provisions, the previous approval would have been mandatory and had been omitted, it will not be possible to recognise the obligation, arrange the payment, or undertake these proceedings, until such omission is remedied under the terms provided in this article.

2. The body of the IGGV which has knowledge of the omission referred to in the preceding paragraph, shall carry out the auditing/control of the documentation, by considering as validated the administrative actions produced in the case that, regardless of the infraction that constitutes the lack of an audit report, the laws in force would have been respected.

Otherwise, a report must be issued by such entity, showing at least the following:

a. The violations of the rule that would have been shown in case the auditor control would have been submitted at the correct moment.

b. The benefits incurred as a result of that act.

c. The origin of the revision of the acts invalidated by way of the infraction of the rule in question.

d. The existence of adequate and sufficient credit in the current year in order to meet the obligations outstanding or, if applicable, the proposed multiannual mechanism for budget allocation referred to in the next section, with the explicit consent of the Regional MoF. This report will be forwarded to the authority who initiated the proceedings, and in case this had been issued by a Deputy Regional Auditor, the latter should inform the Regional Audit Office.

3. The adoption of the appropriate resolution must be done, by the head of the Department of the region to which belongs the entity responsible for the dealing of the case or to which the entity is attached, without any possibility of delegating the power. The Government of the Comunidad Valenciana should be informed about this. However, when in the current year there is an absence of adequate and sufficient budgetary credit to meet the current obligations and in addition, the use of the possibility provided in Article 32 of this Act is not considered as appropriate, it will be necessary to submit in advance to the Consell (the Regional Government) the documentation, jointly with a favourable opinion from the Regional MoF so that, if need be, the Consell would adopt a program of budget allocation to future years.

4. The favourable resolution of the procedure regulated under this Article, shall not lift the need of any responsibility which, in case, would have been incurred”.

Secondly, specific agreements²³ were signed by the regional government between 2007 and 2010. According to the regional government, these agreements allowed the recording in

²³ Adopted by the *Generalitat Valenciana*

public accounts (in particular, in account 411) of unrecognised health expenditure related to past years.

The agreements are the following:

- Agreement signed on 20 April 2007. Recognition of 847.4 million euro in account 411. The expenditure was recognised in 2007, but incurred in the period 2002-2004.
- Agreement signed on 13 June 2008. Recognition of 145.4 million euro in account 411. The expenditure was recognised in 2008, but incurred in the period 2002-2004. This agreement is simply an extension of the previous agreement.
- Agreement signed on 13 March 2009. Recognition of 774.3 million euro in account 411. The expenditure was recognised in 2009, but incurred in the period 2006-2008.
- Agreement signed on 31 July 2009. Recognition of 82.7 million euro in account 411. The expenditure was recognised in 2009, but incurred in the period 2004-2008.
- Agreement signed on 15 October 2010. Recognition of 96.3 million € in account 411. The expenditure was recognised in 2010, but incurred in the period 2002-2004. This agreement is simply a second extension of the agreement signed the 20-4-2007.

Every time an agreement was signed, the corresponding amount reduced the stock of unrecorded expenditure and was automatically included in the account 411, having an immediate impact on both public and national accounts.

This explains the increases in the extra-budgetary account 411 for the years 2007 and 2009 and the corresponding decrease in the stock of unrecognised expenditure which can be seen in the previous tables 1 and 6 respectively.

In 2007, 847 million euro, which corresponded to non-recognised health expenditure incurred in the period 2002-2004, were added to account 411. In 2009, 857 million euro were added to account 411, this time corresponding to unrecognised health expenditure incurred during the period 2004-2008. In 2008 and 2010 other small amounts²⁴ corresponding to unrecognised health expenditure from the past were added to account 411, but due to their size, the impact cannot be easily seen. The decrease in the stock of unrecognised expenditure was not discernible, as the recognition of the small amounts in account 411 was neutralized by considerable amounts of unrecognised expenditure incurred during that year.

2.6. Causes identified for the misrepresentation of data in the AC of Valencia

This section enumerates the irregularities found in the compilation, recording and reporting of expenditure in the AC of Valencia. The irregularities were carried out at a regional level, by the Regional MoF and, in particular, by the IGGV.

²⁴ Including some expenditure carried out as far as the year 2002.

Firstly, the non-recording of expenditure effectively incurred goes against basic accrual accounting principles applicable both at national level and according to ESA 95²⁵.

Secondly, the use of account 409 is specified in both the General Public Accounting Plan (*Ley de Hacienda Pública de la Generalitat Valenciana*) and the Accounting Instruction for the AC of Valencia (*Instrucción de Contabilidad de la Generalitat Valenciana*) for the recording of expenditure pending allocation to the budget²⁶. Had account 409 been used correctly in accordance with the instruments cited, this would have ensured the correct reporting of data. However, by disregarding its mandatory use, unrecorded expenditure was never included by the IGGV in this account, despite the obligation to do so. Amounts recorded in the account 409 were insignificant until reporting of the correct figures in May 2012 and the subsequent deficit revision.

Reports from the Regional Court of Auditors explicitly recommended the recording of unaccounted and unrecorded health expenditure in the account 409. This advice was also supported by the Regional Ministry of Health²⁷. This recommendation was however not followed by the IGGV. IGGV started to recognise (record) some amounts from 2007, but only for partial amounts, and the practice of not recording expenditure effectively incurred continued, thereby increasing the stock of unrecorded expenditure of the region.

The result was that the accrual principle was not followed in the AC of Valencia, in breach of ESA 95 rules, and the EDP and government finance statistics data reported were incorrect, and not corrected until the revision in the October 2012 EDP notification. No significant amounts concerning expenditure pending allocation to the budget (account 409) were transmitted by the IGGV to IGAE in the SQ. This led to incorrect recording of the amounts from previous years, impacting the deficit (B.9) of years in which they did not incur, via the recognition of past expenditure in the account 411. The result of the non-compliance with the accrual principle in the AC of Valencia, in breach of ESA 95 rules, was that the EDP and government statistics finance data reported in 2012 were incorrect, and not corrected until the revision in the October 2012 EDP notification.

According to the Public Finance Act (*Ley de Hacienda Pública de la Generalitat Valenciana*), the IGGV is responsible for the internal control of the accounts in the region and for the compilation of the general account, which should correctly reflect the economic situation. This task was not fulfilled, as significant amounts of expenditure were not reflected in the accounts (general account of the region) and the IGGV did not acknowledge them. The IGGV must have been aware of these amounts, given that the Regional Ministry of Health and the Regional Court of Auditors were aware of them and communicated them to IGGV

²⁵ The Accrual principle must be respected both in national accounts (ESA 95) and according to the Spanish General Public Accounting Plan.

²⁶ The Accrual principle is a universal principle in the Spanish General Public Accounting Plan (PGCP).

²⁷ See Annex II to the report of the Regional Court of Auditors for the year 2008.

both informally via e-mails from the Ministry of Health and formally via the reports of the Regional Court of Auditors.

Even if the ad-hoc regulation approved by the region (article 59bis of the Public Finance Act and the different other agreements signed by the regional government) would have allowed the procedure followed by the IGGV in the accounts, through the recording of relevant amounts of unrecognised debts from previous years in account 411, this did not exempt the Spanish authorities from complying with the ESA 95 principles in the reporting of EDP data^k.

In addition, the general account of the region, compiled by the IGGV, did not seem to be detailed enough as regards extra-budgetary accounts. Considerable amounts of health expenditure incurred were not reported in the general account. The amounts recognised from year 2007 onwards, in the account 411, were not clearly explained and no breakdown was provided. In other tables, very small amounts were explained in detail, while no explanation was given for the close to 2 billion euro recognised in the account 411 between the year 2007 and the year 2010. The report referred only briefly to the extra-budgetary creditors and account 411. The Regional Court of Auditors, in its annual reports, recommended to the IGGV more clarity in this respect and asked to provide more detail as regards the explanation and the breakdown of certain accounts in the general account of the region.

Concerning the information sent by the IGGV to IGAE in the SQ, no amounts for unpaid unrecorded bills were reported in the SQ sent to IGAE on 30 April 2012, while such amounts had already been transmitted to the National MoF in the invoices sent for the purposes of the SPM and in the adjustment plan provided to the CPFF. Moreover, IGGV had received information on these amounts by email from the Regional Ministry of Health already in February 2012.

The irregularities in the AC of Valencia were in fact revealed to Eurostat only after INE had communicated the new revision of deficit (B.9) to Eurostat in May 2012. Following this information, Eurostat carried out a technical mission to Spain and it was only after this mission that a new recording procedure began in the AC of Valencia using the account 409 and reflecting the corresponding amounts in both the general account for the region and the SQ transmitted to IGAE.

3. ASSESSMENT OF FINDINGS

The final report shows that severe irregularities took place in the accounting, recording and reporting of expenditure of the AC of Valencia over a significant period of time. The accrual principle was not respected²⁸, extra-budgetary accounts were used improperly, expenditure was sometimes left unrecorded for years and the statistical information communicated from

²⁸ The Accrual principle must be respected in national accounts (ESA 95) and in the Spanish General Public Accounting Plan.

the regional authorities of Valencia to the national authorities was misleading, leading to the misreporting of the deficit data for Spain in 2012.

This practice of not recording expenditure was brought to an end later in 2012, due to the introduction of the SPM, which provided an incentive for the regions to disclose the full amounts of their unpaid bills in order to receive financial assistance from the central government. This full disclosure of expenditure was necessary, due to the fact that the unpaid bills had to refer, as one of the main conditions of the SPM, exclusively to expenditure already accrued and recorded at the end of 2011.

It must be therefore concluded that the EDP data transmitted to Eurostat in 2012 did not include part of the expenditure incurred by the AC of Valencia. The accrual principle, which follows from ESA 95 rules, was disregarded. Moreover, the budgetary, financial and accounting framework adopted at national and regional level was also widely disregarded as far as the recording of health expenditure (and for lower amounts, other types of expenditure) was concerned. Accounts which were supposed to be used for recording expenditure incurred but not paid (in order to be entered in the budget of the following years and be accounted for in ESA 95 terms in the present year) were not used.

The non-recording of some expenditure started in 1988. This involved, at first, very small amounts, and expenditure not recorded in a specific year was subsequently recorded in the following year. From 1993 onwards, the total amounts of unrecorded expenditure increased and not all the expenditure unrecorded in one year was recorded the following year.

By the year 2007, the total amount of unrecorded expenditure of past years reached over 1 billion euro. Five agreements were signed between 2007 and 2010 which, via the adoption of special regional regulations, allowed the recording in the accounts of the region of such expenditure, as well as the payment to the suppliers of goods and services which had been provided to the regional government in the context of its health policy and were long overdue for payment. In this context, no measures were taken by IGGV to ensure a correct recording of expenditure in the future. The practice of non-recording of expenditure continued, leading to the considerable upward revision of the deficit of Spain in 2011 of around 1.9 billion euro.

This amount was not reported by the IGGV to IGAE in the SQ in January 2012. Nor was it brought to the attention of IGAE via the use of the SQ three months later, at the end of April 2012²⁹, at the time of the second annual transmission of the SQ, even if regional government had, by that time, already transmitted to the central government the information that unpaid and unrecorded bills corresponding to such an amount existed. The correct figure was finally confirmed to IGAE only in May 2012.

The non-recording of expenditure in the AC of Valencia, as described in this report, resulted in incorrect transmissions of data to Eurostat in the context of first EDP notification in 2012.

²⁹ In spite of IGGV having had already received the amount of unrecorded health expenditure from the Regional Ministry of Health in February 2012, via email.

The main actors involved in the events described above, are the IGGV, IGAE, INE, the Regional ministry of Health and the Regional Court of Auditors^l. All the entities interviewed have been helpful and fully cooperative with the Commission investigation team, providing to the Commission (Eurostat) the information requested as necessary for the investigation.

The Regional Court of Auditors consistently reported in its annual reports the unrecorded expenditure from 1988 onwards and recommended that these amounts be recorded in the accounts of the AC of Valencia^{m n}. It reported, in particular, amounts of unrecognised expenditure of over 1 billion euro for the years between 2003 and 2010 in the AC of Valencia (with the exception of 2007 and 2009, when the amount was smaller due to the recognition of unrecorded expenditure via account 411). However, the fact that the existence (for progressively increasing amounts) of unrecognised expenditure was systematically pointed out by the Regional Court of Auditors, did not lead to any specific action at regional level in order to rectify this situation, which was only corrected in the accounts of 2011, as confirmed in the report of the Regional Court of Auditors^o.

The National Statistical Office (INE) informed Eurostat about the situation on 17 May 2012, after the IGGV confirmed to IGAE that the data had to be revised by 1.9 billion euro related to previously unrecorded expenditure.

IGAE realised that something was wrong in 2007, via the Working Group created in order to deal with the problem of health expenditure in the region. However, IGAE thought that the problem had been solved via the agreements approved by the AC of Valencia, the first of which was concluded in 2007^p, recognising the significant amounts of past unrecorded expenditure which were recorded then in account 411 (although they should have been recorded in account 409)³⁰. However, the practice of not recording expenditure continued. Moreover, the investigation seems to indicate that IGAE had limited powers to rectify the issue, as it could not (and still cannot) unilaterally change the data provided to it by the regions^q.

The Regional Ministry of Health is the entity which provided the source data for the recording of the health expenditure in the AC of Valencia^r. The Regional Ministry of Health provided the available information on extra-budgetary expenditure to the Regional Court of Auditors, (as well as to the national Ministry of Health)^s in a formalised way, sending them at the same time informally, via e-mail^t, to IGGV^u. Moreover, the Regional Ministry of Health agreed with the Regional Court of Auditors that extra-budgetary expenditure should have been recorded in the account 409.

IGGV seems to have been the main responsible for the fact that the accrual principle was not followed and that considerable amounts of health expenditure were not recorded^v, as supported by evidence provided by different entities, including IGGV itself, the Regional

³⁰ Although it was not correct to use account 411 instead of account 409, past unrecorded expenditure was finally recorded.

Ministry of Health, IGAE and the Regional Court of Auditors. It was the IGGV that had the responsibility of compiling the public accounts of the region^w. In this context, the findings of the report demonstrate that the IGGV:

1. did not completely follow neither the national General Public Accounting Plan nor the specific one of the AC of Valencia, thus misusing accounts 409 and 411^x. Moreover, the IGGV did not follow the Accounting Instructions for the AC of Valencia (*Instrucción general de contabilidad pública de la Generalidad Valenciana*) approved in 2002.

2. did not record past expenditure incurred, in breach of ESA 95 rules and in particular of the accrual principle.

3. did not take into account the reports of the Regional Court of Auditors^y, supported by comments of the Regional Ministry of Health^z, which brought the practice of not recording incurred expenditure to light^{aa}. In 2008, IGGV started to record amounts of past unrecorded expenditure incurred in the past, but only for partial amounts and not for the totality of unrecorded expenditure.

4. did not raise the attention of IGAE on the shortcomings of the information sent by the IGGV to IGAE in the context of the SQ.

5. sent to IGAE, both at the end of January 2012 and at the end of April 2012, an SQ which did not include the amount of unrecognised expenditure (1.9 billion euro) which had been already provided by the IGGV to central government in another context during the month of April 2012, in spite of the fact that IGGV had unofficially received this information from the Regional Ministry of Health by email already in February 2012. This was one of the main reasons for the upwards revision of the deficit of Spain for 2011 between the April and the October 2012 EDP notifications. The IGGV officially confirmed the correct amounts to IGAE only in June 2012, that is, not only after the figure concerning the amount of unpaid bills (never recorded earlier as expenditure) had already been sent directly to the central government, but also after the economic and financial plan of the region (which detailed the existence of these unpaid bills) had been submitted to the CPPF.

6. compiled general accounts for the region (publicly available on the website) that, up to June 2012, did not refer explicitly to any unrecorded expenditure and provided only minimal information on the considerable amounts included in account 411.

7. ignored the data of the Regional Ministry of Health sent to the Regional Court of Auditors (and informally, and at least once even formally, to IGGV itself) which showed the full amount of health expenditure accumulated over the years^{bb cc}.

8. failed to obtain and examine the necessary documentation in order to elaborate the general accounts of the region^{dd}, in spite of its obligation to do so.

9. did not use the network of the “*Interventores delegados*” in the hospitals of the region, to obtain directly the data on health expenditure^{ee}.

10. insisted with IGAE that the data sent through the SQ were correct, even though this was not the case.

11. failed to send the correct data to IGAE in the SQ³¹ even after the Regional Court of Auditors had published the correct data of unrecorded health expenditure.

12. did not accept the offer of the Regional Court of Auditors of providing the correct data directly to IGGV, for inclusion in the accounts of the AC of Valencia, and did not ask the Regional Ministry of Health to provide formally to IGGV the information on unrecorded health expenditure that the Regional Ministry of Health sent to the Regional Court of Auditors. According to the statements of the representatives of the Regional Ministry of Health, it seems that the head of the IGGV until 2012 had given oral instructions to the Regional Ministry of Health not to send the data of unrecorded health expenditure formally to IGGV.

13. in spite of knowing that the data in the general account and reported to IGAE were not correct, failed to take contact with the Regional Ministry of Health or any other authority in order to correct the situation, and did not make any attempt to make an estimation^{ff} of the unrecorded health expenditure in order to comply with the accrual principle.

4. CONCLUSIONS

On the basis of all the above mentioned facts and reasoning, it can be concluded that an entity (IGGV) within the general government sector of the Kingdom of Spain was seriously negligent concerning the non-recording of health expenditure (and the non-respect of the accrual principle) in national accounts (ESA 95), leading to an incorrect reporting of deficit data to Eurostat in 2012, i.e. after the entry into force of Regulation (EU) 1173/2011. The non-recording of expenditure was not rectified in spite of publicly available information on the existence and extent of the problem in the reporting of the Regional Court of Auditors.

As a result, the data sent by Spain to Eurostat in the context of the 2012 EDP reporting was incomplete insofar as significant amounts of health expenditure were not reported, leading to the revision of the reported government deficit of 1.9 billion euro.

Based on the findings in this report regarding the behaviour of the authorities of the Member State in the period from 13 December 2011 until the launch of the investigation on 11 July 2014, the Commission may decide to adopt a recommendation to the Council to impose a fine on the Kingdom of Spain, as foreseen in Regulation (EU) No 1173/2011.

³¹ A practice which was often used by other Autonomous Communities in Spain.

Endnotes

^a IGAE stated on this issue that “every time IGAE asked IGGV about unreported expenditure, IGGV always responded that they were not aware of the existence of any unrecorded expenditure that had been properly checked. IGAE was indeed checking the reports of the regional Court of Auditors (albeit with some delay, at the moment when these reports were published) and constantly questioned IGGV. The answer of IGGV was always the same, that the data provided to IGAE were correct, i.e. that all data received from the regional Ministry of Health were reported to IGAE and they could not ensure the quality of the data published by the regional Court of auditors. IGAE had no powers to amend data sent by IGGV and no other means to verify whether the data sent by IGGV were correct, especially as IGGV continuously insisted and confirmed that the data sent were the correct ones.”

^b In this respect, IGAE declared that “they were not aware of the estimated or final data on health expenditures in Valencia due to the Special Payment Mechanism, in April 2012. IGGV never informed IGAE about it in any form, neither by letter nor by phone. In the April 2012 data collection, IGAE knew only what IGGV had reported in the Questionnaire. As soon as IGAE became aware of the considerable revision of health expenditure, Eurostat was informed”.

^c The fact that the account 409 should have been used instead of the account 411 has been recognised at the same time by IGAE, IGGV and by the *Consejería de Sanidad*. According to IGGV: “expenditure incurred but not paid and not recorded should have been recorded in account 409, but for some reason this was not done... IGGV could not comment on why account 411 was used in the past instead of account 409, the one that, in its opinion, should have been used for these kinds of expenditures.” According to the *Consejería de Sanidad*: “These amounts should have been recorded in the account 409, which was created for this specific purpose, in order to record expenditure incurred, not paid and not included in the budget (in order to fully apply the universal accrual principle as dictated by Law). However, the former General Comptroller of IGGV always insisted that the account 409 had not been created for this purposes and that it was not appropriate to use it to record this kind of expenditure. The former General Comptroller of IGGV always made clear to *Consejería de Sanidad* managers that account 409 was not suitable for recording health expenditure incurred, unpaid and not included in the budget. He understood that this expenditure had to be included in the budget every two or three years by means of a financial operation applying the mechanism provided for in Article 59bis of the Public Finance Act of the *Generalitat Valenciana*.” On the contrary, according to the ex-General Comptroller of IGGV “account 409 had been used from the outset (i.e. since 2003), but only for the very low amounts provided by the *Consejería de Sanidad* (regional health ministry. The amounts being hidden by the *Consejería de Sanidad* could not be recorded in this account, because the IGGV did not know about them.”

^d In particular, it was the *Secretaría General de Coordinación Autonómica y Local* (SGCAL), part of the MoF in charge of implementing the SPM, which telephoned IGAE to communicate this information. As stated by IGAE “by the 30th of April 2012, when IGGV sent the data to IGAE, no unrecorded health expenditures had been recognised by IGGV, although these data (i.e. all unrecorded bills) had been already sent to the *Ministerio de Hacienda*. IGAE became aware of the issue not from IGGV but from a phone call of a colleague in *Ministerio de Hacienda*, and as a result IGAE then contacted IGGV to check about the existence of these considerable unrecorded health expenditures, and after a few days IGGV confirmed their existence. Immediately after IGAE became aware of it (not from IGGV but from a phone call of a colleague in *Ministerio de Hacienda*) it informed INE and the Bank of Spain and on the 17th of May, Eurostat was also informed”

^e All institutions, which the Commission investigating team met in the course of the investigation, agreed that the recommendations of the *Sindicatura de Cuentas* should have been followed by IGGV. In the case of IGGV, it was declared “To the question asked by the Head of the Commission investigation team on whose responsibility was the implementation of the recommendations of the *Sindicatura de Cuentas*, as regarded the accounting of the unrecorded expenditures and the suggested use of account 409, IGGV's opinion is that the implementation of such recommendations in the reports of the *Sindicatura de Cuentas* was under the responsibility of the IGGV, which is the body responsible for the correct implementation of the accounting of government revenue and expenditure in the Autonomous Community of Valencia.”

In the case of *Sindicatura de Cuentas*, the fact that the recommendations were addressed to IGGV, is proven by the fact that it was IGGV, which replied to the observations of the *Sindicatura de Cuentas*. The *Sindicatura de Cuentas* declared that “It is to be underlined, in this respect, that in 2003, the observations of the bodies that were the subject of the comments, conclusions and recommendations and the comments of the *Sindicatura de Cuentas* on the observations were particularly revealing and were made public for the first time. In its report, “Annual Account of the Administration of the *Generalitat Valenciana*”, the *Sindicatura de Cuentas* states that “There is a series of obligations resulting from expenditure incurred or goods and services received that relate to *Conselleria de Sanidad* healthcare programmes amounting to at least 1 121 379 thousands of EUR, which were pending application to the budget on 31 December 2003 and which, given their nature, should have been included in the profit and loss account and, if appropriate, in account 409 ‘Credits relating to transactions pending allocation to the budget’”. In its arguments, the IGGV stated that “The *Sindicatura*'s report confuses the concept of transactions pending application to the budget – correct – with the concept of transactions made outside the budget. This error, which the IGGV considers to be a glaring mistake, undermines any criticism levelled at the General Account of the *Generalitat Valenciana*, which is beyond reproach from both a legal and an accounting perspective. The persons responsible for drawing up the General Account cannot be blamed for a non-existent accounting situation, which therefore could not form part of the said account.” In its reply to the IGGV, the *Sindicatura de Cuentas* drew the following conclusion: “As indicated in the PGCPGV and in Rule 18 of the Accounting Instructions of the *Generalitat Valenciana*, by

applying the accountancy principles laid down in the PGCPGV, the annual accounts of the administration of the Generalitat Valenciana shall present a true and fair view of the assets, the financial situation, the results and the implementation of the budget. By correctly applying the principles of accrual, prudence and recording, expenditure will be entered into the accounts correctly. Any expenditure incurred and accrued during the financial year has to be entered into the accounts. The expenditure has to be entered in the accounts, at least financially. According to the accrual principle, expenditure must be recorded in the period when the goods and services are actually provided or received. If the expenditure has not come out of the budget's implementation, at least when the financial year ends, even if there has been no administrative act, the expenditure actually incurred by the entity to date should be recognised in the profit and loss account and, consequently, the amounts still to be paid should be recognised in the liabilities." The ex-General Comptroller of IGGV disagreed in this respect, stating that while the recommendations of the *Sindicatura de Cuentas* to record all unrecognised health expenditures were correct, and should have been implemented, it was up to the *Consejería de Sanidad* to implement them and not to IGGV. The ex-General Comptroller of IGGV declared on this issue that "The recommendations of the *Sindicatura de Cuentas* on health expenditure were considered to be within the competence of the *Consejería de Sanidad*, not the IGGV. The recommendations that were within the competence of the IGGV were always adopted by the IGGV." If such was the case, however, it is not explained why it was IGGV, which answered the remarks of the *Sindicatura de Cuentas* and not the *Consejería de Sanidad*.

^f Answering to the question of why only a part of the expenditures incurred were recorded, the ex-General Comptroller of IGGV answered that "this expenditure had been hidden by the *Consejería de Sanidad* and the IGGV was unaware of it." However, the *Sindicatura de Cuentas* stated that "they do not know whether *Consejería de Sanidad* did hide expenditure from IGGV concerning unrecorded health expenditures, although it is difficult to understand how information could be hidden in the first place as the reports of *Sindicatura de Cuentas* with the correct figures were always publicly available." On the same issue, the *Consejería de Sanidad* underlined that "if they had really wanted to hide health expenditure in order for them not to be recorded, it would not have regularly sent them annually, on a continuous basis, to the *Sindicatura de Cuentas*. Therefore the real issue is not that there was a deliberate intention by *Consejería de Sanidad* to hide these expenditures, but simply the lack of their recording in the accounts of the region, which is a clear task of the IGGV".

^g In particular, *Sindicatura de Cuentas* confirmed "that the cooperation between them and *Consejería de Sanidad* has been always very good." As regards the cooperation with the IGGV, they said that "the comments (*alegaciones* by IGGV and answers by *Sindicatura de Cuentas*) included in their reports (publicly available) faithfully reflect and are particularly revealing of the level of cooperation that *Sindicatura de Cuentas* had with IGGV".

^h IGGV was therefore informed of the amount of the unrecorded health expenditures at the beginning of the year 2006, and not indirectly at the end of the year, as usual, through the reports of the *Sindicatura de Cuentas*. This was exceptionally done as IGGV had requested the *Consejería de Sanidad*, in 2006, not to provide the accounts directly to the *Sindicatura de Cuentas*, but only through IGGV. This was not done anymore in the following years as *Sindicatura de Cuentas* answered that this was an erroneous interpretation of the Public Finance Law by IGGV, and that *Sindicatura de Cuentas* had the right to ask to receive the information directly from the *Consejería de Sanidad*.

ⁱ In this respect, the *Sindicatura de Cuentas* stated that "they had offered in writing to provide to IGGV all information (should IGGV not had access to it) on unrecorded unpaid bills in the health sector, as publicly stated and available in the report of *Sindicatura de Cuentas* of 2010. IGGV however, in spite of the offer of *Sindicatura de Cuentas*, never asked *Sindicatura de Cuentas* to provide them with these data." This is indeed confirmed by the fact that, in its report of 2011 concerning the accounts of 2010, *Sindicatura de Cuentas* stated that "The IGGV may, when it considers appropriate, ask for the *Conselleria de Sanidad*'s list of unrecognised obligations included in the audit report of the 2010 Account – if it does not have them – and they will be passed on to the IGGV in a timely manner." However, IGGV did not accept the offer, doubting that the figures were complete or correct. As underlined by the *Sindicatura de Cuentas*, however, "whenever an auditor signs a report, this is a sign that data are considered to be good. Although sometimes later on further expenditures were found, which had not been included in the original report, it was considered that the data reflected in their report were very good, as based on existing bills which were given to *Sindicatura de Cuentas* by *Consejería de Sanidad* and therefore represented a minimum level of expenditure incurred and not recorded, which should have been recorded by IGGV in account 409. Had *Sindicatura de Cuentas* any doubt on the quality of such data, it would not have included them in its reports". *Sindicatura de Cuentas* also stressed that "these data were in fact also used as starting point for the establishment of the expenditure to be included in the budget of the following year, which bear witness to the fact that they were public, considered by the government of the Autonomous Community of Valencia to be reliable, and used for forecasting and budgetary purposes". *Sindicatura de Cuentas* stressed again that "their recommendation were clear and that all expenditure incurred should have been recorded in the accounts of the Autonomous Community of Valencia, in line with the accrual principle".

^j Every year, moreover, the report of *Sindicatura de Cuentas* was presented and discussed in the *Cortes*, the regional Parliament of the AC of Valencia, which demonstrates that the issue was fully public.

^k There seems to be general agreement on this point. The ex-General Comptroller of IGGV, in particular stated that "Article 59a was adopted specifically to bring to light this kind of hidden expenditure which had not been subject to auditing, and where Rule 5 had not been applied correctly. In no cases did Article 59a, therefore permit the inclusion of expenditure into the accounts; on the contrary, it required a correction file for the failure to audit to be dealt with in advance. The inclusion of sections 2d and 3 enabled the recognition of expenditure even if there was no budget appropriation."

^l It is also to be underlined in this respect that the ex-General Comptroller of IGGV declared that “both the Ministry of Finance and the *Consejería* (regional ministry) had been aware of the existence of hidden expenditure and of the time lag before this hidden expenditure came to light. the IGGV was also aware of this practice. The hidden expenditure was not known at the time it was incurred because the expenditure was not disclosed by the *Consejería de Sanidad* (regional health ministry), which was the only body that knew the actual amount of health expenditure at regional and national level.”

^m Every year, an almost standard sentence on this issue was inserted in its report on the General Account of the region. As an example, in the year 2006 it was recommended by the *Sindicatura de Cuentas* that “As the body responsible for accounting, the IGGV must take the necessary measures to ensure that the budget for each financial year includes all those economic transactions that have an impact on it, in such a way as to provide an accurate representation of the budget's implementation at the end of the financial year. In this respect, with regard to the goods and services received during the financial year, the administrative acts recognising them must be issued in such a way as to ensure that the goods and services are charged to the budget of the financial year in which they were produced and received. If this is not possible, the PGCP lays down that they should be charged to Account 409 'Creditors in view of transactions pending application to the budget'. As regards obligations with delayed payment, under the PGCP, obligations that are not due at the end of the financial year that correspond to accrued expenditure or to goods and services that were actually received during the said financial year must be recorded in Account 411 'Creditors due to periodification of budgetary expenditure', which forms part of the group of non-budgetary creditors.” As can be seen, the *Sindicatura de Cuentas* considered that IGGV was not implementing correctly the accrual principle and should use for that purpose account 409. It is to be underlined that its recommendation was obviously and explicitly addressed to IGGV and not to *Consejería de Sanidad*.

ⁿ The only dissenting opinion on this point was voiced by the ex-General Comptroller of IGGV, who claimed that “the competent bodies that were responsible for resolving the situation did not do so. The *Sindicatura de Cuentas* did not take the necessary action and did not specify who should resolve the problem.”

^o It was stated, in its report of 2012 for the year 2011, that “Significant progress has been made, given that the Administration's Account includes under the balance sheet's liabilities (accounts 409 and 411) for the first time the total debt resulting from unrecognised obligations in the *Conselleria de Sanidad*'s budget, which amount to 2221.2. million EUR.”

^p IGAE stated that “ In 2007, when the AC of Valencia signed the first of their Agreements (“*Acuerdos del Consell*”) they considered that the problem would have been solved. That year a considerable amount of previously unrecorded bills was finally reported via the extra-budgetary account 411”. IGAE then thought, at that time, that “all previously unrecorded unpaid bills would now be recorded either in the account 411 or in the budget and that the problem had been solved once for all.”

^q On this issue, IGAE stated that “they have no power to modify any data sent by regions and cannot make any control of the quality of the accounting information provided by regions. IGAE can only ask for additional clarifications on the data and has the obligation to accept the data officially sent by regions via the questionnaires. If after the questions asked by IGAE the regions confirm the data sent, IGAE is obliged to accept them. Many years questions were asked on the quality of the data sent by the Autonomous Community of Valencia, but every single year the IGGV confirmed the data which had originally sent. IGAE can only contact the region by phone or e-mail to clarify the issue. If the region confirms the data sent, then IGAE has to accept this data as they do not have the power to change the data officially sent by regions. This had been the case, for instance, in 2008, in the case of the AC of Valencia”. IGAE explained that, “at present, they still cannot change the official data sent by regions. Now, however, under Organic Law 9/2013 of 20 December 2013 on commercial debt control in the public sector, public administration bodies not subject to accounting audits must carry out checks using auditing techniques to check for liabilities not recorded in the budget. Furthermore, a single register of invoices has been set up in the Autonomous Communities.”

^r It is to be underlined, in this respect that the ex-General Comptroller of IGGV, uniquely among all the persons interviewed, considered the *Consejería de Sanidad* as the main responsible for the fact that considerable amounts of health expenditures went unrecorded during many years. In this context, the ex-General Comptroller of IGGV declared that “Accounting was closed on 15 January (year T+1). The *Consejería de Sanidad* deliberately allowed the expenditure to emerge in the months of November/December of year T+1, when it was too late to record it in accounting year T.” Moreover he added that “it was undeniable that: 1) the *Conselleria de Sanidad* had hidden expenditure incurred without a budget appropriation, 2) had infringed the law in force relating to the budget, financial assets and public procurement, and 3) there was an unjustified attempt to shift responsibility for the action taken by the *Consejería de Sanidad* to other bodies, including the IGGV.” and that “The *Consejería de Sanidad* was failing to comply with its obligations on two fronts; at the same time, it was infringing both the law and budgetary and financial and asset regulations. The expenditure not entered in the accounts was automatically void since it had been issued without being entered in the budget and was hidden for reasons of expediency, and was therefore unknown to the IGGV. The *Consejería de Sanidad* divulged the outstanding invoices in order to obtain a better budget allocation, but it was in addition to the expenditure of the previous accounting year.” Finally, he also declared that “the *Consejería de Sanidad* had infringed the rules, overspent its budget appropriations and hidden invoices. It revealed the expenditure at a later date (in the final quarter of the following year) in order to negotiate and obtain a better budget allocation for the following year”. The ex-General Comptroller said that “this was an objectionable practice which should have been treated with much more severity in view of the seriousness of the mismanagement involved. There had been serious deficiencies for which the *Conselleria de Sanidad* was clearly at fault.”

⁵ In this respect, it is to be underlined, that according to the *Consejería de Sanidad*, “full information on health expenditure incurred but not recorded was sent on a yearly basis by *Consejería de Sanidad* to the national Ministry of Health too, in order to prepare the annual Public Health Expenditure Survey, which it published on its website: <http://www.msssi.gob.es/estadEstudios/estadisticas/inforRecopilaciones/gastoSanitario2005/home.htm>. This also shows that IGGV was fully informed about the existence of considerable amounts of unrecorded health expenditure and that the *Consejería de Sanidad* did not try to conceal this information in any way. In fact, in case the *Consejería de Sanidad* would have been explicitly hiding this information, the IGGV should have opened an “expediente sancionador” against them, and this was never done by IGGV.”

[†] Except in one occasion, in 2006, when they were sent formally to IGGV. In this regard the *Consejería de Sanidad* declared that “Normally, *Consejería de Sanidad* sent this information directly to the *Sindicatura de Cuentas*, always sending nevertheless the same data informally in an “Excel file” to the IGGV (more specifically, to the vice-General comptroller of IGGV for the general accounts) by e-mail at the same time.” and that “Data was sent to IGGV officially only once, in 2006, and concerned the health expenditures from 2001 to 2005. From 2007 onwards, data was again sent directly to the *Sindicatura de Cuentas*, as explicitly asked by them, and informally by e-mail to the IGGV.”

[‡] The *Consejería de Sanidad* declared in this respect that “it would have been better to officially send this information to IGGV instead of using the informal channel (e-mail). However it was declared by the *ex-Director General de recursos económicos de Consejería de Sanidad* that the reasons for which this was not done was that “the *ex-General Comptroller* always orally instructed *Consejería de Sanidad* not to send this information to IGGV. Many discussion and meetings took place on this issue, with *Consejería de Sanidad* always insisting that these expenditures should have been recorded in the accounts of the region by IGGV. As result of the disagreement on this issue, the *ex-Director General de recursos económicos de Consejería de Sanidad* risked twice losing his job”. Answering by a question of the Head of the Commission investigation team of why *Consejería de Sanidad* complied with an instruction dictated by a body (IGGV) upon which the *Consejería de Sanidad* was not depending upon, it was replied that “verbal instruction of IGGV had to be followed as IGGV was the body responsible for the establishment and publishing of public accounts in the AC of Valencia, and this was an accounting issue.”

[§] The *ex-General Comptroller* of IGGV declared that “the IGGV team was indeed aware of the importance of the data it sent to the IGAE during the years in which he acted as *Comptroller of the IGGV*.”

^{||} In accordance with Rule 16 of the Order of the *Conselleria de Economía y Hacienda* (Regional Ministry of Economy and Finance) of 12 December 1994 on the management and recording for accounting purposes of operations to administer and implement the budget of the *Generalitat Valenciana*, “It is the sole responsibility of the IGGV to record operations in the accounts”. This point was also made clear by the *Sindicatura de Cuentas*, which in many of its reports insisted that “As the body responsible for accounting, it is recommended that the IGGV take the necessary steps to ensure that the budget for each financial year provides an accurate representation of how the budget was actually implemented and that operations are correctly entered into the budget at 31 December. In this respect, with regard to the goods and services received during the financial year, the administrative acts recognising them must be issued in such a way as to ensure that the goods and services are charged to the budget of the financial year in which they were produced and received. If this is not possible, generally accepted public accounting principles lay down that the expenditure should be recorded in the accounts corresponding to the balance sheet.”

[×] IGAE had in fact noticed that the accounts 409 and 411 were not used correctly. In this respect IGAE stated that “Although in the specific case of the AC of Valencia, the use of account 409 would have been the correct one, IGAE was not in a position to tell IGGV (or the IG of any other region for that matter) that it was using incorrectly the *Plan general de contabilidad*, as IGAE does not have such power. The *Autonomous Community of Valencia* started to use the account 411 only in 2008 (for the 2007 data). After a phone call by IGAE, around 840 million € were added in accounts 411. In fact, Valencia was the only region that used this account, as the amounts recorded in this account in all the other ACs were insignificant. However, the issue of why they were using account 411 instead of account 409 was not raised, as IGAE cannot ask any *Autonomous Community* to change the accounting entries of their public accounting plan.”

[∧] IGGV in fact contested them more than ignored them. As a matter of example, in its comments (*alegaciones*) to the report of the *Sindicatura de Cuentas* of 2011 for the year 2010, IGGV stated that “The IGGV considers that the *Sindicatura* should indicate the procedure followed to determine and quantify the previously mentioned obligations of the *Conselleria de Sanidad* that were dealt with without budgetary allocation and without the corresponding administrative procedure. It should also provide a detailed list of these obligations and issue an opinion on their veracity, so as not to damage the interests of the *Generalitat*.”. The *ex-General Comptroller* of IGGV specified, in this respect, that he was referring to “the late payment interest generated by obligations not admitted in previous accounting years caused an additional expenditure because of the figures remaining outstanding from previous years’ expenditure.” However, it is not fully clear which “interests” of the AC of Valencia could be really damaged. In fact, as stated by the *Sindicatura de Cuentas*, “the existence of “*Intereses de demora*” does not depend on whether the expenditure is recorded or not or on whether their existence is known through *Sindicatura de Cuentas* reports, but rather on the real delay in paying an invoice after it has been issued and submitted”. Moreover the *Sindicatura de Cuentas* answered in the same report mentioned above that “With regard to the reference made to possible damage to the interests of the *Generalitat*, we do not believe that the *Sindicatura*’s actions will have a negative impact on the *Generalitat*’s interests; in fact, the opposite is true, since they highlight information that should have been included automatically in the annual accounts.”

^z The *Consejería de Sanidad*, for instance, in its comments to the report of the *Sindicatura de Cuentas* of 2010 for the year 2009, stated that “Concerning the failure to include obligations to be charged to future financial years resulting from the payment of obligations from previous financial years, based on the Agreements of the Regional Government of 20 April 2007 and 13 March 2009, this was the position taken by the IGGV at the time.”

^{aa} In this respect, the ex-General Comptroller of IGGV justified the non-recording of expenditures claiming that “The regions recorded the amounts which were communicated to them, like the IGGV did. Costs that had been hidden could not be recorded. Accounting was closed on 15 January (year T+1). The *Consejería de Sanidad* deliberately allowed the expenditure to emerge in the months of November/December of year T+1, when it was too late to record it in accounting year T.” However, it seems not to be correct that nothing could be recorded after the 15 of January each year. Both IGAE and IGGV stated that this is not exact, as extra-budgetary accounts are open and amounts can be included into them until the 15 of June. According to IGAE “Between 2008 and 2012, IGGV usually reported data in mid-February in the context of the January data collection and in the April data collection the data were always revised (for example in 2012: IGGV did not report expenditure in the account 409, but they reported it much later in the context of the April data collection, although with considerable delay). The account 413 equivalent to account 409 of the ACs is not closed until 15 June, as it is audited. It is closed only when data from all different management centres have been provided.” On the same line, according to *Sindicatura de Cuentas*, “although budgetary accounts might be closed on 15 January, this is not the case for the extra-budgetary accounts (such as account 409), which are closed much later.” Specifically referring to the events of 2012, IGAE also stated that “even if final data were still not available, an estimate could have been sent by IGGV to IGAE up until the 15th of June as the data could be revised again before the EDP notification in September.”

^{bb} On this issue, it is to be underlined that the ex-General Comptroller of IGGV when questioned on why IGGV never explicitly asked this information to the *Consejería de Sanidad*, answered that “it was never requested, since there was no obligation to request this information. It was an obligation for the *Consejería de Sanidad* to transmit this information under Rule 5, whether or not anybody requested it, and whether or not it was with a budget appropriation. The ex-General Comptroller pointed out that the IGGV had sent a reminder from 2002 onwards, before the budgetary period was closed, on the need to comply with Rule 5. As part of his response, the ex-General Comptroller provided Eurostat with a copy of the e-mails sent to the Vice-Comptrollers Offices and the decentralised audit departments reminding them of the obligations pursuant to Rule 5. These letters were sent simultaneously by e-mail and by post, mainly as a reminder of the obligation to record expenditure obligations which, for justified reasons, had not been attributable to the budget.” It is however to be noticed that these letters were not sent to the *Consejería de Sanidad*, but to personnel (*Vice-intervenciones Generales e Intervenciones Delegadas*) belonging to IGGV, so they were in fact notes internal to IGGV. On the contrary, the *Consejería de Sanidad* stated that “Although it could be discussed whether it should have been an obligation of the *Consejería de Sanidad* to officially provide the correct data directly to IGGV and not only directly to *Sindicatura de Cuentas* and only informally to IGGV, it was clearly the task of IGGV to request these data in order to give a faithful picture of the accounts of *Generalitat Valenciana*, a task which clearly belongs to IGGV” and that “The *Consejería de Sanidad* stressed again that, over so many years, IGGV should have reacted to solve the problem. It might had been advisable for the *Consejería de Sanidad* to provide the information officially (and not by e-mail) to IGGV, but this was not done due to the fact that the ex-general comptroller of IGGV requested this not to be done. Moreover IGGV should have taken some action especially in a situation where the reports of *Sindicatura de Cuentas* revealed the nature and considerable size of the problem into the open for more than 20 years”. On the same issue, the current team of IGGV considered the past practices of both IGGV and *Consejería de Sanidad* as incorrect, stating that “With regard to Eurostat's question as to whether the previous team should have asked the *Consejería de Sanidad* for the same information it sent the *Sindicatura de Cuentas* with the total amount of expenditure incurred in the health sector, the IGGV thought that it should have, but the IGGV also found it surprising that the *Consejería de Sanidad*, which provided this information to the *Sindicatura de Cuentas* each year, did not send the data to the IGGV as part of official procedure even if the IGGV did not ask for it”.

^{cc} It is to be underlined, moreover, that IGGV had its own representatives in all the major hospitals of the AC of Valencia. These “*interventores delegados*” either did not have access to the total amount of expenditures incurred in the hospitals, or did not send it to the central offices of IGGV. The *Sindicatura de Cuentas* states in this respect that “the biggest hospitals in the AC of Valencia have their own *Interventores delegados*, who depend directly from IGGV. *Sindicatura de Cuentas* could not confirm officially whether such *Interventores delegados* had access to the full information concerning all expenditure incurred by hospitals, but the fact is that the *Sindicatura de Cuentas* did have access to all these data whenever they asked for it. *Interventores delegados* either had the information or could have asked to have full access in case they did not. However, given the large volume of unrecorded invoices, either the *Interventores Delegados* had access to all data and did not provide it to IGGV or indeed they did not have access to data and failed to ask for it. However, it is clear in any case that full information on such expenditure was publicly available through the reports of the *Sindicatura de Cuentas*.”

^{dd} It is to be underlined that “Under Article 3.4.c of Decree 72/2005 of 8 April of the Regional Government approving the Regulations of the *Cuerpo Superior de Interventores y Auditores de la Generalitat* (Body of Senior Inspectors and Auditors of the *Generalitat*) (Annex 6), the Vice Intervención General para la Contabilidad Pública is responsible for 'obtaining and examining the documentation needed to prepare the General Accounts'”

^{ee} The *Sindicatura de Cuentas* underlined in this respect that “as regards the issue of obtaining such information (which *Sindicatura de Cuentas* always manage to obtain), IGGV has considerably more power and capacity than *Sindicatura de Cuentas* has, as they are entitled by Law to request such information and they have their own mechanisms of gathering and

*obtaining such data, e.g. the intervenciones delegadas.” It is also to be underlined that article 91bis of the “Ley de Hacienda Publica de la Generalitat Valenciana” establishes that the “interventores delegados”, through IGGV, are obliged to communicate to the competent authorities all those infractions which could give rise to the opening of an “expediente administrativo” in order to determine individual responsibilities. In this respect the *Consejeria de Sanidad* indicated that “Despite the fact that, each year, the *Sindicatura de Cuentas* emphasised that there was health expenditure that had not been recorded in account 409, the IGGV never launched proceedings against the *Conselleria de Sanitat* to determine whether it had concealed information, because it was the IGGV that should have obtained the documentation needed to prepare the General Accounts and it was the IGGV that should have recorded in account 409 the health expenditure incurred but not paid and not included in the budget.”*

^{ff} When Eurostat asked the present team of IGGV what would need to be done if there was a suspicion that not all expenditures were correctly recorded by one “*Centro de Gestion*” (such as *Consejeria de Sanidad*), IGGV answered that “as is current practice, they would have contacted the management centre and asked for additional information and/or even an estimation of the amounts of such expenditures would have been made. ... if the accrual principle is not followed, then the economic reality of the region cannot be shown.”