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I

(Information)

COURT OF AUDITORS

SPECIAL REPORT No 3/96

on tourist policy and the promotion of tourism, together with the Commission's replies

(97/C 17/01)

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INTRODUCTION

1. As early as 1983⁽¹⁾ and 1984⁽²⁾, the European Parliament and the Council adopted resolutions concerning a Community policy for tourism. The Community's first tangible action in favour of tourism was the Council Decision of 21 December 1988⁽³⁾ declaring 1990 the 'European Year of Tourism'.

2. Since the entry into force of the Treaty on European Union, tourism has been included in the Treaty establishing the European Community under Article 3t, among the fields in which the Community is to take measures towards the fulfilment of the tasks assigned to it pursuant to Article 2. On 3 April 1996⁽⁴⁾, the Commission presented a report on this subject for discussion at the 1996 Intergovernmental Conference (IGC), in accordance with Declaration No 1 annexed to the EC Treaty providing for the inclusion in the Treaty of Titles relating to the spheres referred to in Article 3t.

3. Despite the difficulty of appraising the exact economic importance of tourism⁽⁵⁾, available analyses and statistics agree on its importance both in Europe and worldwide. Tourism is one of the sectors that has experienced stable growth over a long period. It represents, on average, 5,5 % of EU GDP and 6 % of all employment in the Union. Although its market share, in terms of both arrivals and revenue, is tending to diminish, Europe is still the main force in worldwide tourism⁽⁶⁾.

4. Community measures in favour of tourism can be divided into two categories: specific measures provided for in the general budget (direct measures) and measures that are indirectly linked to tourism, or in which tourism plays an instrumental role towards the realization of other objectives (indirect measures).

5. The financial volume of the direct measures represents less than 1 % of the total. They are managed

⁽¹⁾ Resolution of the European Parliament of 16 December 1983 concerning a Community policy for tourism (OJ No C 10, 16. 1. 1984, p. 281).

⁽²⁾ Council resolution of 10 April 1984 concerning a Community policy for tourism (OJ No C 115, 30. 4. 1984, p. 1).

⁽³⁾ Council Decision 89/46/EEC (OJ No L 17, 21. 1. 1989, p. 53).

⁽⁴⁾ SEC(96) 496 final.

⁽⁵⁾ UN-WTO, Recommendations on tourism statistics, ST/ESA/STAT/SER, M/83, 1993. Tourism is defined by the World Tourism Organization as follows: 'activities engaged in by persons during journeys to or stays in places located outside their normal living environment for a continuous period not exceeding one year for leisure, business or other reasons'.

⁽⁶⁾ World Tourism Organization, *Tourism in 1994 — Highlights*, January 1995, Madrid.

by the Tourism unit of DG XXIII (Enterprise, trade, tourism and social economy policy), whereas indirect measures are managed by the individual DGs concerned.

6. In 1994, the Court carried out a horizontal audit of tourist policy and the promotion of tourism. On the occasion of its first on-the-spot audit at the Commission, the Court found that there had been serious irregularities, leading to the suspension of two members of DG XXIII's staff, and that the Commission had not released any information on this matter. The Court found that the irregularities in question were related to the serious shortcomings reported in its 1992 Special Report on the European Year of Tourism (EYT) (7).

7. Although the Court's supplementary analysis of the EYT only covered part of the total number of co-financed measures (see paragraph 32) and legal proceedings were still under way, the Court decided to present a Special Report immediately as a way of contributing to the clarification of the current situation of the measures in favour of tourism, by pointing out the inadequacies in the management and control systems.

8. The irregularities, which have since been made public, mainly involved direct measures in favour of tourism. For this reason, and also so as to respond to the European Parliament's resolution of 21 April 1994 on the budgetary and financial implementation of the EYT (8), these measures are given particular attention in this report.

COMMUNITY MEASURES IN THE FIELD OF TOURISM AND THEIR FINANCIAL SIGNIFICANCE

Direct measures

9. The objective of the EYT was to exploit the integrating role of tourism in the creation of a citizens' Europe and to stress the economic and social importance of the tourism sector. All in all, ECU 7,74 million was spent on the EYT from the Community budget.

10. Independently of the EYT, the budgetary authority granted appropriations under budget heading B2-7 1 0 for measures in the field of tourism (which increased from ECU 3 million in 1989 to ECU 4,9 million in 1992) and for the promotion of European tourism in

non-member States (budget heading B7-8 3 0), which amounted to ECU 1,75 million in the 1992 to 1993 period (see Table 1).

11. On 13 July 1992 (9), the Council adopted an action plan in favour of tourism pursuant to Article 235 of the Treaty. This plan was to cover a period of three years as of 1 January 1993. The budgetary authority made an amount of around ECU 21,7 million available for this plan under heading B5-3 2 5 (see Table 1). The priorities given in the appendix to the Council Decision resulted in a series of studies and pilot projects, in particular regarding rural, cultural, educational and environmental tourism. Measures designed to increase Europe's appeal as a destination for tourists from distant countries were also financed. The Commission was to ensure the coordination of the action plan with the various Community policies.

Community activities related to tourism

12. The importance of tourism in the context of the general budget is primarily reflected in the Structural Funds (see Table 2), and most of all in the European Regional Development Fund (ERDF).

13. The Community support frameworks (CSFs) for the 1989 to 1993 period made explicit provision for Community financial support for tourism amounting to ECU 2 305,9 million in connection with Objectives 1, 2 and 5b. For the 1994 to 1999 period, the Community contribution to tourism under Objectives 1, 2, 5b and 6 amounts to ECU 7 284,9 million. In addition to this, there are the amounts for tourist measures under Objectives 3 and 4, the Community initiatives and the Cohesion Fund as well as indirect contributions from other tourist development programmes or policies which, however, cannot be identified exactly.

14. In addition, the European Investment Bank (EIB) intervenes in various ways in favour of tourism. Direct EIB financing (individual loans and loans from global loans) in the 'tourism-leisure' field amounted to ECU 1 014,2 million over the 1990 to 1994 period.

15. Moreover, various Community activities, in particular social policy, environment, transport, trans-European networks, research, training and education, cooperation and cultural activities have budgets providing explicitly or implicitly for the funding of projects affecting tourism. However, only in a minority of cases is it possible to identify the exact share

(7) Special Report No 4/92 of the European Court of Auditors on expenditure relating to the European Year of Tourism.

(8) OJ No C 128, 9. 5. 1994, p. 340.

(9) Council Decision 92/421/EEC of 13 July 1992 (OJ No L 231, 13. 8. 1992, p. 26).

represented by tourism-related measures, the amount concerned being of the order of ECU 25 million per annum. For fields such as transport and employment, certain measures may have a significant effect on the development of tourism although their impact is not quantified.

PROBLEMS FOUND REGARDING DIRECT MEASURES IN FAVOUR OF TOURISM

The Court of Auditors' Special Report on the European Year of Tourism

16. As early as 1990, the European Parliament had expressed its concern with regard to possible irregularities related to measures in the field of the EYT and asked for the Court's opinion on this subject. The Court delivered a Special Report on the subject on 30 September 1992⁽¹⁰⁾.

17. Despite the absence of transparency and the lack of documentation concerning expenditure effected during the EYT, the Court's study made it possible to draw up several observations calling into question both the legality and the regularity of certain items of expenditure as well as the soundness of the management of the appropriations allocated for this expenditure. In particular, the audit findings concerned the following:

- (a) the administrative and organizational plan,
- (b) the procedures applied for the awarding and implementation of contracts, the granting of financial aid and the use of such grants by recipients,
- (c) observance of the budgetary and accounting rules,
- (d) EYT-related financial management as a whole⁽¹¹⁾.

18. Moreover, the Court noted the 'inadequacy of the Financial Controller's checks from the point of view of both the commitment of expenditure and the effecting of payments'⁽¹²⁾.

19. In its reply to the Special Report, the Commission did not deny that there were problems relating to the absence of transparency and documentation but expressed the view that the observations in question did not justify the Court's judgment⁽¹³⁾.

⁽¹⁰⁾ Special Report No 4/92 of the European Court of Auditors on expenditure relating to the European Year of Tourism.

⁽¹¹⁾ *ibid.*, paragraph 3.1.

⁽¹²⁾ *ibid.*, paragraph 4.6.

⁽¹³⁾ *ibid.*, reply to paragraphs 3.1 and 3.2.

Developments since the delivery of the Special Report

The Court's audit

20. Since October 1994, (after agreeing with the Commission procedures for access to files of this type), the Court has examined the Commission's treatment of files concerning presumed frauds and irregularities in the field of tourism. However, in order not to disrupt inquiries that are currently under way, it has decided not to comment on the content of these files. However, it does intend to describe, as far as possible, the management systems in the context of which the current situation arose and to analyse the strengthening of administrative and financial management measures that has occurred since the delivery of its Special Report on the EYT. In addition, it reports on its latest audit findings in so far as they will not hamper the proceedings in question.

Internal inquiries at the Commission

21. In June 1992 DG XXIII received a communication enclosing a copy of a letter concerning a project that was to be allocated. The communication drew attention to a series of factors that might indicate irregularity. In another case, following an internal inquiry, DG XXIII requested DG XX (Financial Control), in June 1993, for assistance in an on-the-spot audit. In the second half of 1993, further information led to the holding of a broader internal inquiry within DG XXIII. The preliminary results of this inquiry were discussed with the General Secretariat of the Commission and DG IX (Personnel and Administration) in December 1993 and resulted in March 1994 in the transfer of the head of the Tourism unit, 'in the interests of the service', and subsequently in his removal from office in August 1994. The contract of a temporary member of staff working in the same unit was also terminated. At the same time, detailed reports on the results of DG XXIII's internal inquiry were sent to DG IX between May and July 1994 and copies were forwarded to the General Secretariat and DG XX.

22. Moreover, in 1994, DG XX carried out an internal audit of DG XXIII as a whole and a sectoral inquiry into all the activities of the Tourism unit. The results of these inquiries confirmed that the problems found by the Court in its audit of the EYT in 1991 and 1992 were still there.

Inquiries in the Member States

23. The matter was only referred to the Commission's coordination unit for the prevention of fraud (UCLAF) in July 1994. Given the nature of the presumed irregularities (fraud and corruption), UCLAF immediately started investigating the matter with a view to possible legal

proceedings. It joined some of the audit missions implemented in the Member States by DG XX as a result of DG XXIII's sectoral inquiry. It also adopted an approach aimed at covering all the problems existing in the field of tourism.

24. In December 1994, on the basis of information available to UCLAF, the Commission referred the matter to two Member States pursuant to Article 209a of the Treaty. Its aim was to have judicial investigations (Belgium) and a preliminary inquiry (France) started, if appropriate. In February 1995, Mr McMillan Scott, a Member of the European Parliament, lodged a complaint with the Belgian legal authorities. In March 1995, a third Member State (Greece) was asked to start preliminary inquiries.

25. In February and March 1995, the Belgian legal authorities asked the Commission to lift the immunity of three members of the institution's staff and the professional secrecy requirement for seven employees responsible for work in the field of tourism. They also asked to be granted access to any of the Commission's premises which they needed to enter for the purpose of the investigation and the preparation of all documentary evidence that would be helpful to the investigation. The Commission immediately lifted the immunity and the professional secrecy requirement and granted access to its buildings.

26. In March/April 1995, Belgian magistrates carried out searches and hearings on DG XXIII's premises. Furthermore, in April 1995, UCLAF, in agreement with DG IX, took steps so that the Appointing Authority's authorization decisions would enable anybody in UCLAF working on the matter to stand as a witness. A first hearing was held in May 1995. On the basis of an application made in July 1995, the Belgian magistrates gained access in August of the same year to DG XX's tourism files. UCLAF subsequently handed over the documents. In November 1995, the authorities officially applied for the secrecy requirement to be lifted for persons who had been involved in the field under investigation so that they could be questioned as witnesses. The Commission replied immediately to this request and informed the staff and former staff concerned of the Appointing Authority's decision. In January 1996, three persons were arrested. They were subsequently released on bail.

27. In May 1995, requests by French and Greek magistrates for documents to be made available were satisfied as quickly as possible. Greece took the necessary preparatory steps for legal proceedings should these

prove necessary. UCLAF ensured on the spot that the competent authorities had all the necessary information. In France, several people were arrested at the end of 1995 and the beginning of 1996.

Recovery measures

28. During its 1993 and 1994 audits concerning post EYT measures, DG XX found 43 cases for which recoveries were necessary. DG XXIII had not yet issued recovery orders for 31 of the files concerned: the estimated sum to be recovered for these amounted to around ECU 324 000. With regard to the 12 letters requesting the reimbursement of aid paid out for a total amount of ECU 1 105 588, 11 were not sent out until July 1995, or later. The requests for repayment were based on evidence of non-eligible expenditure and, in part, also on the poor quality of the work carried out or the reports submitted. In the cases where the final payment had been made, the poor quality of the work should, in any case, already have been identified at the latest when the accounts were closed. Furthermore, a list of debtors drawn up by UCLAF on the basis of information from DG XXIII and submitted in January 1996 to the Secretary-General of the Commission, the Directors-General of DG IX, DG XX and the Legal Department and the Court included a case of an amount of ECU 41 067 for which no recovery order had actually been issued.

Cooperation between the Court and the competent departments

29. Since the problems were discovered in September 1994, the Court has been cooperating closely with UCLAF and DG XX. Moreover, the Court responded favourably to the Belgian magistrates' request for judicial cooperation in March 1995. As a consequence, the Court officials who had been officially cited in the context of the examination testified. Similarly, the documents that the Court had been able to collect during its audits of the field covered by the inquiry, and the reports that it had been able to draw up as the result of these audits, were made available to the competent authorities.

Additional audits by the Court on the European Year of Tourism

General background

30. Following the European Parliament's resolution of 21 April 1994 on the budgetary and financial implementation of the EYT⁽¹⁴⁾, the Court carried out supplementary audits against the following background:

(14) OJ No C 128, 9. 5. 1994, p. 340.

- the Financial Control department had not carried out an enquiry into the EYT. It had, on the other hand, carried out the audits mentioned in paragraph 22 above, concerning DG XXIII in general and the Tourism unit in particular,
- during its audits on the premises of DG XXIII, DG XX identified the same serious problems as the Court in its first audit (see paragraphs 17 and 18),
- the Commission's staff were able to identify irregularities of a fraudulent nature by using their own methods of investigation and as a result of on-the-spot checks on aid beneficiaries.

31. The Commission was responsible for implementing the EYT in consultation with an organization committee consisting of a maximum of two representatives from each Member State and chaired by a representative of the Commission. The Member States were asked to identify projects, monitor their implementation and forward payment requests to the Commission. Although Council Decision 89/46/EEC⁽¹⁵⁾ did not provide for national EYT organization committees (NCs), the Commission has always stressed the importance of these committees and looked on their creation as an indispensable element for the success of the EYT. Consequently, an NC made up of the main public and private partners in the field of tourism was set up in each Member State.

32. The Court's audits in connection with the preparation of the Special Report on the EYT concentrated on the Commission's management and on measures financed exclusively from the general budget. For its additional work, the Court carried out on-the-spot checks of co-financed projects, starting with France, the Member State that had received the most significant share (about 25 % of the budget of ECU 2,5 million).

The results of the Court's additional checks

The implementation of co-financed projects in France

33. In July 1989 a decree by the competent Minister set up the NC responsible for organizing the EYT in France. Its task was to devise, shortlist and coordinate the operations and programmes that were to be implemented

by public and private operators in the sector. The NC did not draw up any rules of procedure to specify how it was to operate.

34. In April 1990 a non-profit-making body known as the Association for the Promotion of the European Year of Tourism (APAET) was set up. Its stated aim was to promote events organized under the EYT, and, for this purpose, it gathered Community and other funds and administered them on behalf of the NC and under its control. This procedure was provided for in the APAET's statutes, but had not been adopted in any formal decision by the competent authorities. Moreover, the Ministry of Finance's requirements for associations in receipt of public funding were not complied with. The APAET's activities, and consequently the subsidies that it received, were not subject to the national budgetary procedures or the corresponding control procedures.

35. Moreover, the jurisdictions and responsibilities of the Ministry for Tourism, the NC and APAET were not adequately demarcated, a shortcoming that was pointed out neither in France nor at Community level, and which continued throughout the implementation of the EYT.

36. Pursuant to Council Decision 89/46/EEC all evidence of the actual cost of measures in receipt of aid in the context of the EYT should be submitted to the Commission. Despite this fact, and contrary to the requirement that all supporting documents should be kept for at least five years, the accounts and files kept by the competent departments (the Ministry responsible for tourism, the NC and APAET) did not enable declared expenditure/revenue to be reconstructed. Furthermore, the APAET did not inform the Commission of the disappearance of all the invoices and accounting documents concerning the EYT. According to a letter sent by the association to the Ministry responsible for tourism, the police refused to allow it to make a declaration of loss/theft because of the lack of evidence and the fact that there had been no burglary.

37. Aid applications were an integral part of the contracts between the Commission and the beneficiaries. Despite the lack of precision in the aid applications, DG XXIII failed to ask the French beneficiaries for any additional explanations. Consequently, it was very difficult to identify eligible expenditure. Moreover, there were discrepancies between the beneficiaries designated in the contracts and the actual beneficiaries of the funds. The contractor was not named correctly in any of the contracts examined and DG XXIII paid out aid to bodies with which it had no contractual relationship. In one

⁽¹⁵⁾ OJ No L 17, 21. 1. 1989, p. 53.

case, the mention of an international body that was not directly involved in the project as a promoter made it possible to obtain extra aid (ECU 50 000) from the Community. Finally, DG XXIII accepted signatures without checking whether the people in question were empowered to sign.

38. Some letters were signed and sent out to the competent French departments by unauthorized members of DG XXIII's staff. Sometimes, various members of DG XXIII's staff, at different levels, sent out consecutive letters containing the same information. In nearly all the cases audited, the aid applicants were informed that the aid had been granted before the Financial Controller had given his approval.

39. The form for the allocation of financial aid provided for the forwarding of a certified true copy of a statement of account, or a financial statement accompanied by duly certified copies of supporting documents. Only when it issued reminders in cases of non-compliance with contractual deadlines did the Commission insist on obtaining a list of invoices or copies of the invoices. But even in these cases the payments were authorized merely against the presentation of a financial statement. The deadlines for the submission of final reports and financial statements were never complied with. No analysis of the implementation reports or of the financial statements was made and no on-the-spot checks were carried out. Not even obvious shortcomings were found. In all cases, it was impossible to reconstruct declared expenditure because the supporting documents were lacking or because the documents submitted concerned non-eligible expenditure.

40. The Commission did not specify the formats of the implementation reports and financial statements that were to be submitted to it. Those that were submitted by the various bodies, with one exception, contained incomplete or inaccurate information. For one measure, the same expenditure was effected twice — directly by the Commission (ECU 4 000) and via the Association (FF 30 000, or ECU 4 567)⁽¹⁶⁾. Moreover, two different bodies with the same postal address submitted the same invoices for a total amount of FF 167 034,52 (or ECU 25 427) to the Commission and the Association for two different measures.

41. A temporary member of the Commission's staff worked as permanent secretary of a national federation in the field of tourism and as a member of a working party of the NC before and during the period in which he was working in DG XXIII's Tourism unit. The same national federation received Community aid in the

context of the EYT and later under other direct measures. However, this conflict of interests was pointed out by neither the national nor the Community authorities and no attempt was made to clarify the situation.

Recovery procedures in the context of the EYT

42. In its reply to the Court's Special Report on the EYT, the Commission mentioned 17 contracts leading to recoveries of a total of ECU 146 412, of which 73 % was actually recovered.

43. With regard to the contract with the highest amount in this list (ECU 57 419, or 39 % of the total), DG XXIII did not draw up a recovery order. In actual fact, the Member State concerned (Italy) had repaid the amount in February 1992 of its own volition. Nevertheless, DG XXIII did not ask for any documents to enable it to verify the amount and did not regularize the situation. Consequently, the sum was transferred to 'miscellaneous revenue' in the 1994 budget.

44. Three of the 16 recovery orders actually drawn up by DG XXIII were incorrect. In one case, the recovery order was drawn up for an amount that was higher than the aid actually paid out (a difference of ECU 3 000). In the two other cases, the orders were drawn up for amounts that were less than the actual figure because the aid rate used was too low (difference of ECU 3 755).

45. In three other cases amounting to a total of ECU 21 362 (24 % of the recoveries requested), the recovery orders were cancelled because the Contracting Parties had forwarded supplementary documents. However, these documents were not of a sufficiently high quality to allow the recovery procedure to be stopped.

46. Six contractors (one of whom had been awarded five contracts) actually did repay the unwarranted aid for a total of ECU 55 863 (63 % of the recoveries requested). Three recovery orders, for a total of ECU 8 857 (10 % of the recoveries requested) were still open because the contractors had moved to an unknown address or no longer existed.

Notification of problems found to the Commission

47. The Court notified the Commission of all the details of the aforementioned problems to enable it, where applicable, to include them in recovery procedures which had already been set in motion and recover the non-eligible amounts. The Commission was also invited to examine in detail all co-financed measures relating to the EYT.

⁽¹⁶⁾ Conversions into ecu are at the December 1995 rate.

48. Furthermore, the authorizing officer was invited to contact each of the beneficiaries individually so as to invite them to retain the supporting documents and other documents required for auditing subsidized measures for a longer period than usual. DG XXIII responded to this request but was not in a position to be able to guarantee that the list of recipients exactly corresponded to the beneficiaries, in particular because of the absence of complete files.

The Court's audits of the action plan in favour of tourism

Introduction

49. As the result of the problems that had been uncovered, the Commission informed Parliament on January 1995 that, as of the beginning of 1994, it had strengthened its procedures for the selection, monitoring and assessment of projects. At the same time, when the post of Head of the Tourism unit was filled in June 1994, the Commission decided to reinforce its structure by appointing a deputy-head. In addition, a central unit responsible for the management of budgetary and financial affairs was set up within DG XXIII.

50. At the end of 1995, the Court carried out a detailed audit of the direct measures, which were managed in the context of the action plan and covered by budget headings B5-3 2 5 and B7-8 3 0 (see Table 1).

General problems found

51. In the initial phase of the implementation of the action plan (1993 to 1994), the Commission had not yet laid down adequately its selection procedures, financing procedures or the standard contract clauses. The Commission subsequently improved its management of the projects. In particular, the utilization of *ad-hoc* subsidies, which largely eluded the Commission's internal control system and was therefore a high-risk area, was considerably reduced in 1994/1995. Nevertheless, some of the problems raised in the Special Report on the EYT and later by DG XX were not solved.

52. Because of a lack of permanent staff and a significant staff turnover in the Tourism unit, important files were managed by temporary and external staff.

53. DG XX and UCLAF only managed to uncover a large proportion of the irregularities as a result of on-the-spot checks. As for DG XXIII, despite the clues at its disposal, it carried out too few on-the-spot checks on the beneficiaries.

54. DG XXIII estimated that the problematic contracts signed in 1993 represented more than 40 % of the budget for tourism available in that year, and that, in several cases, it had only been possible to save them by using *ad hoc* methods. Moreover, the appraisal files were often incomplete. For some contracts signed in 1994 and 1995, the decisions granting the aid were not always detailed enough to identify exactly the objective of the contract and the eligible expenditure.

55. The weaknesses in DG XIII's management system enabled the authorizing officer to enter into legal commitments before the Financial Controller had given his approval and after submitting incorrect or badly documented commitment proposals. In one instance the same transaction had been approved twice — once *ex post facto*. In another case the legal commitment was entered into before the Financial Controller had given his approval. He subsequently agreed to grant his approval on the grounds that it was not a case of *ex-post* referral as such — a position which is incompatible with the principle of prior approval.

56. The implementation reports and financial statements were often sent in late. Only in exceptional cases did DG XXIII include additional clauses so as to extend the contracts. In the majority of the cases DG XXIII did not request adequate documentation of eligible expenditure. The analysis of documents that had been received was sometimes superficial and certain decisions on eligible expenditure were incorrect or difficult to reconstruct.

Problems concerning the procedure for the selection of projects

57. In the context of the action plan, the project selection procedure was carried out on the basis of a call for tenders and a call for proposals that was opened in May 1994⁽¹⁷⁾. This procedure was not transparent and suffered from technical problems, in particular as regards the registration of proposals. Moreover, during the short-listing stage, requests for additional information concerning work plans, timetables and more detailed budgets specifying the beneficiaries were sent to a series of coordinators of bids that had already been adopted. This information, which was essential for evaluating the bids, should have been included with the initial proposals, as provided for in the procedures for calls for

⁽¹⁷⁾ OJ No C 122, 4. 5. 1994, p. 9.

tenders and calls for proposals. The 1995 selection procedure was improved but has not always been applied consistently. The minutes of the formal opening of bids show that, for example, DG XXIII again asked some candidates to provide additional information, while other bids were rejected without being considered, on the grounds that they were incomplete.

58. The general selection criteria mentioned in the 1994 and 1995 invitations to tender and calls for proposals concerning the Community action plan for tourism do not expressly stipulate that projects are to be rejected if the information provided is insufficient. In the case of invitations to tender this is not in accordance with the provisions of Article 104 of the Regulation implementing certain provisions of the Financial Regulation⁽¹⁸⁾.

Problems concerning evaluation

59. The Commission's two annual reports concerning tourism⁽¹⁹⁾⁽²⁰⁾ were submitted to the Council, the European Parliament and the Economic and Social Committee respectively 10 and 19 months after the time limit stipulated in Article 5 of Council Decision 92/421/EEC of 13 July 1992 establishing the action plan. The third annual report, which should have been submitted in July 1995, has still not been adopted by the Commission.

60. The first report, of 6 April 1994, does not comply with the Council Decision because it does not include any evaluation of those of the Community's activities that have an impact on tourism, but merely describes them. The Commission itself admits that its evaluation of these activities is more a description than anything else⁽²¹⁾. The second report, dated 5 February 1996, is, in the Commission's own words, an 'attempt at evaluating' the impact of the indirect measures for tourism⁽²²⁾. As regards the direct actions, the report was again limited to providing a straightforward description.

61. In November 1994 DG XXIII issued a call for proposals with a view to preparing the report evaluating the action plan for tourism provided for in Article 6 of Council Decision 92/421/EEC. In January 1995 the Advisory Committee on Procurements and Contracts (ACPC) issued an opinion opposing the award of this study because: it had not been published in the Official Journal; the time limit for the submission of tenders had been too short; there was a lack of distinction between

the selection and award criteria, and because of the weight given to the selection criteria. In order to meet the deadline of 30 June 1995, DG XXIII submitted a second proposal which had been received in connection with the same invitation to tender. This also received an unfavourable opinion from the ACPC for the specific reasons that it differed negligibly from the preceding proposal, and the grounds justifying the urgency were unsatisfactory. In the end a new invitation to tender was published in July 1995, which resulted in a favourable opinion being given by the ACPC in October 1995. The contractor submitted his final report in February 1996, in accordance with the contractual deadline, which was eight months later than the time limit for the presentation of the Commission's report to the Council. The Court was unable to examine this report until it had been made public⁽²³⁾.

62. The evaluation report is based on an examination of the results of the first two years of the action plan (1993 to 1994), covering 55 % of the total commitments. It focuses primarily on the effectiveness of the measures carried out under this plan. It does not analyse the mechanisms of the presumed cases of fraud and irregularities, but takes account of their impact on the overall implementation of the plan. Although the evaluation objectives differ from those of the external audit, the findings in this evaluation report overlap to a great extent with the Court's observations, even though the evaluator's observations are, in some cases, less critical than those of the Court.

Problems connected with promotional measures in non-member States

63. The European Parliament has repeatedly called on the Commission to launch a campaign in non-member countries to encourage their tourists to travel to Europe⁽²⁴⁾. Furthermore, the action plan for tourism included a similar objective. Since 1992 the general budget has included a specific heading for financing these promotional measures (heading B7-8 3 0 — see *Table 1*), and the budget heading B5-3 2 5 for tourism includes financing for such measures as well.

⁽¹⁸⁾ Commission Regulation (Euratom, ECSC, EC) No 3418/93 of 9 December 1993 laying down detailed rules for the implementation of certain details of the Financial Regulation of 21 December 1977 (OJ No L 315, 16. 12. 1993).

⁽¹⁹⁾ COM(94) 74 final, of 6 April 1994.

⁽²⁰⁾ COM(96) 29 final, of 5 February 1996.

⁽²¹⁾ See COM(94) 74 final, of 6 February 1994, page 5.

⁽²²⁾ See COM(96) 29 final, of 5 February 1996, pages 6 and 7.

⁽²³⁾ See COM(96) 166 final, of 30 April 1996.

⁽²⁴⁾ See, in particular, the resolution on tourism in the approach to the year 2000 (OJ No C 44, 14. 2. 1994, p. 61) and the resolution following Mrs Diez de Rivera's report, EP 209.8977 final, of 23 November 1994.

64. The contract to carry out the 1994 campaign awarded by DG XXIII was not actually concluded until October 1994, even though the contractor had started work in February 1994 after signing the draft contract. In 1994 the first two payments, for a total of ECU 500 000, were made against the heading B7-8 3 0. In 1995 the third and the final payments, totalling ECU 498 056, were made against heading B5-3 2 5. The interim payments were made without the contractor having submitted a detailed statement of expenditure, and the final payment was made without the summary of expenditure having been certified by an independent auditor, even though this was required under the terms of the contract.

65. DG XXIII's 'tourism work programme' for 1995 also provided for a campaign to encourage EU citizens to travel to non-member countries. In August 1995, in order to finance this scheduled measure, DG XXIII proposed a transfer of commitment appropriations in the amount of ECU 1,9 million from heading B5-3 2 5 to heading B7-8 3 0, under which a token entry was made. DG XIX did not sanction this proposal, on the grounds that the latter heading would no longer be operational in 1996 and that the B7 subsection is intended to finance measures beneficial solely to non-member countries. The two promotional measures subsequently implemented were, however, at least partly financed from the heading B7-8 3 0.

66. In October 1995, DG XXIII transferred ECU 1,9 million from heading B5-3 2 5 to B5-3 2 0 (Promotion of the development of enterprises — SMEs) on the grounds that it had proved impossible to use up the appropriations set aside for promotional measures in non-member countries under the action plan. The result was that 21 % of the appropriations entered in the 1995 budget for direct actions in favour of tourism were used for other purposes.

Problems concerning the contracts

67. With regard to the management of the European Tourism and the Environment *grand prix*, although the 1993 selection procedure lacked transparency, and the financial data and results submitted by the contractor were deemed unsatisfactory, DG XXIII asked the same contractor to present an amending budget because, *inter alia*, a further five European Economic Area countries had joined. The consultant continued to work on this new basis, even though the contract had expired on 31 December 1994. In August 1995 the Commission signed

a new contract that allowed the consultant to include the work carried out between January and August 1995. In January 1996 DG XXIII discovered that the contractor had gone into liquidation in September 1994. In the case of the additional costs, amounting to ECU 146 450, there is an inconsistency between the commitment approved by the Financial Controller, which states the budget heading, correctly, as B5-3 2 5, and the actual account entry against article B5-3 2 0 (Business promotion — SMEs). In theory, the Commission's accounting system does not permit errors of this type.

68. With regard to the compilation of a European directory of the tourism sector, the annex to the contract provides that 'the final document shall be considered as having been accepted by the Commission if the latter has not explicitly made its observations known to the contractors within a month of its receipt'. Despite very strong objections from the tourism organizations and despite the many errors in the draft final guide presented to the Commission, which led to the granting of a further extension, DG XXIII only notified the contractor of the unacceptably low quality of the report four months after it had been submitted. Following a letter from the contractor stating that the document was 'considered to have been accepted by the Commission, since no response has been received within the time limit of one month following its receipt', DG XXIII negotiated terms to obtain a valid final product that would allow the sums committed to be validated and settled. In August 1995, eight months after the original contract had expired, a supplementary clause to this contract was signed by the two parties. After the final document had been received, the last payment was made without the statement of expenditure provided for in the contract having been presented. The detailed account was based on estimates and included non-eligible expenditure amounting to over 50 % of the total figure of ECU 64 300.

TOURISM AND OTHER COMMUNITY POLICIES

Coordination between the Commission's various departments

General framework

69. Given the dispersal of the various measures having an impact on tourism among the various DGs, sound coordination is absolutely essential. The Commission decided as early as 1981 to create an Interdepartmental group on tourism⁽²⁵⁾ which would be responsible for coordinating tourism matters. The usual consultation procedures are applied in parallel to obtain the approval of the various departments involved with regard to specific files.

⁽²⁵⁾ SEC(81) 1142, 17 July 1981.

70. As part of the preparation of the action plan for tourism, in March 1991⁽²⁶⁾ the Commission made DG XXIII responsible for clarifying, coordinating and rationalizing the measures undertaken by the Community in the field of tourism. This responsibility was also incorporated into Article 3 of the Council's Decision concerning the action plan.

Interdepartmental consultations

71. It is not possible to draw up a list of the interdepartmental consultations that took place before the beginning of 1994 on the basis of DG XXIII's documentation. These consultations were more in the nature of a personal initiative, taken by the officials involved, than the application of systematic procedures.

72. The Tourism unit did not begin to act on the consultations concerning Community support frameworks (CSFs), operating programmes (OPs) or Community initiatives (CIs) in any systematic way until a note was sent in May 1994 by another unit that was responsible for, *inter alia*, DG XXIII's replies in connection with consultations concerning the Structural Funds. Furthermore, in June 1994, a coordination unit was set up within the Tourism unit, and representatives of this unit were appointed members of the monitoring committees for the Tourism OPs of various Member States.

73. In spite of these improvements, coordination remains inadequate. In March 1994, for example, DG VII (Transport) initiated a consultation of the sectors concerned by the question of sharing the costs of computerized reservation systems. Even though DG XXIII had several times emphasized the importance of the subject, it was not until a specific request was made, in December 1994, that it was informed of the results of this consultation. Nor did DG VII consult DG XXIII with a view to drawing up a draft Commission communication relating to air traffic congestion, something that was also of great importance for tourism. It was only in June 1995 that DG XXIII received the final document for approval.

The ERDF and tourism

The role of tourism in regional development

74. The importance of tourism in a region's development is due in particular to its job-creating capacity, to its contribution to the diversification of economic regional activities and to various indirect effects of expenditure by tourists. In its report on the

Community measures affecting tourism in connection with regional policy, the Commission stated that it was necessary to draw up a special report on tourism in order to assess not only the positive effects but also the constraints encountered in realizing a sizeable infrastructure⁽²⁷⁾. No report has yet been drawn up, however.

Financing of projects in the tourism sector

75. The CSFs and the single programming documents (SPDs) establish frameworks for collaboration by the Member States and the Community in relation to key development areas, including tourism. A tourism development package has been planned for almost all the regions concerned. Within this framework, the OPs include a 'tourism' objective which makes specific provision for this sector.

76. In the case of all the CSFs for the period 1989 to 1993, provision was made for a Community intervention specifically for tourism, of some ECU 2 305,9 million, i.e. some 4 % of the Community assistance. Almost 86 % of this assistance comes from the ERDF, 5 % from the ESF and 9 % from the EAGGF-Guidance. In the case of the 1994 to 1999 period, the Community contributions of the CSFs and the SPDs in favour of tourism amounted to ECU 7 284,9 million, i.e. 6 % of Community contributions, 61 % were being financed by the ERDF, 5 % by the ESF and 34 % by the EAGGF-Guidance. These amounts are broken down by objectives and countries in *Table 2*.

77. The Community initiatives also make it possible to finance measures in support of tourism. For example, within the framework of the Community Leader I initiative (1991 to 1994), measures concerning rural tourism represent some 40 % of the ECU 400 million of assistance available. The importance of tourism within the framework of Leader II (1995 to 1999), which has provisional financing of ECU 1 400 million, is not yet known for certain, but it may be assumed that it will not diminish. Furthermore, the Community initiative Envireg (1990 to 1993) for which ECU 580 million of Community funds were mobilized, has to a large extent been used to finance projects in coastal regions where tourism is very important.

⁽²⁶⁾ SEC(91) 520/2, 22 March 1991.

⁽²⁷⁾ COM(94) 74 final, of 6 April 1994, page 60.

Results of the Court's audits

78. In 1995 the Court made on-the-spot checks in four Member States (Greece, Ireland, Italy and the United Kingdom) of the OPs specifically intended to support the development of tourism. In addition, projects included in the tourism objectives of other OPs or Community initiatives were also audited.

Observations concerning expenditure declarations

79. The expenditure declarations presented to the Commission are not always reliable. In the case of Italy, they systematically mention — with the exception of those projects for which the body responsible is a specific ministry — the advances paid to the final beneficiary by intermediate organizations, instead of the expenses incurred by it. This practice, which the Commission accepts, is not in accordance with the requirements set out in its initial decision of 14 December 1990 approving the Italian tourism OP, whereby the expenditure submitted must correspond to the expenditure incurred. It also diverges from the financial implementing procedures concerning forms of intervention, which were revised in June 1991 and which state that in exceptional, duly justified cases the Commission may agree to a Member State's request for the certified expenditure to refer to payments to final beneficiaries ⁽²⁸⁾.

80. In the case of a project concerning the restoration of a palace, the actual payments to the final beneficiary amounted to Lit 1 783 million (ECU 0,9 million). In contrast, the declaration of expenditure was for Lit 2 250 million (ECU 1,14 million), which was paid by the intermediary body to the final beneficiary. The last payment to the final beneficiary was made in February 1992, while the latter did not pay out some 10 % of the total payments until 1995. This means that, for more than three years, the final beneficiary was in possession of Lit 500 million (ECU 0,25 million) without using it for the project. The same problem was also found in the case of a project for the construction of a yachting marina, where the amount declared was Lit 3 500 million (ECU 1,77 million) and the amount actually paid to the beneficiary Lit 3 230 million (ECU 1,64 million).

81. In Ireland, within the framework of a project for the landscaping of a tourist area, an advance of £ Irl 2 million (ECU 2,52 million) of ERDF assistance was paid by the intermediary body to the final beneficiary in the absence of any national contribution. None the less, a

theoretical national financing of £ Irl 667 000 (ECU 0,84 million) was included in the declaration of expenditure sent to the Commission. In the same Member State, the declarations of expenditure of the various Leader groups did not show a breakdown between the various Structural Funds which finance a global intervention, and the national ministry produces a statement of expenditure for each group and each Fund based solely on estimates.

82. In the United Kingdom, a declaration of expenditure concerning the tourism OP had to be submitted four times because of inconsistencies with the previous implementation report, and the Commission could not pay the advance until one year after the initial request had been made. The balance of the commitment for the previous year could not be paid because the annual report for the year in question had not been submitted by the Member State. When the Court made its on-the-spot visit, the national authority was unable to prove that its final declaration of expenditure was correct and the final implementation report was still not available.

Observations concerning specific projects

83. The Commission decisions concerning the OPs always set a deadline for the legally obligatory commitments and the financial commitments. These provisions are not always respected. In Ireland, for example, the body responsible reallocated the funds which had not been used to projects which had incurred additional costs, one year after the deadline for the commitments to be used.

84. In Italy, six of the seven projects checked within the framework of the tourism OP had received Community funding amounting to Lit 26 100 million (ECU 14,29 million), even though they were the subject of legal proceedings (execution other than that stipulated in the agreement, non-respect of environmental standards and the rules concerning the protection of national and cultural heritage, irregular compulsory purchase and concessions).

85. Neither the authority appointed nor the Commission, nor the Monitoring Committee was informed about the procedures referred to above. The Commission said it was in agreement with the observations made by the Court and indicated that it would take the appropriate measures, in particular concerning the amounts to be recovered.

⁽²⁸⁾ 'Clauses générales s'appliquant aux formes d'intervention', 25. 7. 1991.

86. The reorganization of the implementation powers for the tourism OP also led to delays in the implementation of the programme and to coordination problems. Furthermore, the control procedures were weakened by this.

87. In Ireland, following a High Court decision, the government, in the absence of any licence to build, suspended the construction of three visitors' centres in national parks subsidized from the EDRF (£ Irl 4 412 250 or ECU 5,56 million). The costs of the work carried out so far and for the work needed to ensure that the building sites were safe were considered eligible expenditure. On the other hand, the costs resulting from the suspension of building work were charged to a suspense account. One of the projects was abandoned and the structures already built demolished. The Commission has been asked to recover the assistance disbursed for the work now halted and to take a decision as regards the eligibility of the other costs.

88. In one series of projects, the feasibility studies overestimated the likely volume of visitors and revenue. These projects are only viable if they are granted additional funding. In the case of the construction of an amusement park, subsidies were granted against the advice of the independent assessors, who have to be consulted in accordance with the guidelines for granting assistance. (£ Irl 1,867 million or ECU 2,35 million from the ERDF and £ Irl 1,810 million or ECU 2,28 million from the national government). In view of the problems which this project faces — specifically, too few visitors and under-capitalization — there is a risk that the investment will be lost.

89. In Greece, the national tourist organization financed, within the framework of the OP, work to correct damages resulting from earlier work financed by other programmes. For example, a yachting marina was built with assistance from an Integrated Mediterranean programme (IMP) without its impact on the environment having been adequately analysed. Following erosion of the coastline as a result of this port, it was decided to finance the construction of two breakwaters from the tourism OP. As these were then partially destroyed in storms, the repairs, also financed from the tourism OP, for an amount of ECU 37 000. Another yachting marina was built within the framework of the IMP without the necessary infrastructure. Following complaints, it was decided to build a car park and to include this project in the tourism OP. The project was then suspended because of objections on ecological grounds. The delay and costs resulting from the new plans increased the final cost of the project by 58 %, to Dr 172 million (ECU 0,58 million).

90. The same national tourism organization owns a hotel chain. The renovation of 65 bungalows in one

complex belonging to this chain was included in the public investments measure of the tourism OP (Dr 527,5 million or ECU 1,79 million). This project could only be eligible for the private investments measure, specifically intended for hotel investments. The work actually carried out did not correspond to the technical plans which were submitted for signature and which were subsequently amended. Two luxury VIP bungalows have been put at the disposition of the State. Given the circumstances, the conditions under which the assistance was granted should be reviewed and the wrongly paid amounts recovered.

91. In the case of another hotel investment, the Court was unable to carry out its audit because the person responsible for the project declared that all documentation had been destroyed in a fire, even though there was no proof that any such accident ever took place.

92. In two Member States (Italy and Greece), the majority of the bodies visited had not been informed of the fact that the subsidies received under the national aid system were co-financed from the ERDF until the Court's audit announcement letter had been sent. As a result they were not in a position to ensure that the Community Regulations were respected. For example, signs informing the public that the project was financed by Community funds were not put up or else were put up late.

CONCLUSION

93. The Commission was slow to take steps in cases of presumed irregularity in the field of direct measures in favour of tourism. In particular, it should have been possible for DG XXIII, on the basis of information received from outside in June 1992, to have immediately informed the departments responsible at the Commission. *Ex post facto* audits by DG XXIII and DG XX uncovered serious irregularities in 1994 and resulted in the blocking of payments and the issue of recovery orders. UCLAF was not informed until July 1994. It immediately organized investigations with a view to possible legal proceedings and these resulted, at the end of 1994/beginning of 1995, in investigations in the Member States and the issue of arrest warrants at the end of 1995/beginning of 1996.

94. The Commission did not inform the Court about the irregularities it had found. It was following an on-the-spot visit that the Court discovered the problem. Since October 1994 it has however been sent the documents it needs to follow up the case.

95. The irregularities found by the Court in 1992 had still not been entirely cleared up in 1995 and were still hampering the implementation of the measures in favour of tourism. The inclusion of a token entry in the 1996 budget for direct actions in favour of tourism enables the Commission to concentrate on the current contracts and to take the necessary measures to close the files in a regular way.

96. In this context, it is essential that DG XXIII should have all the documents it needs to be able to determine the eligible expenditure and to complete its analysis, where necessary by on-the-spot visits. An overall examination should also take place in order to recover all the funds unduly paid.

97. In the light of the Court's additional findings concerning actions co-financed within the framework of the EYT, the Commission is invited to review the files

concerned with a view to including them, where appropriate, in the proceedings.

98. A reliable system must be set up to ensure that the appropriations for direct actions in favour of tourism are administered properly. The Commission should therefore tighten up its selection, monitoring, assessment and control procedures. DG XXIII's central unit responsible for administering financial and budgetary affairs should be given the resources it needs to carry out its tasks.

99. Efforts to coordinate the various activities that impinge on tourism are indispensable. This is particularly important in the case of Structural Funds interventions, which, given their financial significance, play a key role in this area. In addition, these interventions should be subject to specific evaluation.

This report was adopted by the Court of Auditors in Luxembourg at the Court meeting of 7 November 1996.

For the Court of Auditors

Bernhard FRIEDMANN

President

ANNEX

TABLE 1

Financial resources for direct action in favour of tourism for the period 1989 to 1996
(excluding the European Year of Tourism ⁽¹⁾)

Year	Appropriations	B2-7 1 0 Actions in the field of tourism ⁽²⁾		B7-8 3 0 Promotion of European tourism in third countries ⁽³⁾		B5-3 2 5 Community tourism policy ⁽⁴⁾	
		ECU million	Rate of execution in % ⁽⁵⁾	ECU million	Rate of execution in % ⁽⁵⁾	ECU million	Rate of execution in % ⁽⁵⁾
1989	CA provided available used	3,000 3,000 3,000	100,00	—	—	—	—
	PA provided available used	3,000 4,930 2,704	54,86	—	—	—	—
1990	CA provided available used	4,000 3,920 3,920	100,00	—	—	—	—
	PA provided available used	4,000 6,099 3,286	53,87	—	—	—	—
1991	CA provided available used	4,000 4,200 4,194	99,86	—	—	—	—
	PA provided available used	4,000 6,892 4,204	61,00	—	—	—	—
1992	CA provided available used	4,892 4,892 4,841	98,96	0,750 0,750 0,750	100,00	—	—
	PA provided available used	4,892 7,413 4,329	58,40	0,750 0,750 0,250	33,33	—	—
1993	CA provided available used	— — —	—	1,000 1,000 1,000	100,00	6,000 6,000 5,189	86,48
	PA provided available used	— — —	—	0,500 0,500 0,000	0,00	3,867 7,070 4,286 ⁽⁸⁾	60,62
1994	CA provided available used	— — —	—	— — —	—	6,566 7,263 4,914	67,65
	PA provided available used	— — —	—	0,500 1,000 0,500	50,00	5,271 7,571 2,174	28,72
1995 ⁽⁶⁾	CA provided available used	— — —	—	p.m. p.m. 0,00	—	9,112 8,712 8,490	97,45
	PA provided available used	— — —	—	p.m. p.m. 0,00	—	7,399 7,399 4,774	64,53

Year	Appropriations	B2-7 1 0 Actions in the field of tourism ⁽²⁾		B7-8 3 0 Promotion of European tourism in third countries ⁽³⁾		B5-3 2 5 Community tourism policy ⁽⁴⁾	
		ECU million	Rate of execution in % ⁽⁵⁾	ECU million	Rate of execution in % ⁽⁵⁾	ECU million	Rate of execution in % ⁽⁵⁾
1996 ⁽⁷⁾	CA provided available used	—	—	—	—	p.m. N/A N/A	N/A
	PA provided available used	—	—	—	—	4,700 N/A N/A	N/A
TOTAL	CA provided available used	15,892 N/A 15,955	N/A	1,750 N/A 1,750	N/A	21,678 N/A ⁽⁹⁾ 19,593 ⁽⁹⁾	N/A ⁽⁹⁾
	PA provided available used	15,892 N/A 14,523	N/A	1,750 N/A 0,750	N/A	21,237 N/A 11,234 ⁽⁹⁾	N/A

NB: CA = commitment appropriations.
PA = payment appropriations.
provided = appropriations entered in the year's budget, including supplementary and amending budgets.
available = appropriations authorized plus transfers and carry-overs.
used = use of appropriations available for the year in question.

Sources: Revenue and expenditure accounts relating to budgetary transactions for 1989 to 1995.
Final versions of general budget of the European Communities for 1989 to 1996.

- (1) The total amount of expenditure for the EYT was ECU 7,74 million.
(2) In 1989 and 1990 article 587.
(3) In 1992 article B2-7 1 1; it was indicated mistakenly in the final version of the general budget of the European Communities for the financial year 1993, as 'new article'.
(4) It was indicated mistakenly in the final version of the general budget of the European Communities for the financial year 1993 as 'former articles B2-7 1 0 and B2-7 1 1'; in actual fact, only article B2-7 1 0 was changed to article B5-3 2 5, article B2-7 1 1 having been changed to article B7-8 3 0.
(5) Based on the use of available appropriations.
(6) Based on the provisional version of the report on the implementation of the Commission's budget on 31 December 1995.
(7) Based on the final version of the general budget of the European Communities for the financial year 1996.
(8) The final version of the general budget of the European Communities for the financial year 1993 contains only the amount of ECU 1,566 million corresponding to the use made of payment appropriations against 1993 commitments.
(9) Use as at end 1995.

TABLE 2

Community contributions specifically earmarked for tourism in the Structural Funds ⁽¹⁾, by objective and by country.

(ECU million)

Country	Period 1989 to 1993				Period 1994 to 1999					Total 1989 to 1999
	Objective 1	Objective 2	Objective 5b	Total	Objective 1	Objective 2 ⁽²⁾	Objective 5b	Objective 6	Total	
Germany	—	8,82	—	8,82	800,00	15,00	86,69	—	901,69	910,51
Austria ⁽²⁾	—	—	—	—	38,71	7,93	13,36	—	60,00	60,00
Belgium	—	20,71	4,40	25,11	36,70	10,00	10,23	—	56,93	82,04
Denmark	—	0,50	—	0,50	—	10,80	14,71	—	25,51	26,01
Spain	182,00	—	17,68	199,68	1 099,15	—	45,21	—	1 144,36	1 344,04
Finland ⁽²⁾	—	—	—	—	—	4,80	22,32	—	27,12	27,12
France	34,30	69,09	105,60	208,99	106,00	149,80	258,43	—	514,23	723,22
Greece	243,60	—	—	243,60	732,60	—	—	—	732,60	976,20
Ireland	188,60	—	—	188,60	465,60	—	—	—	465,60	654,20
Italy	786,00	38,76	51,20	875,96	1 724,60	70,60	168,62	—	1 963,82	2 839,78
Luxembourg	—	—	0,40	0,40	—	—	0,99	—	0,99	1,39
Netherlands	—	16,35	9,00	25,35	6,20	41,50	20,88	—	68,58	93,93
Portugal	203,00	—	—	203,00	656,90	—	—	—	656,90	859,90
United Kingdom	46,20	273,87	5,80	325,87	154,00	288,00	174,89	—	616,89	942,76
Sweden ⁽²⁾	—	—	—	—	—	14,80	14,76	20,12	49,68	49,68
Total	1 683,70	428,10	194,08	2 305,88	5 820,46	613,23	831,09	20,12	7 284,90	9 590,78

Sources: CCA, DOCUP and other Commission documents.

⁽¹⁾ ERDF, ESF, EAGGF-Guidance, excluding Objectives 3, 4 and 5a.

⁽²⁾ The amounts given concern the period 1995 to 1999.

⁽³⁾ The amounts given concern only the first three-year period (1994 to 1996). The amounts for the second period (1997 to 1999) have not yet been decided.

COMMISSION'S REPLIES

GENERAL REMARKS

The observations of the Court relate to three broad aspects, namely,

- (i) the European Year of Tourism (EYT) — 1990,
- (ii) the discovery in 1993 of serious irregularities associated with the presentation, execution and management of direct Community-funded tourism actions,
- (iii) the absence of sufficient coordination of measures affecting tourism, queries on specific actions, and the need for effective evaluation.

Apart from comments on specific issues raised in the Court's observations, the Commission's overall response is as follows:

(i) European Year of Tourism (EYT) — 1990

The difficulties encountered by the Commission in the administration of the EYT and the shortcomings identified in that context were set out fully in the Court's Special Report 4/92; the criticisms are acknowledged by the Commission. The new element emerging from the Court's latest observations is indications of serious irregularities which are currently under investigation by national judicial authorities. The Commission is following the situation and will ensure that the Community's financial interests are fully protected.

In relation to the remaining actions taken under the European Year of Tourism the Commission has decided to review all the projects concerned with the object of providing the necessary reassurance that Community funds have been disbursed in accordance with the prescribed rules and procedures. This will involve a re-examination of some 200 projects in 11 Member States.

(ii) Direct Community-funded Tourism Actions (1991 to 1995)

It is to be noted that it was at the initiative of the Commission that the process leading to judicial investigation now under way in certain Member States was begun; through its association and active involvement in such proceedings the Commission is well placed to follow and to defend the Community interest. The circumstances surrounding the first indications of irregularities, and which led to the dismissal of former officials of the Tourism unit, are dealt with in the specific observations.

As regards outstanding work from this period there are upwards of 70 cases that need to be reviewed and finalized in respect of the years 1991 to 1993. It is not anticipated that projects approved in 1994 and in 1995 will give rise to significant difficulties; projects selected in 1995 are ongoing and are being closely monitored.

The shortcomings in the structure and management of the Community action plan to assist tourism (1993 to 1995) were identified and acknowledged in the Commission's report COM (96) 166 of 30 April 1996 to the Council and to the Parliament relating to the evaluation of the plan carried out by an external evaluator. The progress made in terms of improved management and procedures has been acknowledged.

In order to ensure effective administration of the proposed Tourism programme 1997 to 2000 (Philoxenia) preparatory work is being carried out in close consultation with the newly established units within DG XXIII responsible for control and for contracts. The Tourism unit is being reorganized taking into account the Court's observations and those of the external evaluator.

(iii) Coordination and Evaluation

Given the diversity and complexity of tourism, effective coordination is a major challenge in terms of manpower resources, organizational structures and technical skills required. The Commission agrees that the coordination of tourism-related actions within its Services has not been entirely satisfactory. It is instructing all the Services concerned to facilitate the coordination process. The reorganization within the Tourism unit of DG XXIII will take account of the need to increase its involvement in indirect actions in favour of tourism and to improve the effectiveness of its contribution to the work of other Directorates-General. In relation to evaluation, the actions to be undertaken under Philoxenia will be subject to *ex-ante* and *ex-post* evaluation; the question of evaluating indirect actions, carried out for example under the Structural Funds, is more complex in that the exercise relates to evaluation in terms of prescribed regional development/ cohesion objectives rather than in terms of benefits to tourism. The Commission intends nevertheless to further develop techniques for an evaluation of measures affecting tourism.

REVIEW AND FOLLOW-UP OF PROJECTS

Special arrangements are being made to deal with the outstanding work of re-examination of projects related to

the EYT and projects from 1991 to 1993 identified as requiring further investigation. A team will work under the direct supervision of a Director within DG XXIII and in close cooperation with the other Services principally concerned (DG XIX, XX, Legal Service and UCLAF). The Commission will ensure that this task will be completed by June 1997 at the latest; a full report will be provided to the Court at that stage.

INTRODUCTION

6. During its first on-the-spot audit at the Commission, the Court noted that the Commission's verifications had disclosed serious irregularities, which the Commission had sanctioned by suspending two members of DG XXIII staff.

The shortage of information noted by the Court resulted from the fact that a number of verifications were at that time under way.

PROBLEMS NOTED RELATING TO DIRECT MEASURES IN FAVOUR OF TOURISM

Developments since submission of the Special Report

Commission internal inquiries

21. The information to which the Court is referring was a letter dated 15 June 1992 from the director of a promotion organization to its members in the Member States, which was copied to the Commission. The organization in question had responded to a call for proposals, and claimed that another tenderer was about to be selected by reason of the support of the former head of the Tourism unit. The letter cast doubt on the true nature of the support for European tourist organizations claimed by the rival tenderer, and on its ability to perform the work demanded. It did not, however, make any mention of irregularities.

For two reasons no reliance was placed on this information. The first is that in the framework of a call for proposals, the Commission frequently receives correspondence of this nature whose aim is to influence the decision finally made. It is not unusual for such correspondence to seek to discredit rival proposals. In the interest of normal progress of procedures, it would be inappropriate to accord to such correspondence a degree of attention which in every case went as far as calling in UCLAF. In the case in question, the correspondence originated in an organization which for two consecutive years had received direct Commission subsidies for promotion of Europe as a tourist destination, and which

seemed to have trouble accepting that it was facing competition in the framework of a call for proposals. The second reason was that European tourist organizations had finally confirmed their support for the other tenderer. In that context, there was no reason to attach particular importance to the allegations made.

The second sentence of the Court's comment is correct, but refers to a different case, about which information came to light only in February 1993.

Lastly, the DG XXIII internal investigation mentioned in the third sentence of paragraph 21 in fact began only in 1994. Discussions with the General Secretariat and DG IX in December 1993 related only to the other information received during the second half (of 1993). It was this information which led DG XXIII to launch the internal investigation, whose first tangible results could only be obtained after the transfer in the interests of the service of the head of the Tourism unit. Moreover, the first report forwarded by DG XXIII to Directorate-General IX in 1994 was still fairly general, and DG IX did not consider that it provided sufficient indications.

Recovery measures

28. The DG XX report identified 31 cases where payment recoveries seemed, on initial examination, to be necessary. A more thorough examination is needed in many cases to establish the definitive position. This examination will be undertaken in the context of an overall review of outstanding actions in the tourism sector.

Additional audits by the Court on the European Year of Tourism

Results of additional audits by the Court

Implementation of co-financed projects in France

33-40. As indicated in its general remarks the Commission will carry out the necessary enquiries in respect of all Member States and will follow the most appropriate channels for reclaiming any amounts due.

41. The employee in question was a detached national expert at the time; his attention was drawn specifically to the rules in relation to conflict of interest.

49. The unit responsible for the management of financial resources was created in April 1996.

The Court's audits of the action plan in favour of tourism

Introduction

General problems found

53. Without the enquiries undertaken by DG XXIII and which led to the later investigations of DG XX and UCLAF the irregularities are unlikely to have been revealed at that time. DG XXIII took the initiative to organize joint control visits with DG XX until a later control of the Tourism unit was begun by DG XX and the arrangements for further visits were taken over by DG XX.

54. The need to reach *ad hoc* agreements stemmed from the fact that several 1993 projects were inadequate in terms of the legal obligations of the beneficiaries, and therefore the Services sought to reach appropriate agreements in order to ensure reasonable results. The improvements made in the procedures for selection and management of 1994 and 1995 projects have been recognized by the external evaluator and by the Court.

55. The procedure for dealing with cases of *saisine a posteriori* was laid down in the Commission Decision of 1 April 1992. This provides for the Financial Controller to approve commitments *a posteriori* where the circumstances make them, in practice, unavoidable.

As regards the first of the two cases referred to by the Court, a valid approval by Financial Control had been given before the contract was signed.

In the second case, the commitment proposal was submitted to Financial Control before the contract was signed. Financial Control gave approval in the light of satisfactory explanations on a number of points which it had raised which were received after the signature of the contract. It was not therefore strictly speaking a *saisine a posteriori*.

Problems concerning the procedure for the selection of projects

57. In a call for proposals, it is legitimate to request additional or more detailed information regarding work plans, payment timetables or a more detailed budget, in order to clarify or expand the content of proposals, provided always that no discriminatory effect is thus created. It is also legitimate to reject proposals when, in the Commission's opinion, the information provided is incomplete. It should not be forgotten that in the notice published in the Official Journal it was stated that 'the Commission reserves the right to require additional information on projects presented and will not approve

applications for which the information supplied is incomplete or does not conform with the stipulated criteria, conditions and procedures'. The Commission can confirm that further information demanded after the closing date of the 1994 call for proposals/tenders related to proposals only. All proposals which reached the final stages were sent the same request and this approach was agreed by Financial Control. No tenders were subject to this treatment.

58. Paragraph 3 of the notice published in the Official Journal does indeed state the Commission's right, but not its duty, to reject projects if information is missing. Nevertheless, the Commission does not consider that its right to demand certain additional or more detailed information indispensable to the evaluation of projects is incompatible with Article 104 of the Regulation laying down detailed rules for the implementation of certain provisions of the Financial Regulation. Article 104 states that 'tenders which do not satisfy the conditions laid down in the invitation to tender shall be eliminated'. Moreover, this Article does not apply to calls for proposals.

Problems concerning evaluation

59. As the tourism action plan did not begin until January 1993, i. e. six months after its adoption, annual reports have been made on the basis of the calendar year.

Problems connected with promotional measures in non-member countries

65. The proposal for a transfer introduced by DG XXIII involved a movement of appropriations between different headings within financial perspectives. Since there is an obligation to respect the ceilings of financial perspectives, transfers of this type are made only in the most exceptional of circumstances, and in the event such circumstances did not prevail. The funds thus released were thus used for other ends.

Problems concerning the contracts

67. It should be noted that the Commission is still withholding 50 % of the agreed contract price. This will only be paid on condition that the detailed accounts recently furnished are in order.

Imputation of this commitment to heading B5-3 2 0 (Promotion of the development of enterprises — SMEs)

rather than heading B5-3 2 5 (Community tourist policy) was indeed an error, and escaped detection by the Commission's various departments. In all events, an error of this type, which would not be clearly visible from the accounting documents produced, could not now occur, given that the entire transaction, namely both commitment and authorization of expenditure, is effected within Sincom; the system would detect any anomaly affecting the commitment and/or authorization.

68. The condition in contracts according to which reports are considered as accepted in the absence of a reaction from the Commission after one month was removed in 1994. In the case referred to the contract was for the execution of a particular task on the basis of an agreed price.

TOURISM AND THE OTHER COMMUNITY POLICIES

Coordination between the Commission's various departments

Interdepartmental consultations

73. As regards the question of sharing the costs of computerized reservation systems, it should be noted that the meeting held in March 1994 was not a consultative meeting of the sectors concerned, but an information meeting on the interpretation of one clause of the CRS Code of Practice; only the Legal Service was to be included in this meeting. On the other hand, Directorate-General XXIII was fully associated with questions of extending the Code of Practice to travel agencies.

As to the draft Commission communication on air traffic congestion, it is correct that DG XXIII was not consulted on the first draft. Contacts nevertheless subsequently took place between the two Directorates-General concerned. Directorate-General XXIII took a timely part in Directorate-General VII's reflection during preparation in late 1995 of the White Paper on air traffic management.

The ERDF and tourism

Results of the Court's audits

Observations concerning expenditure declarations

79. The Italian 1990 to 1993 tourism OP was approved on 14 December 1990 but it was implemented under the revised financial provisions of June 1991. In order to release certain Commission payments (the advances on each instalment), the Commission decided, at the Member State's request and in accordance with the provision quoted by the Court, to take the certified

expenditure as relating to payments to final beneficiaries. As regards the balance, however, declared expenditure should relate to payments effected by the final beneficiaries, documented by receipted invoices or accounting documents of equivalent standing.

In the Commission's view, there is no inconsistency here with the applicable financial provisions.

80. The Italian authorities have undertaken to carry out checks to identify any cases where the expenditure declared is different from the expenditure actually incurred by the final beneficiaries, and to correct accordingly the amounts certified to the Commission. This matter has been raised by the Commission representatives in the Monitoring Committee meetings of October 1995 and June 1996.

As for the case of the final beneficiary who retained for three years part of the amounts advanced without using it for the project, the Commission has been informed that this was caused by delays in the implementation of the project following suspension of certain phases by the superintending authority for reasons of non-respect of the rules concerning the protection of the historical and cultural heritage.

81. In the first case, the Commission has been informed by the Irish Department of Tourism and Trade that the error in the accounting records and the declaration of expenditure was corrected in March 1994 when it was discovered by the intermediate organization (Bord Failte).

As for the non-allocation between the different Structural Funds of expenditure declared by the Leader groups and the indicative allocation of this expenditure when declared to the Commission, the Irish Department of Agriculture, Food and Forestry undertook to present to the Commission a detailed account of actual expenditure by group and by fund. In June 1996, the Commission asked the Department for a specific confirmation of the accuracy of the allocation of the expenditure in the final declaration. Until clarification of this point, the final payment on the programme is suspended.

82. The Commission has found a number of inaccuracies in the declarations of expenditure for the Northern Ireland tourism OP and has requested the necessary corrections. All annual reports have been received and approved by the Commission; the final report has been received in draft and is under discussion. Because of the weaknesses in the accounting procedures, the Northern Ireland Tourism Board has recently been subject to examination by the UK National Audit Office. The closing payment on the programme is suspended until the settlement of the accounting problems and the approval of the final report by the Commission services.

Observations concerning specific projects

83. The Irish Department of Tourism and Trade has explained that the amounts not spent (minor savings) on a number of projects were reallocated after the final date for commitments to the projects presenting cost overruns, without however altering the overall position. In June 1996, the Commission asked the Department to verify that the expenditure included in the final declaration relates only to legal and financial commitments undertaken before the final date for commitments. Until clarification of this point, the final payment on the programme is suspended.

84-86. The Commission is following up the cases mentioned by the Court, especially in the framework of the Monitoring Committee, where it is informed regularly about the situation. The programme's annual progress report, required by the Commission, was submitted to the meeting of the Monitoring Committee on 13 June 1996. It contains, *inter alia*, information on the financial situation and physical progress of projects, together with a report on any legal problems encountered. If necessary, the Italian authorities will be asked to reduce the aid concerned.

87. Of the three projects referred to, one has, since the Court's audit, received planning permission and is proceeding. The other two have been abandoned. On 2 August 1996, the Commission initiated the procedure provided for in Article 24 of Regulation (EEC) No 4253/88, as amended, which provides for cancellation of assistance in certain circumstances.

88. Such projects, in the area of the public sector, are not expected to make substantial profits but to act as a stimulus to private, non-grant-aided investment in their geographical areas. The Commission is aware that several of these projects have performed a vital role in levering substantial non-grant-aided private investment in areas which would otherwise not have attracted such investment.

As for the visitor park project which encountered financial problems and finally ceased trading, a full report on its history and finances has been requested by the Commission.

89. In the first case, there was no environmental impact study because when this marina project was approved under the Integrated Mediterranean programme there was no such requirement. The prevention of coastal erosion required further work (construction of two breakwaters) which were financed under the tourism operational programme as a subsequent phase of the marina project. However, before completion of the works on the breakwaters, exceptional weather conditions

caused coastal damage* requiring the amount of ECU 37 000 for repairs.

In the second case, the final cost of the project was Dr 172 million (ECU 580 000), but only Dr 149 million (ECU 500 000) was considered as expenditure eligible for ERDF co-financing.

90. The maximum rate of assistance granted to the revenue-generating project of renovation of the bungalows of the hotel complex has not been completely clarified by the Greek authorities in their reply to the audit report of the Court of Auditors. The Commission has taken the matter up with the Ministry of National Economy, asking for a complete justification, in the absence of which the grant will be reduced. Meanwhile, the final payment on the programme is suspended. However, the Hellenic Organization of Tourism, beneficiary of this project, is a public sector organization with economic development and social objectives and not a private, profit-seeking company; it appears therefore that the relevant project is a public and not a private investment.

The works carried out correspond to the revised technical plans (renovation of 65 bungalows instead of 54 initially planned). This revision also required modification of the initial contracts. The Commission has been informed by the Greek authorities that the two 'VIP bungalows' have not been placed exclusively at the disposition of the State but are for the use of clients.

91. The Commission has taken up with the Ministry of National Economy of Greece the question of the lack of supporting documentation for the expenditure concerning this hotel investment and has asked why the fire report was not presented to the Court's auditors. The Ministry has informed the Commission that it is currently conducting a formal administrative investigation including testimonies from everybody involved and an on-the-spot control mission.

92. In Greece following a decision of the Monitoring Committee, letters were sent in 1994 (before the Court's audit) by the President of the Monitoring Committee to all private beneficiaries informing them about the Community co-financing.

As regards Italy, since the start of the programme the Commission has reminded the national authorities, in particular in the framework of the monitoring committees, of their responsibilities regarding information and publicity for work subsidised from the structural funds. At the most recent Monitoring Committee meetings the responsible authorities have provided information on the steps taken *vis-à-vis* final beneficiaries (correspondence, visits) with a view to ensuring that the rules in force are adhered to.

CONCLUSION

93. After a detailed further investigation it is now clear that the contractor in question did not fulfil all his obligations in performing his project at the price of ECU 500 000. However, it was not possible to conclude from either the content or the context of the information

received in June 1992 that this would be the case, or that there had been irregularities (see the response to paragraph 21). It should also be noted that it was Directorate-General XXIII which took the initiative of the inquiries which led to withholding of the final payment of ECU 100 000, and to recovery proceeding for an amount currently estimated at ECU 82 817,53.

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