

SPECIAL REPORT No 3/98

concerning the implementation by the Commission of EU policy and action as regards water pollution accompanied by the replies of the Commission

(Pursuant to the second indent of paragraph 4 of Article 188c of the EC Treaty)

(98/C 191/02)

TABLE OF CONTENTS

	<i>Paragraph reference</i>	<i>Page</i>
INTRODUCTION	1—10	3
CHAPTER I — IMPLEMENTATION OF THE DIRECTIVES	11—44	7
Transposition of the Directives into national law	12—15	7
Reporting by the Member States	16—23	7
Progress against the specified timescales	24—44	8
Urban waste water treatment Directive	24—28	8
Nitrates Directive	29—37	9
Sludge Directive	38—44	10
CHAPTER II — EU EXPENDITURE ON THE IMPROVEMENT OF WATER QUALITY	45—56	11
Budgetary implementation	45—51	11
Data deficiencies	52—53	13
Lack of specialised data	54—56	13
CHAPTER III — AUDIT OF PROJECT IMPLEMENTATION	57—127	14
Conformity with the UWWT Directive	57—62	14
Project performance	63—101	15
Outdated design of projects	64—68	18
The problems of stormwater and industrial waste water	69—77	18
The cost of projects — planned versus actual costs	78—84	19
Delays in carrying out projects and their effects on the increase of costs	85—91	20
Management of projects by the responsible authorities	92—96	20
Malfunctioning treatment plants	97—101	21
The Envireg Initiative	102—125	22
Problems of implementing the Envireg CI	105—112	22
‘Ambiente e Regione’ (AMBER) technical assistance network	113—119	24
Ex post facto assessment of the Envireg CI	120—125	25
The LIFE Programme	126—127	26
CHAPTER IV — THE QUESTION OF WATER CHARGES	128—134	26
Water charges	129—134	26
CONCLUSION	135—141	27
TECHNICAL ANNEX: Tables 1—9		29
The Commission’s replies		35

INTRODUCTION

1. Article 130r of the EC Treaty empowers the European Union to pursue certain objectives for improving the environment by controlling, reducing and preventing pollution. Policies aimed at achieving these objectives should be consistent with, and reinforce, other EU policies, and the principle that the 'polluter pays' should normally apply.

2. The Commission has the initiative under the Treaty to propose Directives aimed at the achievement of EU objectives in the environment field. These Directives, once agreed by the EU, have then to be transposed into national legislation by the Member States. Failure to take action within the timescale specified in a Directive exposes a Member State to infringement proceedings by the Commission before the European Court of Justice.

3. One of the fundamental objectives of EU environment policy is the reduction of water pollution and the improvement of water quality. Since 1973 some 20 Directives have been agreed concerning aspects of water quality. Three of the most important Directives concerning the reduction of water pollution are:

- (a) the urban waste water treatment Directive (UWWT Directive)⁽¹⁾. Its aim is that by the year 2005 almost all agglomerations in the EU above 2 000 population equivalent (p.e.)⁽²⁾ should be provided with collecting systems and waste water treatment plants. Available data shows that more than 40 000 waste water treatment plants are to be constructed or renovated in order to meet the new European water pollution limit values;
- (b) the Directive concerning the protection of water against pollution from nitrates from agricultural sources (the nitrates Directive)⁽³⁾. This Directive ties

in with the objectives of the reform of the common agricultural policy (CAP) and with environment-related aspects, for which significant funds from the EAGGF-Guarantee budget are to be spent in the coming years;

- (c) the Directive concerning the protection of the environment and especially of the soil when sewage sludge is used in agriculture (the sludge Directive)⁽⁴⁾. This Directive is directly linked to the increased number of sewage stations, since treated sludge is a by-product of the stations.

4. Substantial costs are associated with the implementation of these Directives. The UWWT Directive requires the construction of many new water treatment facilities, a task which normally falls to public authorities. The capacity of the required facilities depends not only on the amount of household waste but also on the quantity of untreated industrial discharges into the sewerage system. Application of 'the polluter pays' principle requires either that industrial water pollution is eliminated or corrected at source by the industry concerned, or at least that the industry bears the extra costs it imposes on the public treatment facilities. The nitrates Directive prescribes conditions governing procedures for the use of nitrates on agricultural holdings and the quantities permitted, with the aim of preventing, in particular, the pollution of groundwater and surface water by effluent from stock rearing. The sludge Directive is similarly concerned to protect the soil from pollution resulting from the agricultural use of sewage sludge.

5. The cost of implementing the UWWT Directive for the national budgets is very difficult to estimate. For France it is estimated to reach ±12 355 Mio ECU (80 000 Mio FF)⁽⁵⁾ for the sewage stations only, without considering the collection systems. For Greece it is estimated to reach 1 000 Mio ECU, for Portugal 1 300 Mio ECU, for Spain (only for Objective 1 regions) 5 500 Mio ECU and for Ireland 550 Mio ECU⁽⁶⁾. Another study⁽⁷⁾ has shown that the cost of implementing the UWWT Directive in nine Member States could reach the amount of ±201 120 Mio ECU at May 1995 prices (see *Table 1*).

⁽¹⁾ Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment, OJ L 135, 30.5.1991, p. 40.

⁽²⁾ Population equivalent: Population equivalent is mainly a conversion value derived by the comparison of trade waste water or industrial waste water with domestic sewage as determined from the daily quantity of sewage water or sewage substances. It is based on what is known as the 5-day biochemical oxygen demand (BOD5). This is measured by a test (5-day BOD) in which the biological oxidation process is mimicked in the laboratory over a period of 5 days to give a measure of the amount of the oxygen required to oxidise the waste against a standard. This definition is accepted and applied by the Commission in all measurements.

⁽³⁾ Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources, OJ L 375, 31.12.1991, p. 1.

⁽⁴⁾ Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture, OJ L 181, 4.7.1986, p. 6.

⁽⁵⁾ Source: Ministry of the Environment (Water Department), Paris 1996.

⁽⁶⁾ 'Environmental Investment needs in the Lagging Regions — final report to the Community', July 1991 (ERL-ESPAÑA SA).

⁽⁷⁾ 'Transposition of the UWWT Directive and Nitrates Directives — Approaches in other Member States', National Rivers Authority (NRA), Bristol, May 1995.

TABLE 1

Estimated cost of implementing the UWWT Directive in some Member States

	B	DK	ES	F	D	I	IRL	P	UK	Total (Mio UKL)	Total (Mio ECU)
Population (million 1991)	10	5,1	38,8	56,8	78,7	57,5 (1989)	3,5	10,5 (1989)	57,6		
Requirement											
Collection	150	—	—	—	40 000 ⁽⁵⁾ ⁽⁶⁾	—	—	500	—		
Rehabilitation	180	—	—	—	20 000 ⁽⁵⁾ ⁽⁶⁾	—	—	200	—		
New treatment infrastructure	850	—	—	—	—	—	250	—	—		
Total in Mio UKL	2 420	850 ⁽²⁾	8 000 ⁽³⁾	17 600 ⁽⁴⁾	120 000 ⁽⁴⁾ ⁽⁷⁾	8 400 ⁽⁴⁾	1 200 ⁽³⁾	900	8 300	167 670	
Total in Mio ECU ⁽¹⁾	2 910	1 020	9 600	21 110	143 950	10 070	1 440	1 070	9 950		201 120

⁽¹⁾ Exchange rate May 1995 (ECU/UKL).

⁽²⁾ For implementing the National Action Plan.

⁽³⁾ McCann et al (1994).

⁽⁴⁾ Haddon (1994).

⁽⁵⁾ ATV 1994.

⁽⁶⁾ These figures relate only to the situation in West Germany.

⁽⁷⁾ UKL 80 billion in the west and UKL 40 billion in the east.

Source: NRA Study on the Cost of Implementation of the UWWT, May 1995.

6. The nitrates Directive is an equally important directive in terms of combating water pollution from agricultural sources. Its aim is that Member States should reduce water pollution caused or induced by nitrates from agricultural sources, and improve farming methods. Its implementation cost in France is estimated to be ± 618 Mio ECU (4 000 Mio FF)⁽⁸⁾.

7. Financing sewage stations has a significant impact on the generation of sludge. Since sludge is processed in the same plant as waste water, the cost of implementing this Directive is partly covered by the UWWT Directive. The cost of implementing the sludge Directive will increase as a function of the transposition of the UWWT Directive. However, another significant part of the costs (the preparation of appropriate landfills) will be added progressively. The Court found no reliable financial information for this.

8. As well as taking the lead in setting EU standards and monitoring their enforcement, the Commission makes an important contribution to the implementation of the EU policies through its financial contributions,

mainly through the Structural Funds in Objectives 1, 2 and 5(b) areas, to programmes and projects aimed at environmental objectives. The financial effort of the European Union in favour of the environment and especially of the quality of water is significant. Environmental expenditure by the Structural Funds has doubled for the new Community Support Framework (CSF). Expenditure for Objectives 1, 2 and 5(b) increased from 54 500 Mio ECU for the period 1989-93 to 107 000 Mio ECU for the period 1994-99 (see *Table 2*). Although the data presented in *Table 2* concerning environmental expenditure for the 1994-99 period does not include 1997-98 Objective 2 appropriations, it appears that the environmental expenditure in the CSF and the OP (operational programmes) is evolving proportionally. Environmental expenditure represents 9% of the European Union budget in Objective 1 regions, 5,7% in Objective 2 and 11,7% in Objective 5(b), and includes contributions by ERDF, ESF and EAGGF Guidance. The share of the water-related expenditure (including water provision and waste water treatment projects) is approximately 7% of total Structural Funds expenditure. However it represents the most important part of total environmental expenditure ($\pm 80\%$).

⁽⁸⁾ Source: Ministry of the Environment (Water Department), Paris 1996.

TABLE 2

Structural Funds Financing of Community Environmental Policy and of Waste Water Treatment by Source and Objective (Europe 12 Member States)

(Amounts previewed in the CSF)

(Mio ECU)

	Period 1989-1993 (Programme)			Period 1994-1999 (Programme)						Environment ⁽³⁾			
	Structural Funds Total ⁽¹⁾ (a)	Envir + Water Total ⁽²⁾ (b)	% (b/a)	Structural Funds Total ⁽³⁾ (c)	Envir. Total ⁽³⁾ (d)	Water supply and Water Treat. ⁽³⁾ (e)	% (d/c)	% (e/c)	% (e/d)	ERDF 1994/1999	ESF 1994/1999	EAGGF Guidance 1994/1999	Total 1994/1999
Objective 1	44 088,60	4 294,00	9,74	93 809,00	8 327,00	6 970,00	8,88	7,43	83,70	7 755,20	549,90	21,90	8 327,00
Objective 2	7 476,00	1 143,00	15,29	6 975,20 ⁽⁴⁾	397,00 ⁽⁴⁾	162,00 ⁽⁴⁾	5,69	2,32	40,81	363,50	33,10		396,60
Objective 5(b)	2 977,60	415,00	13,94	6 144,70	721,00	216,20	11,73	3,52	29,99	302,80	108,60	309,10	720,50
Total	54 542,20	5 852,00	10,73	106 928,90	9 445,00	7 348,20	8,83	6,87	77,80	8 421,50	691,60	331,00	9 444,10

Sources:⁽¹⁾ Fifth annual report on Structural Funds COM(95) 30 final.⁽²⁾ Proposal amending Regulation 1973/92 (LIFE) COM(95) 135 final (includes water supply and water treatment projects).⁽³⁾ 7th annual report on the Structural Funds COM (96) 502 final.⁽⁴⁾ Covers two years only (1994-1996).

9. The audit enquiry which is the subject of this report accordingly addressed two main issues:

- a) the extent of action by the Commission and the Member States to implement the three Directives, and
- b) whether or not the water treatment, etc, facilities constructed with financial contributions from the EU are contributing to the achievement of the EU's policies as established in the Directives.

10. The audit of projects was carried out in various regions of seven Member States of the European Union. Germany (Sachsen), Greece (Attica, Crete and Macedonia), Spain (Andalucia, Asturias, Canarias, Cantabria, Castilla la Mancha and Galicia), France (Brittany and Corsica), Ireland (Dublin and Kerry), Italy (Basilicata and Puglia) and Portugal (Alentejo, Centre and Madeira) were visited.

CHAPTER I

IMPLEMENTATION OF THE DIRECTIVES

11. The major objectives and requirements of the three Directives are summarised in *Tables 1, 2, 3 and 4 of the attached Technical Annex*. Effective implementation of the Directives requires their transposition into national law, the establishment of plans or programmes for the achievement of objectives (covering both requirements concerning the behaviour of economic operators and the construction of facilities to improve water treatment and quality) and the provision of information about progress towards the achievement of the objectives.

Transposition of the Directives into national law

12. There were problems with the transposition of the urban waste water, nitrates and sludge Directives in almost all the Member States. The Court noted substantial delays: up to three years for the urban waste water and sludge Directives and four years in the case of the nitrates Directive. As of end-1996 some Member States had still not transposed them⁽⁹⁾. Others had conformity problems and problems in bringing regional

legislation into line with the quality standards required by the Directives.

13. In the 1996 edition of its annual publication concerning its monitoring of the implementation of Community law⁽¹⁰⁾, the Commission drew attention to numerous instances of non-conformity with, non-application or incorrect application of the directives. In these cases the Commission is required by Article 169 of the EC Treaty to institute the procedure for failure to fulfil an obligation. The action provided for under this procedure has been instituted against Portugal (non-conformity) and against five Member States (Germany, Greece, Spain, Italy and the United Kingdom) for not notifying national measures transposing the urban waste water Directive. In this context the Commission has taken the matter to the EC Court of Justice in the case of three of these six (Germany, Greece and Italy).

14. Similar proceedings were also instituted in connection with the nitrates Directive, against France, for incorrect application of the Directive, and against six Member States (Belgium, Greece, Spain, Italy, Netherlands and Portugal) for non-conformity; reasoned opinions were also sent to these Member States. It is possible that the procedure for non-notification of national transposing measures will also be instituted against two Member States (Austria and Finland). Finally, this same procedure was invoked against France in connection with the sewage sludge Directive (86/278/EEC) and a reasoned opinion was sent.

15. Delays in transposing these Directives have led to delays in Member States' preparation of a number of reports required by the Directives. The reports in question are subsequently used as the basis for the assessments which the Commission is required to carry out in order to ascertain the extent of water pollution and/or the progress achieved towards applying the directives correctly, so that the Commission and the Member States can review their management and financial policies on water quality as necessary.

Reporting by the Member States

16. *Table 5 of the Technical Annex* shows the reporting requirements imposed by the Council Directives for all Member States, for water pollution alone. A Commission study⁽¹¹⁾ has pointed out that problems could arise with the reporting frequencies and the monitoring methods used. For the UWWT Directive the Court found that the Commission had not received the

⁽⁹⁾ Directive 91/271/EEC (UWWT Directive) has not been transposed by Germany, Greece and Italy; Directive 91/676/EEC (nitrates) not transposed by Austria and Finland. It was not correctly transposed by Belgium, Greece, Spain, Italy, Netherlands, Portugal and not correctly applied in France.

⁽¹⁰⁾ Fourteenth annual report on monitoring the application of Community law, OJ C 332, 3.11.1997, pp. 184 and 185.

⁽¹¹⁾ 'Final Report to the Commission on the comparability of quantitative data on waste water collection and treatment', European Water Pollution Control Association, April 1995, Contract No B4/3040/93/000924/JS/B1 with the Commission.

implementation programme described in Article 17 from all Member States. According to the Community water regulations⁽¹²⁾, moreover, some of the data should nevertheless be forwarded to the Commission systematically.

17. The Court found that some Member States do not provide reports on the implementation of the directives that were under review. This applied particularly to the information on the programmes for implementation of Directive 91/271/EEC, which Member States must report to the Commission in accordance with Article 17 of the same Directive and which seven Member States had still not forwarded to the Commission as of September 1996. It also applied to the reports provided for by Article 13 (2), in relation to industrial discharges, and Article 16, which requires Member States to report on the disposal of urban waste water and sludge in their areas. In consequence the Commission has carried out neither the assessments provided for in Article 17 (5), nor the comparisons provided for in Article 13 (3).

18. Concerning the reporting requirements of the 'sludge Directive', the Court noted that some Member States had not forwarded their reports on the implementation of the Directive to the Commission by September 1996. Initially they were required every four years and since 1991 have been required every three years. The reports already received are incomplete, particularly those relating to period I (1987-90). For the second period (1991-94), only five Member States have sent summary reports in compliance with the reporting Directive 91/692/EEC. In both cases the reports were written and sent to the Commission only after significant delays.

19. The late forwarding of the reports to the Commission has meant that the Commission has only published one report, on 27 February 1997, and has not submitted appropriate proposals to the Member States, as provided for in the UWWT Directive. Consequently the Member States are unable to take advantage of this essential information for their policy development in this field.

20. The framework regulation for the Structural Funds (Regulation (EEC) No 2052/88, as amended by Regulation (EEC) No 2081/93 of 20 July 1993) stipulates that the regional development plans for Objectives 1, 2 and 5 (b) regions must include an appraisal of the current environmental situation and the development priorities, as well as the specific objectives, quantified wherever possible. Article 8 also stipulates that the Community support frameworks (CSFs) for these regions must

contain quantified development objectives and cover the progress to be achieved in relation to the situation at the outset.

21. Furthermore, the Regulation coordinating the various Structural Funds, as amended by Regulation (EEC) No 2082/93 of 20 July 1993, and the standard clauses on CSF implementation and the tasks of the CSF monitoring committees both provide for indicators to be used as a means of monitoring and continuously assessing the CSFs. On this basis the Commission, in agreement with the Member States, identified a whole list of indicators and established a database for monitoring the 13 main expenditure categories financed by the Structural Funds (transport, energy, water, environment, telecommunications, etc).

22. The Court found that the database covered the period 1986-91, but for Objective 1 regions only. The data on the environmental indicators, and the treatment of waste water in particular, are, in most cases, non-existent and when they are available, they do not cover all regions and all Member States.

23. In its document 'Directions for the EU on environmental indicators and Green national accounting'⁽¹³⁾ the Commission has accepted that economic indicators should be developed in parallel with environmental ones. In the field of waste water and in relation to the UWWT Directive, the Commission has established only quality indicators and population equivalent (PE)/quality indicators. However the Directive assumes that economic and environmental indicators already exist. A similar conclusion may be drawn by an examination of Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 97/11/EC⁽¹⁴⁾.

Progress against the specified timescales

Urban waste water treatment Directive

24. The objectives of Directive 91/271/EEC (Article 4) include provision that 'agglomerations' with a p.e. of less

⁽¹²⁾ Article 17 of Directive 91/271/EEC concerning urban waste water treatment and Commission Decision 92/446/EEC concerning questionnaires relating to directives in the water sector, as amended by Decision 95/337/EEC.

⁽¹³⁾ Communication of the Commission to the Council and the European Parliament — Directions for the EU on Environmental Indicators and Green National Accounting. The integration of Environmental and Economic Information Systems (COM(94) 670 FINAL).

⁽¹⁴⁾ Council Directive 97/11/EC of 3 March 1997, which enters into operation in 1999, amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, OJ L 73, 14.3.1997, pp. 5-15.

than 15 000 must be provided with treatment plants by the end of 2005; in the case of agglomerations with a p.e. of more than 15 000 the date is the end of 2000; in most cases the plants must provide secondary or tertiary treatment. In the case of sensitive areas the target date was 1998 (see *Table 1 of the Technical annex*). Most of the Member States visited were finding it difficult to achieve these objectives within the specified time frame.

25. There are currently more than 40 000 sewage plants in operation in the Member States (see *Table 6 of the Technical annex*). Although the statistics that are available in this area are not homogeneous and, therefore, difficult to use, the Court has estimated that almost 30 % of the plants built before 1992 ought to be upgraded. In the case of Belgium and Italy almost half the existing plants are likewise in need of upgrading⁽¹⁵⁾. In the case of Member States that have not yet defined sensitive areas (where plants must be of the tertiary treatment type) the figures for such plants should probably be higher.

26. According to the available data (see *Table 7 of the Technical annex*), the percentage of the population served by sewage plants in 1990 was, on average, 69 % (Eurostat data), ranging from 10 % (Greece) to 98 % (Denmark). Taking into account the information given in the preceding paragraph and the fact that many small municipalities do not yet have sewage plants, it can be estimated that around 40 000 plants will need to be built or renewed by the end of 2005.

27. In addition there are a large number of projects for the construction of sewerage systems. As can be seen in *Table 8 of the Technical annex*, the average level of connection to sewage systems in the Member States in 1994 was around 76 %. Even though the Directive does not specify time limits for connection to such systems, it is obvious that the connections must be completed before the end of 2005 if plants are to comply with the Directive. The works involved in providing connections and collection systems are sometimes difficult and are also subject to delay, since most of the work takes place in urban areas.

28. In all the Member States where the Court carried out audits the authorities confirmed the possibility of their being unable to fulfil their statutory obligation (to construct sewage plants) within the specified time frame, especially in the case of the 'small' agglomerations which are also confronted with the problem of financing the investment. If the construction work is speeded up in order to meet these deadlines there is a risk that the quality of the work may suffer. In the Court's opinion the Commission should have given this matter closer consideration, long before the implementation deadlines specified in the Directive.

⁽¹⁵⁾ Transposition of the UWWT and nitrates Directives, NRA, 1995.

Nitrates Directive

29. The main objective of this Directive is to reduce the water pollution caused by nitrates from agricultural sources. *Table 3 of the Technical Annex* shows the main implementation requirements to be met by the Member States. The definition of a code of good agricultural practice and the introduction of training and advisory programmes for farmers form part of this effort. The concepts of vulnerable areas (nitrates Directive) and sensitive areas (urban waste-water Directive) are closely related and demonstrate the importance of coordination between departments at the Commission and in the Member States.

30. Studies financed by the Commission⁽¹⁶⁾ indicate that there are serious problems with water pollution from nitrates in some Member States, for example, Belgium, Denmark, some regions of Germany, France, Netherlands and United Kingdom. Brittany (France) was selected primarily because it receives Community aid under the three Structural Funds, but also because it is an area in which the problem of water pollution is particularly acute. A review of the action taken in the region confirmed that much remains to be done.

31. The population of the region is exposed to nitrate concentrations considerably higher than the 50 mg/litre limit imposed by the nitrates Directive and the drinking water Directive, Directive 80/778/EEC⁽¹⁷⁾. In 1990, however, this Member State launched the Bretagne eau pure ['Brittany pure water'] programme with a budget of 500 Mio FF and the objective of stabilising the quantity of nitrates in the water and thereby improving its quality. Several million pigs are, however, reared in the region and there is no effective infrastructure for treating or otherwise dealing with the manure.

32. It must be pointed out that Community policies are inconsistent. Nitrogen-fixing crops (certain grasses, clover, lucerne, legumes, etc) could be beneficial in resorbing excess nitrogen from the soil, but the Community aid for maize silage is significantly higher than that for the former crops and they are ignored by producers in consequence. For example, 55 Mio ECU was paid to Breton farmers under the 1996 budget, as subsidies for the cultivation of maize for silage⁽¹⁸⁾. Furthermore, Commission subsidies are not available for rewooding in Objective 2 areas, even though this can be a very important factor in preventing and eliminating

⁽¹⁶⁾ Europe's Environment, The Dobris Assessment, European Environment Agency (Copenhagen), 1995.

⁽¹⁷⁾ Council Directive 80/778/EEC of 15 July 1980 relating to the quality of water intended for human consumption, OJ L 229, 30.8.1980, p. 11.

⁽¹⁸⁾ Source: Table of information at 15 January 1996 pursuant to Commission Regulation (EEC) No 1664/93 of 29 June 1993. Regulation published in OJ L 158, 30.6.1993, p. 19.

nitrate pollution in water and is particularly relevant in Côtes d'Armor, where the problems associated with these substances are most acute.

33. One of the cooperatives visited by the Court was an association of 1 500 farmers who raise almost 3 million pigs per year. Of these farmers only two had sewage treatment plants. The same cooperative was due to receive a subsidy of 72 000 ECU (504 600 FF) through the ERDF under Objective 2 for the construction of a pilot treatment plant, but the project had to be abandoned for technical and bacteriological reasons before it was finished. The ERDF aid was accordingly reduced pro rata to the eligible expenditure, to 62 784 ECU (440 011 FF).

34. The French action programme for vulnerable zones is still in preparation. It should have been ready by 31 December 1995. A programme for controlling pollution of agricultural origin (PMPOA) has been put in place and a map of the cantons that are 'in structural surplus' (more than 170 kg/ha of organic discharge) has been drawn up. It must be emphasised, however, that these statistics only take account of current discharges of organic waste in general, and nitrates in particular, without considering the hydrological sensitivity of the areas in question and without any study of the subject beforehand.

35. In Brittany the ERDF aid sometimes took the form of funding for experimental agro-industry projects, but, in the nature of experimental projects, some of them ended in total or partial failure. It would be better if the Commission funding for this type of project could be combined with measures to promote the exchange of experience. The Commission should collaborate with Member States to publicise the results of experiments more widely, not only at regional and provincial level, but at national level as well.

36. In the case of the French Objective 2 OPs in particular, the Commission systematically excluded any urban water-treatment project and any investment of an agricultural nature, and also criticised the Member State for putting forward too many experimental projects. The draft single programming document (DOCUP) Objective 2 (period 1994-96) that was submitted by the Brittany region initially concentrated on two aspects and seven measures. After the Commission's amendments it comprised 27 measures spread over five aspects. Under these circumstances the projects that received funding were very small and their expected impact in terms of environmental improvement was extremely slight.

37. The dispersal of ERDF funds over measures of varying types, combined with the low volume of the environmental projects financed by the ERDF within the region and the lack of a proper policy for publishing the results of the pilot experiments already funded, is

contrary to the objectives which the Commission hoped to achieve with regard to water quality.

Sludge Directive

38. The implementation of the sludge Directive is closely linked to the implementation of the UWWT Directive, since the increase in the number of sewage plants will result in an increase in the sludge produced. *Table 4 of the Technical Annex* sets out the major implementing requirements to be met by the Member States. According to a Commission survey in 1994⁽¹⁹⁾, 6,5 Mio tonnes of sludge are produced each year in the EU. Around 40% of the sludge produced in the EU comes from 1,3% of the sewage plants, from the urban centres having more than 100 000 p.e. (see *Table 9 of the Technical Annex*). It is therefore necessary for sewage plants in large urban centres to be improved technically so that they can produce treated sludge for organic fertiliser that is compatible with the terms defined by the Directive.

39. Depending on the quality of the sludge produced by the sewage plant, it is either stored in selected landfills (40%), used in agriculture (37%) or incinerated (11%). A part of it is dumped at sea (6%), which will be prohibited after 1998⁽²⁰⁾. Production is expected to reach 10,1 million tonnes/per year (15,5% increase) in the year 2005 due to the application of the UWWT Directive.

40. In many of the Member States the use of treated sludge in agriculture presents problems concerning its quantity or its quality, as defined by the Regulations. In Brittany (France) sludge is used in addition to chemical fertilisers, which is contrary to the objective of the Directive in terms of pollution limits. In Corsica sludge, treated and untreated, is widespread in sites designated for public waste disposal. Failure to implement efficiently the Envireg measure on the elimination of solid waste — for which only 25% of the appropriations allocated were used — has resulted in the deterioration of the solid waste situation on the island. This was also the case with a project in Portugal, where sludge was disposed of in the open, further increasing pollution.

41. At the water treatment plant of Alviela in Portugal the untreated sludge was being disposed of close to the centre of an olive grove. The treatment plant received its waste water from a large industrial complex where there were tanneries and the water contained large quantities of mercury.

42. In Ireland only 15% of the total sludge produced was treated (32 000 tonnes in 1993). About 50% of the

⁽¹⁹⁾ 'EWPCA: Final Report to the Commission (DG XI) on the Comparability of Quantitative Data on Waste Water Collection and Treatment', April 1995.

⁽²⁰⁾ Article 14 (3) of Directive 91/271/EEC (UWWT Directive).

untreated sludge was dumped at sea, aggravating the problems of coastal and marine pollution. In Galicia (Spain) and Corsica (France) sludge was also put in unsupervised and ill-prepared sites, with attendant risks to groundwater.

43. The issue of the use of sludge in agriculture is still controversial. In some regions in the Member States, for example Saxony, its use in agriculture is forbidden for those farmers who participate in the 'ecological agriculture programme', and it is exported to other regions. In other cases where farmers are permitted to use sludge as a fertiliser, they are obliged to mention the fact when selling their produce. That provokes a negative effect in the market and farmers are more reluctant to use treated sludge for fertiliser, even if it is offered free of charge.

44. As with the nitrates Directive, the Commission has been able to complete some studies on this subject, but they have not been adequately publicised or exploited, neither at the Commission nor in the Member States. It has thus not been possible to demonstrate what the effects might be if farmers were to use sewage sludge as fertiliser.

CHAPTER II

EU EXPENDITURE ON THE IMPROVEMENT OF WATER QUALITY

Budgetary implementation

45. The major part of the contributions from the EU budget in the form of environmental infrastructure

projects are those of the Structural Funds, within which the largest part are the contributions by ERDF (8 421 Mio ECU). Funds are also available from the Cohesion Fund (3 791 Mio ECU) and the EAGGF Guidance appropriations (331 Mio ECU). In addition, the European Social Fund (ESF) provides assistance for education and training on environmental aspects (692 Mio ECU)⁽²¹⁾. Some assistance is also provided by the financial instrument for the environment (LIFE) for innovatory projects (292 Mio ECU).

46. Exact data on the projects and expenditure involved in waste water treatment are generally not available, because Structural Funds contributions to these infrastructure projects are not identified in the various OPs. Consequently the figures provided in *Table 2* are global estimates at Community support framework (CSF) level. The Court could find almost no financial data on environmental expenditure, especially in the field of waste water, in the fifth Annual Report of the Commission, where the first results of the reform of the Structural Funds are examined⁽²²⁾. The Seventh Report on the implementation of the Structural Funds contains some information, although it is neither systematic nor specific regarding waste water treatment, despite the importance of the policy and of the financial amounts involved.

47. Cohesion Fund environment-related expenditure (see *Table 3*) from 1993-96 was approximately 1 847 Mio ECU, representing 48,7% of the Fund's resources. Commitments for water treatment projects for the same period were 1 502 Mio ECU, being 39,6% of the Fund's commitments for environmental purposes or 18,8% of the Fund's total available resources.

⁽²¹⁾ All figures provided cover the period from 1994-99, except for the Cohesion Fund and LIFE which cover 1993-96 and 1994-96 years respectively (see *Tables 2 and 3*).

⁽²²⁾ COM(95) 30 final, Brussels, 20 March 1995.

TABLE 3

Cohesion financial instrument and cohesion fund expenditure in the field of environment and waste water treatment (years 1993-1996)

(ECU)

	Environment			Waste water treatment	
	Commitments	Payments		Commitments	
	Total	Total	%	Total	%
	(1)	(2)	(2:1)	(3)	(3:1)
Spain	2 009 173 906,00	910 170 219,00	45,30	644 425 000,00	32,07
Greece	837 365 911,00	444 877 731,00	53,13	426 339 460,00	50,91
Ireland	322 819 330,00	184 078 834,00	57,02	179 700 000,00	55,67
Portugal	621 608 384,00	307 238 522,00	49,43	252 400 000,00	40,60
Total environment	3 790 967 531,00	1 846 365 306,00	48,70	1 502 864 460,00	39,64
Total transport	4 217 142 548,00	3 369 476 453,00	79,90		
Total (CFI and CF)	8 008 110 079,00	5 215 841 759,00	65,13	1 502 864 460,00	18,77

Source: Cohesion Fund Annual Report years 1993/94/95/96.

48. The Community Initiative (CI) Envireg was allocated 500 Mio ECU (1990 prices) for the period from 1989 to 1993, to finance environmental projects in the less-developed EU regions. Approximately 70% of its resources were allocated for waste water treatment systems (WWTS)⁽²³⁾. The end of 1995 was the formal payments deadline for the Envireg Initiative.

49. EAGGF-Guidance contributions in the field of water treatment are mainly found in the framework of the OP's Objective 1 and Objective 5(b) and Envireg.

50. As in the case of ERDF projects, the number of projects relating to rural waste water treatment is rarely known at the level of the Commission. A study of the agricultural development OP in Northern Ireland showed that among the four sub-programmes one included one measure (for a total cost of 25,1 Mio ECU, including 6 Mio ECU financed by EAGGF Guidance) concerned with

the problem of water pollution in the rural environment and two others concerned with separate treatment of stormwater and treatment of waste. These measures covered 1 158 and 4 782 beneficiaries respectively. This example illustrates how the Commission opted to finance a large number of small projects — a choice which increased the problems of monitoring funded projects effectively.

51. Budget line B4—3040 (Fifth environmental action programme) is designed to finance a wide range of activities such as study contracts, financial contributions, subsidies, technical assistance, publications, conferences, etc. All aim to facilitate the implementation of the objectives of the Fifth action programme. Table 4 shows that water-related expenditure (including waste water treatment and water provision) represented 9 and 9,5% of the total commitments and payments appropriations respectively for the three years 1994, 1995 and 1996. Furthermore, only 40% of the commitments concerning water projects were actually used.

⁽²³⁾ 'Comparative analysis of the Envireg Programme (Final Report)', ECOTEC Research and Consulting, April 1993.

TABLE 4

Commitments and payments 1994-1996 (actions financed under the fifth action programme)

(ECU)

Budget Item (B4-3040) ⁽¹⁾	Total		
	Commitments	Payments	%
	(a)	(b)	(b:a)
Total Line (1)	42 646 813,11	15 619 955,88	36,63
Water Projects (2)	3 759 899,13	1 478 532,28	39,32
% (2:1)	8,82	9,47	

⁽¹⁾ This line includes expenditure covering aspects of Study Contracts, Financial Contributions, Subsidies, Technical Assistance, Publications, Lectures, Meetings and others, for both aspects; Water Supply and Water Protection.

Source: Data DG XI at the date: 20/11/96.

Data deficiencies

52. Considerable differences exist between the terminology used by the Commission and that used by other organisations for certain definitions in the Directives and Regulations. Use of a uniform terminology is essential, not only for scientific purposes, but also for the preparation of inventories of water pollution which are required by almost all important Directives.

53. Moreover, the lack of precise data is particularly significant in the case of the European Regional Development Fund (ERDF), where the Commission (DG XVI) has no detailed information about the amount of its contributions to the improvement of the treatment of urban waste water in the first Community support framework (CSF 1989-93).

Lack of specialised data

54. The environmental protection data that are available refer only to the amounts provided under the Structural Funds overall, with no breakdown by type of Fund or eligible region. The amounts provided in the Objective 1 CSFs are those earmarked for the 'environment' specific aspect and do not take account of other amounts allocated to other aspects that may also contain environmental protection measures. It is difficult to determine the amounts provided in the Objectives 2 and 5 (b) CSFs, because they are spread over several aspects. There are no data for current measures (Integrated Mediterranean Programmes (IMPs), national programmes of Community interest, non-quota measures,

etc). The ex post facto assessments of the 1989-93 CSF did not include a specific assessment in the area of sewage treatment.

55. Under the new 1994-99 CSF the situation with regard to sewage treatment is similar to that of the previous CSF. There are still no data for the Objective 1 regions of Belgium, Netherlands or Portugal; for the Objective 2 regions in Belgium, Spain, Italy, Luxembourg, Netherlands or United Kingdom; and none for any part of Objective 5 (b). The available data are not broken down by eligible region, except in the case of Italy and France (Objective 2), and there is no distinction between treatment and drainage measures (waste water, coastal waters) and distribution measures (irrigation, systems) for Spain and Italy (Objective 1). Not until the new programme (1994-99) was in preparation did the Commission carry out a series of studies in order to determine both the need for investment in sewage infrastructure and the cost of implementing three environmental directives, including Directive 91/271/EEC⁽²⁴⁾. These studies were hampered by a lack of national statistics, however, and the Commission had difficulty in interpreting the forecasts which they produced, because they were disparate and incomplete.

56. Data harmonisation should be one of the major preoccupations of the Commission services, especially when this information is to be used to demonstrate progress and/or the need for further investment. Different sources of data show different percentages of population served by sewage or collecting systems (see *Tables 7 and 8 of the Technical Annex*).

⁽²⁴⁾ 'Environmental investment needs in Objective 1 regions', ECOTEC, July 1993.

CHAPTER III

AUDIT OF PROJECT IMPLEMENTATION

Conformity with the UWWT Directive

57. Article 7 of Council Regulation (EEC) No 2081/93, concerning the Structural Funds, and Article 8 of the Cohesion Fund Regulation⁽²⁵⁾ state that the grant of Community aid is conditional on compliance with all the Community rules on the environment. This is emphasised in the water-treatment projects: the decisions to grant Cohesion Fund aid often refer to Directive 91/271/EEC. There are similar references in connection with various measures and sub-programmes that are being cofinanced as part of ERDF funding for the 1994-99 programming period. A clause of this type is important for compliance with Community law on the environment, but is pointless if the following conditions are not satisfied:

- the clause must be coercive;
- the Commission must have the means of carrying out compliance checks at the level of cofinanced projects.

58. The obligation on Member States to comply with the terms of the Directive derives from Article 19 1, which specifies 30 June 1993 as the final date for compliance with the Directive. The provision in question applies to Member States, whether they have transposed the Directive or not. Projects cofinanced initially by the Financial Instrument and subsequently by the Cohesion Fund must comply with Directive 91/271/EEC, since both it and Council Regulation (EEC) No 792/93 on the Financial Instrument entered into force during 1993.

59. As regards the Envireg CI, which was approved in May 1990, it was agreed in the framework of the negotiations between the Commission and the Member States that, as far as possible, projects involving treatment plants would comply with the terms of Directive 91/271/EEC. The following projects did not, however, comply:

- (a) the project concerning the underwater outfall at La Coruña (Spain) provided only pre-treatment, whereas the Directive requires secondary treatment;
- (b) the sewage plant at Funchal in Madeira (Portugal) was too small (it could only treat between 60 % and 70 % of the volume of sewage from the town) and

was of the primary treatment type, whereas under the Directive it should be of the secondary type;

- (c) the discharge from the Mola di Bari (Italy) sewage plant did not meet the standards laid down by the Directive.

The Community contribution for these projects amounts to 12,7 Mio ECU.

60. There was a similar type of problem with other projects financed by ERDF under the old 1989-93 CSF. The projects in question started in 1990 and were finalised after the date on which the Directive entered into force, but did not necessarily comply with it.

61. This applied to the following projects in particular:

- (a) the Arteixo integrated drainage project (Spain), which provided only pre-treatment, whereas the secondary type is required;
- (b) the collector and underwater outfall at Nigran (Spain), where untreated effluent was discharged direct to the aquatic environment, contrary to the provisions of Article 4 of Directive 91/271/EEC;
- (c) the treatment plant for the Biguglia lagoons (France) did not meet the quality standards provided for in Annex I of the Directive. Further investment of the order of 22 Mio FF should be envisaged for this project, in order to bring it up to the standard required by the Directive.

The Community contribution for the above projects was around 7,2 Mio ECU. There are similar examples in the Cohesion Fund context, for example, operation of the Bassin d'Alviela sewage works (see also paragraph 41). Finance for modernising the plant was obtained through the Cohesion Fund. The Portuguese authorities informed the Commission that the quality criteria laid down by the Directive were not being met and introduced a further application for reprogramming, so that the requisite standards could be achieved. The plant is, in fact, too small in terms of the actual requirements of the area, where there is a high concentration of tanneries. The Community contribution to this project amounted to 4,9 Mio ECU.

62. In conclusion, as the Court has already pointed out, it is regrettable that co-financed work on new sewage works was undertaken without taking account of the requirements imposed by this Directive⁽²⁶⁾. Even though these plants were built recently, the capital costs will be increased because of the additional work that will be needed in the short term, in order to bring them into line with the standards imposed by the Directive.

⁽²⁵⁾ Council Regulation (EC) No 1164/94 of 16 May 1994 establishing a Cohesion Fund, OJ L 130, 25.5.1994.

⁽²⁶⁾ Annual report concerning the financial year 1994, accompanied by the replies of the institutions, OJ C 303, 14.11.1995, p. 109.

Project performance

63. The Court audited 67 projects involving the construction of waste water treatment plants and collection systems. Their total cost was approximately 467,7 Mio ECU and the European Union cofinancing

was 291,7 Mio ECU (see *Table 5*). These projects were cofinanced by the ERDF, the Cohesion Fund, EAGGF Guidance and LIFE. In the following paragraphs the projects are examined for their contribution to the needs of the agglomerations served, the accuracy of the cost estimates and the eligibility of expenditure presented.

TABLE 5

List of audited projects by Member State and main observations

	Country/Project	Total cost (ECU)	EC contribution (ECU)	(a)	(b)	(c)	(d)	(e)
				Paragraphs of report				
	FRANCE (Brittany/Corsica)							
1	Agroclar (ERDF Obj. 2)	309 000	85 000					
2	Matairbi (ERDF Obj. 2)	210 000	62 784	33				
3	Socavi (EAGGF Guid. Obj. 5a)	1 861 432	271 828					
4	Brevial (EAGGF Guid Obj. 5a)	3 638 665	178 460					
5	Abera (EAGGF Guid. Obj. 5a)	3 821 217	478 930				82	
6	Baie de Brest contract (LIFE)	7 735 256	1 867 867					
7	Preliminary study for extension of Ajaccio sewage-treatment capacity (Envireg)	265 872	185 519				86	96
8	Sewerage for Bastia Nord improvement scheme (IOP Corsica Obj. 1)	1 949 285					86	95
9	Preliminary and further studies for Bastia Sud sewage plant (Envireg)	359 484	326 178				86	96
10	Biguglia lagoons sewage scheme (IMP Phase 1 Measure 7 and Phase 3 additional line)	3 028 028	1 509 922	61			86	95
11	Biguglia lagoons sewage scheme (IMP Phase 2)	2 766 307	1 369 914	61			86	95
12	Biguglia lagoons sewage scheme (IOP Corsica Obj. 1)	322 294	233 864	61				95
13	Sewerage La Marana plant (Envireg)	769 600	656 363			70	86	96
	SPAIN (Galicia, Andalucia, Asturias, La Gomera, Cantabria and Toledo)							
14	Valladares Lagares collector (OP Environment Obj. 1)	526 741	277 397				87	96
15	Coruxo-Canido (OP Environment Obj. 1)	1 475 545	854 389					
16	La Coruña underwater outfall (Envireg)	6 533 973	5 070 854	59			88	96
17	La Torre Peninsula sewage scheme (OP Environment Obj. 1)	1 029 820	998 409					
18	Collector Gral. Port of La Coruña (OP Galicia Obj. 1)	835 705	835 705					
19	Arteixo integrated sewage scheme (OP Environment Obj. 1)	4 545 253	3 785 291	61			87	

	Country/Project	Total cost (ECU)	EC contribution (ECU)	(a)	(b)	(c)	(d)	(e)
				Paragraphs of report				
20	Nigran collector and underwater outfall (OP Galicia Obj. 1)		290 546	61				
21	Sabon industrial zone drainage scheme (OP Local Obj. 1)	91 285	27 157			74		
22	Collector Gral. de Loureda (OP Local Obj. 1)	111 113	89 135					
23	Sada integrated sewage scheme (Envireg)	4 768 395	3 232 937				87	99
24	Cabanas/Pontedeume integrated sewage scheme (Envireg)	2 428 883	927 708				87	
25	Ribeira sewage scheme (Envireg)	4 694 725	3 076 089		68		87	
26	Boiro sewage scheme (Envireg)	4 408 436	3 776 503					
27	Rianxo sewage scheme (OP Local Obj. 1)	3 586 055	3 190 925				87	99
28	EDAR river Lagares (Cohesion Fund)	16 097 535	12 878 028					
29	Collector and EDAR Cangas (Cohesion Fund)	4 059 806	3 247 849					
30	EDAR Aljarafe (Obj. 1)	17 765 232	10 659 139					
31	Aviles major sewage scheme (Obj. 1)	20 636 701	12 382 020					
32	Figuereido carbon treatment prior to discharge to Turon river (Obj. 1)	1 636 023	981 614					
33	Sewage plant San Sebastian/P.Santiago/Gran Rey (Obj. 1)	3 718 584	1 860 103					
34	Torreavega sewage scheme (Obj. 1)	43 100 000	15 315 000					
35	Sewage plant Toledo integrated sewage scheme (Obj. 1)	15 554 000	7 777 000			75		
	GREECE							
36	Perama (sewerage Municipality Network) (Obj. 1)	457 207	329 409					94
37	Greater Athens Sewerage (Waste Water Treat. Plant) Psytalia (Obj. 1)	58 715 700	44 035 000				79	
38	Biological Cleaning Sewerage Lavrio (Obj. 1)	2 592 245	1 940 186					
39	Lavrio Arrangement of Sewerage (Obj. 1)	48 381	26 253					
40	Rethimo Waste Water Treat. Plant (Envireg)	6 139 692	4 113 594		65		89	
41	Sewage Treat Plants Veria (Cohesion Fund)	7 291 256	2 047 000				89	
	IRELAND							
42	Ennis Main Drainage (Obj. 1 and Cohesion Fund)	1 482 000	1 213 800					
43	Greystones S. Scheme (OP Obj. 1, Envireg, Cohesion Fund)	27 133 903	20 565 424				91	92

	Country/Project	Total cost (ECU)	EC contribution (ECU)	Paragraphs of report				
				(a)	(b)	(c)	(d)	(e)
44	Waterford Foods (EAGGF Guidance Obj. 5a)	5 073 630	1 775 770			76		
45	Wexford Main Drainage (OP Obj. 1, Cohesion Fund)	48 740 850	36 654 420				91	92
46	Tralee (OP Obj. 1, Envireg)	15 974 747	11 072 615					
47	Killorglin (Envireg)	7 714 360	5 614 789					
48	Dingle (Envireg)	5 950 058	5 104 694				81	
49	Cacherciveen (Envireg)	4 043 833	2 206 365					
PORTUGAL								
50	Baixa Canico sewage scheme waste water treatment plant (Obj. 1)	2 000 000	1 500 000					
51	ETAR Funchal Madeira waste water treatment plant (Envireg)	9 600 000	6 700 000	59	67			
52	Etar San Miguel outfall (OP Centro Obj. 1))	476 654						
53	Odeoluca-Fucho-Franqueira project (Cohesion Fund)	6 009 000	5 107 000					
54	Franca de Xira sewerage improvement (Cohesion Fund)	14 971 000	12 726 000					
55	Alviela Basin sewage scheme (Cohesion Fund)	5 840 000	4 964 000	61,41				
GERMANY								
56	Sachsen Abwasserzweckverband Dippoldswalde (OP Obj. 1)	8 382 815	2 135 424					
57	Berlin	no figures						
58	Bichofswerda (OP Obj. 1)	5 649 534	3 672 407	43				
59	Meißen (OP Ob. 1)	6 370 918	2 619 406	43			83	
60	Hartmannsdorf Oberes Bobritztal (OP Ob. 1)	2 856 200	1 639 224	43				
ITALY								
61	Mola di Bari (Envireg)	1 569 405	780 635	59				98
62	Barletta (POP Puglia Obj. 1)	3 109 760	1 554 880					
63	Taranto (POP Puglia Obj. 1)	10 500 000	5 250 000		66		90	98
64	Brienza (POP Basilicata Obj. 1)	650 223	325 111				90	98
65	Lago Cotugno (POP Basilicata Obj. 1)	13 664 099	6 832 049					98
66	Littorale Ionico (Envireg)	no figures						98
67	Depuracque (LIFE)		405 211					
	TOTAL	467 647 720	291 671 093					

(a) Problems of transposition and of Implementation of the Directives

(b) Outdated design of the projects

(c) Taking account of the problem of stormwater and industrial waste water

(d) The cost of the projects — planned versus actual costs and delays in carrying-out and their effects on the eligibility costs/expenditure

(e) Management of projects by responsible authorities and malfunctioning sewage plants

Outdated design of projects

64. A large number of projects were designed a long time before their construction started and had not always been adapted to take account of population and pollution increases or technological changes.

65. As a consequence, these water treatment plants were, in most cases, of insufficient size or technical capacity to cover the needs of the agglomerations served. Such cases were identified by the Court in a number of Member States. In Greece a sewage plant was constructed without taking into account at the initial stage two closely situated local leather-processing industries, a slaughterhouse and the hotels being developed in the area. The effluent from these industries was discharged into the sea without any treatment. They are located at a distance of 400 m from the treatment plant. It was noted that the beneficiary had requested and received additional funds in order to link the polluter establishments with the treatment plant. The cost of this project is 6,1 Mio ECU.

66. The initial plans for the construction of a sewage plant in Italy dated from 1988 but the technical aspects of the project had to be revised because of budgetary restrictions, resulting in the construction of a plant with a treatment capacity that is inadequate for the needs of the town.

67. The Funchal-SRESA project, in Portugal, allowed only 60 to 70 % of the urban waste water to be treated. Moreover it was designed as a primary treatment plant, whereas it should have provided secondary treatment. The total cost was 9,6 Mio ECU.

68. In a collecting system and a sewage plant that were under construction in Galicia, the collectors designed were insufficient for the total volume of stormwater received. In addition, seawater was entering the main collector and causing problems to the functioning of the pumping stations. This will later affect the functioning of the sewage plant itself. The cost of the project was \pm 4,7 Mio ECU.

The problems of stormwater and industrial waste water

69. Drainage projects must take into account the problems posed by stormwater in waste water collection and treatment. In simple collection systems in areas subject to flooding rises in water level at times of heavy rain may result in drains overflowing and sewage plant malfunction, as well as causing substantial pollution of the aquatic environment.

70. Legislation in France only requires collection systems to provide for the waste water that is produced during dry weather and leaves local authorities to

determine the flow of pollution that will be brought by wet weather and to decide on the collection and treatment systems, having due regard to cost effectiveness. For example, the project for transferring effluent to La Marana treatment plant (OP Envireg-STRIDE 1990-93), did not provide separate drains for sewage and stormwater, because of budgetary constraints, despite the fact that the Biguglia local authority is in an area that is subject to periodic flooding (with the highway acting as a barrier and preventing stormwater from draining away). In consequence the stormwater is led away via ditches to the Biguglia lagoon and remains untreated.

71. Almost all the projects audited by the Court in Spain were prone to problems caused by the absence of separate storm drains: overflowing sewage, pollution and operating problems at sewage treatment plants. The drainage systems inspected by the Court in Portugal were also of the combined type.

72. However, as the Court found in Germany, some sewerage systems had separate storm drains (on the outskirts of towns), as well as the combined type, which were mainly in town centres.

73. As regards the discharge of industrial waste water to collecting systems and urban waste-water treatment plants, Directive 91/271/EEC (Article 11) states that Member States must ensure that such discharge is subject to prior regulation and/or specific authorisation by the competent authorities. Industrial waste water must be adequately pre-treated before it is discharged to the public sewers, so that it has the same characteristics as water of urban origin. This is done in order to: ensure that treatment plants function properly; prevent their being damaged; protect the health of personnel working in collection systems and treatment plants; and, finally, ensure that discharges of effluent are environmentally acceptable. The preliminary treatment must be carried out by the industries in question, in accordance with the 'polluter pays' principle.

74. However, the Court audits showed that these provisions were not always respected. This applied in the case of the Spanish project involving drains for the Sabon industrial zone (Objective 1 local OP), which provided for the industrial system to be connected to the Arteixo urban sewers, but without any preliminary treatment. All the effluent is discharged direct to the sea through the underwater outfall at La Coruña. The project cost is around 14,5 Mio PTA.

75. Another Spanish project, the Tagus integrated development project at Toledo, for a total of 2 540 Mio PTA (to which the ERDF contributed 1 000 Mio PTA), included the upgrading of the plant which treats industrial waste water from the town's industrial area. The water is not treated in any way by the industries in

question before it reaches the treatment plant; there are local authority regulations on the treatment of waste water from industrial sources, but they have never been applied in practice.

76. Monitoring discharges of treated water, whether discharged direct to the natural environment (where the Community standards are directly applicable) or into urban collection and treatment systems, is an important factor in combating water pollution. A national system of monitoring discharge conditions is provided in the operating licences which the Member States grant a priori for each classified installation. However, during the audit in Ireland of an agro-foodstuff project which received funds from EAGGF Guidance, the Court noted that the standards stipulated by the licence were not always observed, but no real sanctions were imposed (whether administrative or pecuniary), even though there was provision for them in the national regulations.

77. These controls are exclusively the responsibility of national authorities. The Commission, for its part, should make provision for checks of this type during its audits in the Member States and should carry them out in order to satisfy itself that:

- (a) the chemical properties of the waste water intakes to treatment plants which receive industrial waste water are continuously monitored;
- (b) local authorities have full information concerning classified installations and the controls on discharges from them;
- (c) where Community financing is granted to public or private enterprises which produce waste water, the results of the controls carried out meet the standards laid down by the licences and Community directives.

The cost of projects — planned versus actual costs

78. The technical weaknesses observed in the design and planning of projects give rise in most cases to incorrect estimates of the costs of the works that are to be carried out. The actual costs are substantially higher. In all Member States visited and for almost all projects audited significant cost differences were detected. The most important cases of underestimation of eligible expenditure observed by the Court are described in the following paragraphs.

79. For the construction of the sewage plant of the Greater Athens Region in Psytalia (OP ERDF Attica axe 1.1.) at the time of the audit visit six main contracts — covering 77% of the cost of the project — had been completed at a cost of approximately double the planned amount [from a planned $\pm 40,4$ Mio ECU (11 500 Mio GRD) to $\pm 78,9$ Mio ECU (22 400 Mio GRD)].

80. In Spain the General Hydrological Plan for Galicia (PHGC) drafted by the regional authorities in 1990 included investments of $\pm 19,6$ Mio ECU (3 125 Mio PTA) for the programme for pollution abatement in Ria de La Coruña. In 1994, the revised regional plan foresaw investments for the same programme of $\pm 39,2$ Mio ECU (6 245 Mio PTA), which constitutes an increase of 100% of the initial plan. Despite the fact that the various estimates are not really comparable, because particular factors must be taken into account (e.g. inflation, the inclusion of new projects and the requirements introduced by Directive 91/271/EEC), it must be said that a fair proportion of the increases in estimated cost are due to substantial delays in carrying out projects; delays produced by a variety of technical, legal (expropriations) and budgetary causes. Similar deviations from plan were observed in the 'Ria de Vigo' programme, which increased from $\pm 67,2$ Mio ECU (10 700 Mio PTA) to $\pm 177,1$ Mio ECU (28 200 Mio PTA) (163%), and the 'Ria de Arousa' programme, which increased from $\pm 29,5$ Mio ECU (4 697 Mio PTA) to $\pm 51,3$ Mio ECU (8 167 Mio PTA) (73%). The increases on the actual cost of the projects are examined in paragraph 86.

81. In Ireland, for the construction of the sewage plant in Dingle (OP Envireg), final expenditure was $\pm 6,1$ Mio ECU (4,9 Mio IRL) compared to the planned $\pm 4,1$ Mio ECU (3,3 Mio IRL), which is a 45% increase over the planned costs.

82. In a French project, the planned cost for the construction of a small sewage station, financed by EAGGF Guidance (Société d'abattage des porcs ABERA) was 93 000 ECU (0,6 Mio FF). The final cost of the plant, after numerous technical improvements, reached $\pm 0,9$ Mio ECU (6 Mio FF) or 10 times more than the estimated expenditure.

83. Finally, for the sewage plant of Meißen in Germany (ERDF OP Saxony) costs were 'corrected' upwards by engineers for supplementary works. These changes have nevertheless remained below the 10% limit above which, according to national law [paragraph 2 (3.2) part B of the Verdingungsordnung Bauleistung (VOB-guidelines)], new prices would have had to be renegotiated. However, contrary to the view of the Commission, the Court considers that for the same project important savings could have been made without reducing the efficiency of the plant. In particular it is unnecessary and inappropriate to construct a cellar and a number of galleries under the entire plant, for the purpose of direct access to all pipes and basins (oxidation/nitrification basins, etc), via large and well-heated corridors. This is the only sewage works among those visited by the Court that incorporated such facilities.

84. The Court recognises the difficulty of implementing important infrastructure projects without cost increases. Price modifications are planned and accepted in all forms of short-term and long-term technical planning. Typically, increased costs do not

directly result in increased Community support. However, significant changes in costs are a clear indication of weak planning and project management and of delays in carrying out the project. The delays result in most cases in increased costs.

Delays in carrying out projects and their effects on the increase of costs

85. There exists a strong correlation between the delays that were observed in the implementation of projects and increases in the construction costs.

86. In France a project financed by the Integrated Mediterranean Programme (IMP) for abatement of pollution in the Cordon Lagunaire de Biguglia, started in 1991, although the initial studies were prepared in 1986. In the same context, for another project financed by Envireg, certain works should have been finished within three months (September 1992). In fact they were completed after 21 months (June 1994). For this project, works were commissioned and tendering procedures took place after the deadline for commitments for an amount of 0,7 Mio FF. It is the same as far as tendering procedures are concerned for another project financed by the Integrated Operational Programme (IOP) Corsica 1990-93 for an amount of 1,4 Mio FF. The commencement of the sewage works project for the city of Ajaccio was equally delayed. Although the preliminary studies were financed by the Envireg OP in 1991, they were only ordered in 1993. The deadlines for the completion of the first stage (1997), and consequently those for the whole project (2000), will not be respected. Significant delays were found in the preparation of the studies for the sewage plant project at Bastia-South, financed by Envireg at the beginning of 1991. These studies were completed in 1995, instead of 1993 as planned, and consequently the new sewage plant will only be finished at the beginning of 1999. The longest delays were found in the project for the abatement of pollution along the south shore of the Gulf of Ajaccio, where the initial studies started in 1984 and the sewage plant came into operation only eleven years later.

87. In Spain in the case of the 'Collector GLI-3 Valladares Lagares' project the cost increased by 26% and the project was delayed for 28 months. For the Arteixo integrated pollution abatement project the deviation was 45% from the initial cost and the project was delayed for 50 months. For the integral decontamination of Sada project the deviation was 47% and the delay 15 months. For the integrated project for pollution abatement of Cabanas y Pontedeume — which was temporarily halted for 28 months for 'technical improvements' and is still under construction — the delays had already reached 38 months in February 1997 and its cost has increased by 23%. For the integrated pollution abatement project at Ribeira, which is still

under construction, the financial deviation is already 33,5%. Finally, there is already a 30% overrun on the cost of the Rianxo pollution abatement project, and the sewage treatment plant was not in operation in March 1996, although it had been completed a year earlier.

88. A two-year delay was noted for the Coruña Ria underwater outfall project. Until November 1996 the project had not been officially accepted by the local authorities. In such cases the construction company has responsibility for the maintenance and operation of the plant. The high levels of rainfall and the absence of separate sewerage systems have resulted in a large part of the waste water being discharged untreated into the sea.

89. In Greece, significant delays were found in all projects audited by the Court, for mainly technical and administrative reasons. The Rethymnon sewage treatment plant was delayed for 27 months and the cost has increased by 257%. This project is still insufficient for the needs of the city. The construction of the sewage treatment plant at Veria had almost doubled in cost and at the time of the visit the project was still incomplete. The total cost for the two projects reached ±6,1 Mio ECU.

90. In Italy the project at Brienza started in July 1990 for a duration of 12 months. At the end of 1995 the project was not finished. The Taranto sewage project started in 1991, with a planned duration of one year, and was still not completed at the end of 1995.

91. Irish projects also experienced delays in completion for the same reasons as in other Member States. Due to technical improvements a part of the Greystones project cofinanced by the ERDF was two years late in starting up. Delays were also observed in the Wexford Drainage Scheme project, where the start of construction of certain works of the Wexford Drainage Scheme was delayed for three years. The project only started in September 1993.

Management of projects by the responsible authorities

92. The splitting-up of large projects sometimes makes it difficult to ensure that the provisions of the Structural and Cohesion Funds regulations are complied with. Article 13 of the Regulation establishing the Cohesion Fund (No 1164/94) provides for the possibility of financing projects in phases, provided that they are technically and financially independent. There were, however, some cases where projects which, in theory, could not be subdivided were nevertheless split, in order to obtain finance, first from the ERDF and then, subsequently, from the Cohesion Fund, as in the case of the Greystones Sewerage Scheme and Wexford Main Drainage Scheme projects which the Court audited in Ireland. Part of the financing for these projects was provided by the ERDF and, afterwards, by the Cohesion Fund, on the basis of the same contract with the

enterprise instructed to carry out the actual works. It is difficult, therefore, for the project phases to be considered as independent projects; in reality they are only 'payment phases' and for practical purposes could be defined as the part of the project which has not yet received ERDF financing.

93. This practice opens up the question of respect for and compliance with the Community regulations in this area. Moreover, there is a risk that breaking down projects into phases may make it easier to split up public works contracts in order to circumvent the limits stipulated in the various directives on the subject. The Court has mentioned this problem before, in Special report no 1/95 on the cohesion financial instrument⁽²⁷⁾.

94. As regards the matter of public works contracts, the Court again found and pointed out to the Commission problems associated with excessive discounting of prices in order to secure contracts, as well as the use by some national administrations of various possibilities that are available under national law (emergency procedures and the like) and which aim to limit, or occasionally exclude, competition. Splitting up a project into several sub-projects and several public works contracts contributed to this situation. The Court noted that one Greek project financed by the ERDF (OP Attica, municipality of Perama) had been divided into 54 contracts. The total cost of this project was of the order of 457 207 ECU. Practices of this kind increase the delays in carrying out projects, swell the costs and render projects top-heavy. The Court has already noted that fact in a previous report⁽²⁸⁾.

95. Project management frequently lacked transparency. For example, some projects — large ones in particular — had accumulated Community subsidies from various sources and, under current regulations, should have kept separate sets of accounts. At financial beneficiary level the various forms of assistance were, in the main, regarded as sources of finance to be used indiscriminately for the various phases of projects. This applied to IMP assistance in particular (IMP phase 1 IMP-related measures, IMP additional heading), or IOP for the projects audited in Corsica: Biguglia lagoon drainage works, drainage works on the south shore of the Gulf of Ajaccio.

96. Similarly, the Court found that it was not always possible to reconcile the amounts of expenditure declared to the Commission by central administrations with those declared to national authorities by managers and/or beneficiaries. The main reason was the absence of separate accounts or an adequate account classification, which would have made it possible to identify the

declared expenditure for the project that was being subsidised. This applied to the projects audited in Spain: collector GLI-3 Valladares-Lagares (Environment OP) and La Coruña underwater outfall (Envireg OP). Furthermore, as regards the waste water treatment measure in the Envireg-Stride Corsica programme, it was not possible to reconcile the declared expenditure with the evidence of payments disbursed by the final beneficiaries. These documents are, however, supposed to form the basis for certifying expenditure.

Malfunctioning treatment plants

97. Plants that do not meet the quality standards laid down by the directives (see paragraphs 58-62) and the need for further investment in order to bring them up to the required standard have already been mentioned. In these cases it is a question of improving the quality of existing treatment plants. However, there are also problems of a different order: some treatment plants had been finished, but were not yet operational and others were ineffective because of serious operating problems. In both cases the impact of the Community funds was in jeopardy.

98. In 1996 the Court found that five of the six sewage plants audited in Italy were not operational, although the work was finished and, in some cases, had ended several months before. One reason was the refusal of ENEL (the national electricity company) to connect them to a power supply, because of lack of funds. The same plants showed evidence of other problems too, such as the fact that some of them were not connected to sewers, etc. There is also a risk that installations (mechanical and electronic equipment and buildings) may deteriorate if they are not used. The appropriations invested for these plants amounted to ±26,5 Mio ECU (55 125 Mio LIT).

99. In Galicia (Spain) only one of the three finished sewage plants was operational. A second (integrated improvement scheme for the town of Sada) was operating unsatisfactorily. The third (Rianxo sewage works) was handed over to the local authority in April 1995, but was still not operational, partly because it was not connected to the electricity supply system, but also because there was no procedure for calling for tenders to operate it. The prescribed objective of reducing pollution was not achieved. The total cost of these two projects is ±8,4 Mio ECU.

100. A study, cofinanced by Envireg⁽²⁹⁾, which has evaluated 15 treatment plants in Crete has pointed out that they did not operate under optimum conditions and that controls on the outgoing water should be improved.

⁽²⁷⁾ Special report No 1/95 on the cohesion financial instrument, OJ C 59, 8.3.1995.

⁽²⁸⁾ Court's Annual Report 1994, Chapter 4, OJ C 303, 14.11.1995, p. 108.

⁽²⁹⁾ 'Study on the creation of a centre for environmental upgrading of Crete', Envireg-EOT, 1995.

In conclusion, instances of malfunctioning systems and sewage plants were found in all the Member States visited.

101. The cases that have been mentioned illustrate the many complex factors that need to be combined in order to obtain satisfactory results in terms of the quality of treatment plants, thus ensuring that Community funds are used in the optimum way. Community funds undoubtedly play a very important role in the implementation of any policy in this area. As regards the principle of shared responsibility, the Member States must ensure that the efficiency of these plants is maintained. The most important aspects, such as plant operation, network maintenance and the associated costs, were also examined more closely in some of the Member States.

The Envireg Initiative

102. The Commission launched the Envireg CI in 1990, as a contribution to environmental protection and a means of promoting economic development. The specific objectives included the following:

- to reduce pollution of coastal areas,
- to promote the planning of land use in coastal areas,
- to contribute to the better management and control of industrial waste,
- to strengthen knowhow relating to the design and management of facilities for reducing pollution.

103. The total contribution from the Structural Funds to the Envireg CI for the period 1990-93 was approximately 500 Mio ECU (at 1990 prices). The eligible areas were the coastal areas of Objective 1 regions and the coastal areas of the Objectives 2 and 5 (b) regions along the Mediterranean. In the case of industrial waste and technical assistance all Objective 1 regions were eligible.

104. Almost two thirds of the appropriations were used to reduce pollution in Objective 1 coastal areas, notably via the construction or modernisation of sewage treatment plant and infrastructure. For this reason the Court audited the use of ERDF appropriations in Objective 1 regions for water quality improvement projects, the technical assistance network set up by the Commission to strengthen knowhow and the exchange of experience, and the ex post facto assessment of the Envireg CI.

Problems of implementing the Envireg Community initiative

105. The Envireg Community initiative was approved in May 1990 and the final date for payments was set at 31 December 1994 for some programmes and 31 December 1995 for others. There were substantial delays in the implementation of these programmes and most of the Member States concerned asked for the final deadlines to be extended. At the end of 1996 (two years after the initial closure date for some programmes and one year after for others) only three, out of thirteen, programmes had been closed (Envireg Provence-Alpes-Côtes d'Azur (PACA), Northern Ireland and Portugal). 17,9% of the commitments for this initiative was still outstanding (see *Table 6*).

TABLE 6

Execution of the Community Initiative Envireg at 31.12.1996

1 000 Ecu (prices 1993)

	Programme		Commitments	Payments	Still to be paid	%	Decommitments
	Total Cost	ERDF					
CI Regis-Envireg-Stride Guyane	31 689	10 362	10 362	8 392	1 970	19	
CI Regis-Envireg-Stride Martinique	70 866	14 139	14 139	11 686	2 453	17	
CI Regis-Envireg-Stride Réunion	140 895	27 169	27 169	22 496	4 673	17	
CI Regis-Envireg-Stride Guadeloupe	72 956	17 022	17 022	14 615	2 407	14	
CI Envireg PACA	8 318	3 000	3 000	2 981	0	0	19
CI Envireg Languedoc-Roussillon	5 202	1 000	1 000	800	200	20	
CI Envireg-Stride Corse	37 216	14 684	14 684	12 113	2 571	18	
CI Envireg Ireland	40 557	30 420	30 420	29 044	1 376	5	
CI Envireg Italy	342 478	168 672	168 672	105 437	63 235	37	
CI Envireg Greece	117 774	78 934	78 934	64 108	14 826	19	
CI Envireg Northern Ireland ⁽¹⁾	25 664	17 448	17 654	16 308	0	0	1 346
CI Envireg Spain	235 702	126 934	126 934	111 140	15 794	12	
CI Envireg Portugal	145 510	101 486	101 486	98 631	0	0	2 852
TOTAL	1 274 827	611 270	611 476	497 751	109 505	18	4 217

⁽¹⁾ OP Envireg Northern Ireland, Commission committed 3rd tranche (November 1993) without regard to financial plan changes approved by Monitoring Committee (October 1993). Excess commitment 1 346 Mio ECU, adjusted in final payment (May 1996).

Source: DG XVI data 1997.

106. Ireland did not ask for a deferral of the closing dates. The late closure of the programme was due to divergence in the way the Commission and the Irish authorities interpreted the term 'final beneficiary' for some projects, including the sewage infrastructure projects. Ireland treated the Ministry of the Environment (the Department responsible for project finance) as the final beneficiary, rather than the local authorities that were acting as contractors. The other Member States, for their parts, regarded the contractors as the final beneficiaries. In consequence the expenditure statements submitted by Ireland included expenditure that had not been disbursed at the date of the statement, estimated expenditure and, even, expenditure that had been disbursed before the qualifying period. The Commission should ensure that the term 'final beneficiary', as defined in the financial provisions approving every OP, is uniformly applied for all the Member States and that expenditure statements include only the expenditure actually incurred, as provided by the current regulations.

107. Implementation of the Envireg programme in Italy came up against particularly difficult problems connected with the implementation of the 1989-93 Italy CSF. In the case of Envireg the Court found a lack of programme monitoring, partly because financial data and progress reports had not been sent to the Commission, but also because the monitoring committees often met under somewhat precarious conditions (lack of precise data, representatives of regions were sometimes absent, minutes were not kept). As a result, only 3,5% of the amounts transferred by the Commission by way of advances from 1991 (an amount of ±3,1 Mio ECU (6 600 Mio LIT)) had been disbursed by the end of 1994. The problems of implementing the Italy CSF gave rise to a general agreement between Italy and the Commission, whereby the Envireg programme was extended until 31 December 1996 in the case of commitments and 31 December 1997 for payments.

108. In the Northern Ireland Envireg programme 96% of the appropriations were earmarked for the

reduction of pollution in coastal areas. 14 waste-water treatment projects were initially planned for that purpose. However the problems of bringing these projects into line with the water-quality directives, and the new Directive 91/271/EEC in particular, made it impossible for half of them to be carried out within the deadlines laid down in the programme. Seven projects were replaced by one large project for the renovation of one of the two Belfast treatment plants, serving 250 000 inhabitants. This project — for a total qualifying cost of ±16,5 Mio ECU (13,3 Mio UKL), financed entirely out of national funds — had already started in 1986 and has absorbed 68 % of the ERDF contribution to this programme. It must be emphasised that the guidelines for the Envireg operational programmes⁽³⁰⁾ envisaged the financing of sewage plants for urban areas with a population of more than 100 000 only very exceptionally. Under these circumstances the objectives and priorities defined for Northern Ireland within the Envireg framework were only partially achieved, especially as regards the innovative nature of the projects.

109. For the Galicia part of Envireg the Member State included a new project concerning the underwater outfall to reduce pollution in La Coruña. The project accounted for 32 % of the total qualifying expenditure for this independent community, namely ±8,8 Mio ECU (1 400 Mio PTA). Contrary to the Commission guidelines⁽³¹⁾ the project is part of a unit which comprises only pretreatment of the waste water from La Coruña, a town with a population far in excess of 100 000 inhabitants. Moreover, this project does not comply with the terms of Directive 91/271/EEC (Articles 4 and 6).

110. The situation varied according to the Member State. In the case of Portugal, for example, it was to some extent possible to make up for the absence of environmental measures in the 1989-93 CSF through the Envireg CI and the initiative benefited from a 13 Mio ECU increase in the ERDF contribution, as a result of the transfer of appropriations from the REGEN initiative. This made the inclusion of further projects possible.

111. In the case of Envireg Greece the Commission cut the qualifying amounts by 22 Mio ECU (15,7%) and, hence, the ERDF cofinancing by 15 Mio ECU (16%) relative to the amount initially programmed. This was due to the poor execution of measure 1 in the programme, which concerned waste-water treatment and accounted for 61 % of the appropriations. In fact 32 out of the total 100 projects initially provided for by this measure had to be abandoned. Furthermore, 40 of the remaining 68 projects also suffered problems during execution and could thus not be completed under the

Envireg programme. Greece has asked for them to be included in the new 1994-99 CSF.

112. The Envireg-Stride Corsica programme suffered a 6,3 Mio ECU cut in the total qualifying costs (14,5%), whilst the ERDF cofinancing increased by 1,8 Mio ECU (13,8%). This amount was obtained by transferring the unused appropriations from the Interreg Corsica-Sardinia OP, and was used to finance measure 2 'Waste-water treatment'. The reduction in the qualifying costs was due to the partial failure of measure 3 'Elimination of solid waste', where less than 25 % of the available appropriations was used, which also had repercussions on the treatment and disposal of the sludge produced by the sewage works.

'Ambiente e Regione' (AMBER) technical assistance network

113. One of the innovative aspects of the Envireg CI was the strengthening of knowhow and the exchange of experience in the areas which it funds, by means of the AMBER technical assistance network (1 006 573 ECU of funding spread over three years). It was intended that the network should provide technical reports on projects, by request, for programme managers and contractors. It was also to promote the exchange of information and experience, as well as the transfer of knowhow between the various administrations involved, and was also to assist the Commission, especially with the monitoring of the CI. In the case of waste water treatment, the network was to provide technical support for the strengthening of knowhow in the design and maintenance of sewage treatment facilities.

114. The review of the AMBER technical assistance network was considered to be important in as far as the Court had in the past found that many sewage treatment plants were not operational, especially in Objective 1 regions, and the Commission had undertaken to monitor this problem in the future⁽³²⁾.

115. In June 1991 the Commission contracted out to a firm of consultants the task of setting up the technical assistance network. The first contract signed was for a one-year term, and it was subsequently renewed three times up to 20 December 1994.

116. It was very evident that the 'request for technical report' element did not function: only 9 000 ECU was spent on this objective. There were several factors behind this, the main one being that two of the Member States (Spain, Italy) with the largest Envireg programmes (around 60 % of the total) did not use the network. In addition, awareness of the network was mainly confined to central level and local authorities had very little

⁽³⁰⁾ Commission Notice to the Member States (90/C 115/03) of 9 May 1990, OJ C 115, 9.5.1990, p. 3.

⁽³¹⁾ Commission Notice to the Member States (90/C 115/03) of 9 May 1990.

⁽³²⁾ Special report No 3/92 concerning the environment, paragraph 3.15, and the Commission's reply, OJ C 245, 23.9.1992.

information about it. Moreover, there was no provision for the AMBER network to pay the fees of the experts recruited, so that there was no incentive for local authorities to use it. Finally, technical assistance was already being provided by national civil services or by calls on outside consultants.

117. The network's tasks also included preparing newsletters and handbooks for local authorities, as well as organising conferences and workshops on environmental issues. There were also problems with the circulation of these handbooks. Not until the end of 1993 was there any attempt to send them to local authorities in the Envireg qualifying areas. However, the final date for placing contracts for work was, in fact, 31 December 1993, for Envireg. Furthermore, the Court was able to ascertain that only 900 or so copies of the waste-water treatment handbook, out of an edition of 5 000, were distributed to the appropriate authorities.

118. It was intended that conferences should be organised, to facilitate the exchange of experience and the transfer of knowhow in various ways, including bilateral cooperation between the various authorities involved. With a few exceptions, cooperation initiated as a consequence of such exchanges was not followed up.

119. The network's third task was to assist the Commission. This mainly took the form of carrying out surveys with a scope far beyond the objectives of the Envireg CI and the terms of the technical assistance contract. The Commission, in its replies to the Special report on the environment⁽³³⁾, had already informed the Court of its intention of widening the scope of the AMBER network beyond the confines of the Envireg CI to include the environmental aspects of all the structural measures. This widening of the network's remit was undertaken, but on the basis of a contract that was limited to Envireg programmes and without a new call for tenders.

Ex-post facto assessment of the Envireg CI

120. In December 1993 the Commission concluded a contract to a value of 276 500 ECU for the assessment of the Envireg CI. The Envireg assessment was to be carried out in two phases, ending in December 1995. The aims of the first phase were mainly to evaluate the set objectives and to assess the Community added value, but also to analyse the administrative procedures and management systems pertaining to the CI in the beneficiary Member States. The second phase was concerned with the economic impact achieved through implementation of the CI and was not to begin until the Commission had established that the quality of the work produced during the first phase was satisfactory.

121. However, a final report was submitted to the Commission in October 1996, 25 months after the

deadline set for the first phase (September 1994) and ten months after that set for the second phase (December 1995). The total cost of the assessment was 211 887 ECU and, according to the Commission, the report already contained most of the information for the overall assessment of the Envireg CI.

122. In the Court's opinion, however, the report did not achieve the assessment objectives set out and laid down in the contract and, in particular:

- (a) the analysis of administrative procedures and management systems was purely descriptive, with wide variations in quality between Member States;
- (b) the report did not compare programming and implementation methods and did not evaluate the management structures in relation to the objectives pursued;
- (c) there was no analysis of the physical results of the cofinanced programmes and projects and no evaluations which might have made it possible to measure the impact of these contributions on the basis of suitable indicators (with the exception of Portugal);
- (d) the expected budgetary and financial analyses were not carried out;
- (e) there was insufficient discussion of the Envireg CI's impact in terms of resolving the environmental problems which the initiative was to address (water pollution, orderly development of coastal areas, etc);
- (f) the report did not make any connection between Envireg and economic development and/or the development of tourism in the region concerned.

The data contained in the report cannot be used as the basis for conclusions about the impact of the Envireg CI. Lastly, the scientific assessment committee has not even been set up.

123. In conclusion, as regards the achievements of the Envireg CI, it is the Court's opinion that this measure only partially achieved the objectives that were initially set. In the area of waste-water treatment the link between Envireg and Directive 91/271/EEC, in terms of project quality, was not adequately defined (with the exception of Ireland). In consequence it was possible for projects to be jointly funded, even though they did not comply with the Directive. Similarly, there was no mention of the polluter-pays principle in connection with treatment projects, so that it was possible to obtain finance for projects involving the treatment of industrial waste-water, even though the polluter industries had no authorisation to discharge such water and did not pre-treat the discharge in any way.

124. The CI was late starting, which also limited the time available for implementing it. This did nothing to encourage the submission of new projects, which

⁽³³⁾ Replies to paragraphs 3.13 and 3.14 of Special report No 3/92 on the environment, OJ C 245, 23.9.1992.

accounted for only a small percentage of the projects that were already under way or scheduled before the CI. The delays in executing them were considerable, as in the case of Italy, and led to the abandonment of large numbers of projects and/or the non-completion of many others (as in Greece), as well as substantial changes in the project content of the initial programme, as was the case in Northern Ireland.

125. The strengthening of knowhow and the exchange of experience through information campaigns were very small-scale, as were the calls on technical assistance.

The LIFE Programme

126. The Financial Instrument for the Environment (LIFE) was established by Council Regulation (EEC) No 1973/92 of 21 May 1992⁽³⁴⁾ for the period 1991-95. This Regulation was modified by Council Regulation (EEC) No 1404/96 which established the second period of LIFE (1996-99). LIFE was allocated a budget of 450 Mio ECU for the period 1996-99.

127. Projects financed by LIFE are mainly of innovative character, seeking to improve and diffuse specific and technical knowledge among the Member States in the field of the environment. One of the French LIFE projects audited concerned the construction of a small water treatment plant of experimental character. Its objective was to test a method of treating domestic waste water of 50 to 150 p.e., at low cost. This project has been successful and its results deserved further exploitation by the Commission and the Member States according to the stipulation of the LIFE Regulation in Article 2 (1) (b) and (3) concerning the dissemination of the results of the innovatory projects. The Court has already mentioned these points in its Annual Report concerning the financial year 1994⁽³⁵⁾.

CHAPTER IV

THE QUESTION OF WATER CHARGES

128. As discussed in Chapter I (see paragraphs 21-23), the costs of implementing the UWWT Directive are significant. The issue arises of how the Member States are planning to address the management, operational and replacement (depreciation) costs. The financing of the construction costs is mainly assured by the national budgets and subsidies from the Community where appropriate. It should be stressed that parallel to the investments in waste water infrastructure, similar

investments are made in projects relating to water provision and solid waste disposal. The financing of the operating, maintenance, capital and replacement costs are mainly the responsibility of the regional, departmental, local, or municipal authorities. This money comes from the charges imposed and collected at local level which are integrated in the local taxes or the 'water bill'.

Water charges

129. Water charges and the manner and basis used to levy them are complex and vary across Europe. The charges differ according to the type of discharge⁽³⁶⁾, the user group, the type of charge base and the charging agency.

130. A Commission study considered water charges as having two distinct functions:

- (a) the financing function or element which refers to the financing of the construction and operational costs of communal treatment plants, and
- (b) the incentive function or element which refers to its action as an incentive to reduce pollution to such an extent that lower charges will result.

All EU countries have charge systems with a financing function. However, there are wide differences in the extent to which charge revenue covers the costs of communal waste water treatment. According to the above-mentioned report, for the period 1988 to 1992 user charges met a high proportion of the costs in Denmark, Germany, the Netherlands and the United Kingdom (England and Wales). Such charges met a relatively low proportion of the costs in Portugal and Spain and Belgium was at an intermediate position. There was no or incomplete information for Ireland, France, Luxembourg, Greece and Italy.

131. Not enough information is available to determine whether the user charges were structured in a way which covers the aggregate costs and gives polluters a sufficient incentive to reduce their burdens on the system.

132. An effective combination of the financing and incentive functions can be achieved if the charge tariff is determined by the financial requirements of water quality management. It means that the costs of operating the

⁽³⁴⁾ OJ L 206, 22.7.1992, p. 1.

⁽³⁵⁾ OJ C 303, 14.11.1995, p. 167.

⁽³⁶⁾ In dealing with discharges, there are two ways in which waste water is disposed of: the direct discharge and the indirect discharge. This classification is based on whether the waste water is subject to treatment prior to discharge to a receiving body of water. This in turn determines the fundamental manner in which pollutants impact on the environment. In both cases some type of prior treatment may take place, depending on the nature of the discharge.

system and all the ancillary services, including the amortisation of capital costs, should be billed to the user in accordance with the polluter-pays principle. Under this approach the expected reduction in capacity generated by the incentive effects, as well as the size of the agglomeration served, must be taken into account in planning the capacity of a treatment plant, otherwise overcapacity may be the result.

133. It is a matter of concern, for example, that these projects, and the arrangements apparently made for their financing, did not take into account seasonal variations in the throughput of the facilities, with the result that facilities in more popular tourist areas were unable to meet the demands during the height of the tourist season.

134. It is not clear that rational charging policies in accordance with the polluter pays principle have been sufficiently reconciled with the impact of EU subsidies. The capital costs of improvements in waste water treatment facilities and the corresponding maintenance costs are such that Member States naturally wish to minimise these costs, or at any rate to obtain as much assistance towards them as possible, in order to reduce both their impact on public sector budgets and the impact of high water charges on their electorates. In the case of most of the projects audited by the Court, public authorities and operators were already experiencing significant difficulties, especially in:

- advancing capital (the region's share in financing the capital investment), and
- fixing 'politically' and 'socially' acceptable charging rates for their 'customers'.

Moreover where facilities are co-financed by the Structural Funds (and notably by the Cohesion Fund, where associated revenue has explicitly to be taken into account in determining the amount of EU assistance [see Article 7, paragraph 2 of the CF Regulation]), the political and economic incentives are such that the costs of countering pollution are all too readily transferred from the polluter to the European taxpayer.

CONCLUSION

135. The audit has shown the difficulty the Commission has in securing the implementation of an effective policy to counter water pollution throughout the EU. Where action rests entirely with Member States and their local administrations to take the action required to meet the Directives, the audit has shown that difficulties remain in transposing Community decisions into national

legislation (see paragraphs 12-15); that much remains to be done to establish the programmes needed to attain the standards laid down in the Directives; and that the information needed to assess progress in achieving the standards laid down by the Directives, and doing so within the prescribed timescale, is frequently lacking. These problems arise in the case of all three Directives discussed in this report (see paragraphs 16-19).

136. Nor is the position satisfactory where the Commission — on behalf of the EU — is contributing directly to the costs of facilities required to meet the standards laid down in the Directives. Of the projects audited by the Court a high proportion of those that aimed to improve the treatment of waste water failed to meet the standards laid down by the Directives (see paragraphs 59-62 and 74-76).

137. Nor has sufficient progress been made in reducing the contribution to water pollution arising from intensive methods of agricultural production. There is no sign that the producers who are responsible for the most serious nitrate pollution are being effectively restrained either by prohibitions or specific charges related to their operations or by the creation of effective incentives to overcome the problems. This is a problem not yet adequately addressed in the context of the reform of the CAP (see paragraphs 30-36).

138. The position is equally unsatisfactory in respect of sewage sludge. Effective implementation of the UWWT Directive is bound to add to the difficulties of disposing of sewage sludge, but there has as yet been no clear Commission response to this challenge (see paragraphs 38-44).

139. Further consideration needs to be given to the effective implementation of the polluter-pays principle in relation to water pollution. In principle charges and taxes need to be set in such a way that not only is sufficient revenue secured to meet both the capital and operational costs of the facilities concerned, but also more significant polluters have an incentive to improve their practices in order to reduce the impact of the taxes or charges they would otherwise have to pay. The Court is concerned that there might be a conflict between the normal requirement, whereby revenue generated by projects is taken into account in determining the amount of EU finance to be made available, and the polluter-pays principle: in order to qualify for maximum EU assistance, authorities in the Member States may be discouraged from ensuring that the principal polluters bear their proper share of the costs and face the correct financial incentives to reduce pollution at source and so reduce the burden on public infrastructure (see paragraphs 128-134).

140. There is scope for improvement of coordination within the Commission. While DG XI has the primary

responsibility for EU environmental policy, and for action to enforce the Directives, it needs to strengthen its links with other operational DGs in the Commission to ensure that the programmes and projects for whose execution they are responsible are fully consistent with the EU's environmental objectives (see paragraph 8).

141. The fifth environmental action programme presented to the Council in February 1993 fixed the main lines of Community action for the medium and long term for the development of all sectors of economic activity associated with environmentally sustainable development.

It also set a timetable for the attainment of the programme objectives. As regards sewage treatment, the difficulties highlighted by the Court in this report could make it difficult for the fifth programme objectives to be achieved by the year 2000. This uncertainty is shared by the Commission and Parliament which have also stated that there has been a lack of progress in combating water pollution. Positive action must be undertaken by the Commission and the Member States, well in advance of the deadlines for implementation that have been laid down in the directives, in order to redress the present situation (see paragraphs 3, 5, 24-28 and 51).

This report was adopted by the Court of Auditors in Luxembourg at its Court meeting of 19 March 1998.

For the Court of Auditors

Bernhard FRIEDMANN

President

TECHNICAL ANNEX

TABLE 1

Treatment requirements under Articles 4-7 of the UWWT Directive (91/271/EEC)

Agglomeration size (1 000 p.e.)	Nature of receiving water		Treatment level required		
	Type	Sensitivity	31 Dec 1998	31 Dec 2000	31 Dec 2005
< 2	All waters	All			Appropriate treatment
2-10	Coastal waters	Standard			Appropriate treatment
	Estuaries	Less sensitive			Primary treatment
	Freshwater estuaries	Standard			Secondary treatment
10-15	Coastal waters	Less sensitive			Primary treatment
	All waters	Standard			Secondary treatment
	All waters	Sensitive	Tertiary treatment		
> 15	Coastal waters	Less sensitive ⁽¹⁾		Primary treatment	
	All waters	Standard		Secondary treatment	
	All waters	Sensitive	Tertiary treatment		

⁽¹⁾ Less sensitive areas cannot be designated if the discharge size is PE > 150 000.

Source: National Rivers Authority (NRA), Final Report 1995/UK.

TABLE 2

Timetable for implementing some of the requirements of the UWWT Directive

Date for implementation	Requirement
30 June 1993	Bring into force the laws, regulations and administrative provisions.
31 December 1993	Establish a programme of implementation. Designate sensitive and less sensitive areas and review these at intervals of no more than four years (Article 5). (The designation is not required where Member States choose to apply Article 5(8) implementing tertiary treatment for all discharges of PE > 10 000 within their territory). Ensure that discharges to sewer are regulated.
30 June 1994	Provide the Commission with information on the implementation programme and update this every two years.
1998-2005	Ensure that urban waste water entering collection systems is treated, before being discharged, to the required standard by the specified deadlines. Monitor discharges to verify compliance with the requirements, and monitor the receiving waters.

Source: National Rivers Authority (NRA) Final Report 1995/UK.

TABLE 3

Timetable for implementing some of the Nitrates directive

Date for implementation	Requirement
December 1993	<p>Bring into force the laws, regulations and administrative provisions.</p> <p>Undertake a one-year monitoring programme to establish nitrate concentrations of surface and groundwaters for the purpose of designating vulnerable zones. To be repeated every four years depending on the level of nitrate pollution.</p> <p>Identify vulnerable zones and review these at intervals of no more than four years. (This is not required where Member States choose to apply Article 3(5) and implement the action programme throughout the whole territory).</p> <p>Establish a Code of good Agricultural Practice to provide a general level of protection against pollution on a voluntary basis throughout the country.</p>
December 1995	<p>Establish Action Programme(s) regarding agricultural practices for use in vulnerable zones (limiting the application of organic manure, requiring minimum storage capacity, etc). They are to be revised at least every four years.</p>
June 1996	<p>Forward a report covering all these points every four years.</p>
December 1999	<p>Implement Action Programmes on a compulsory basis across the whole or part of the vulnerable zones.</p>

Source: National Rivers Authority (NRA) Final Report 1995/UK.

TABLE 4

Timetable for implementing some of the Sludge directive

Date for implementation	Requirement
August 1989	<p>Member States should have implemented the Directives and put in place all administrative and regulatory procedures and instructions to facilitate implementation</p> <p>i) Member States should prepare a report for the Commission on the implementation of the Directives</p> <p>ii) to keep detailed registers with information about quantities/ composition and characteristics of the sludge produced</p> <p>iii) to keep registers with names, addresses of farmers together with quantities of sludge used in agriculture as fertiliser</p>

Source: National Rivers Authority (NRA) Final Report 1995/UK.

TABLE 5

Reporting requirements specified in directives

Directive	Reporting authority	Frequency	Date for first report	Period
Surface water (75/44/EEC)	Commission through a central national agency	every 12 months	before 1 October of the following year	1 year
Sampling and analysis (79/869/EEC)	Commission	every 3 years	9 months before the end of period covered	1993-1995
Bathing water (76/160/EEC)	Commission	regular intervals after ?	4 years after notification	bathing season
Dangerous substances (76/464/EEC)	Commission	every 5 years	4 years after notification	5 years (1980/1985/1990/1995)
Mercury (82/176/EEC)	Commission	every 5 years	4 years after notification	5 years (1980/1985/1990/1995)
Mercury (84/156/EEC)	Commission	every 5 years	4 years after notification	5 years (1980/1985/1990/1995)
Cadmium (83/513/EEC)	Commission	every 5 years	4 years after notification	5 years (1980/1985/1990/1995)
Hexachlorocyclohexane (84/491/EEC)	Commission	every 5 years	4 years after notification	5 years (1980/1985/1990/1995)
Carbon tetrachloride (86/280/EEC)	Commission	every 5 years	4 years after notification	5 years (1980/1985/1990/1995)
Aldrin (89/34/EEC)	Commission	every 5 years	4 years after notification	5 years (1980/1985/1990/1995)
Dichloroethane (90/415/EEC)	Commission	every 5 years	4 years after notification	5 years (1980/1985/1990/1995)
Freshwater fish (78/659/EEC)	Commission	regular intervals	5 years after implementation (before 1 Oct. 1995)	1 year
Exchange of information (77/795/EEC and 86/574/EEC)	Commission through a central national agency	every 12 months	before 1 October of the following year	1 year
Reporting decision (92/446/EEC)	Commission	Specific to directives	specific to directives	Specific to directives
Groundwater (80/68/EEC)	Commission	on request	on request	3 years (1993/1994/1995)
Drinking water (80/778/EEC)	Commission	ns	within 15 days	ns
UWWT (91/271/EEC)	Commission	on request	within 6 months of the request	1 year

Directive	Reporting authority	Frequency	Date for first report	Period
Nitrates (91/676/EEC)	Commission	4 years period	4 years after notification	4 years
Shellfish (79/923/EEC)	Commission	regular intervals	6 years after implementation (before 1 Oct. 1995)	1 year
Proposal on landfill (COM(93) 275)	Commission	every 3 years	3 years after implementation	3 years
Proposal on bathing water (COM(93) 680)	Commission	every year	31 Dec. 1996	1 year
Proposal on ecological quality (COM(93) 680)	Commission	every 3 years	9 months after the end of period covered	3 years (1999/2000/2001)
Titanium dioxide (82/883/EEC)	Commission	ns	1981 and 1986	1 year (1981)

Source: ECT/IW Project Report. Ref: PO 1/95, 12 July 1995.

TABLE 6

Numbers of WWTS in groups of design capacities in the EU Member States (1994)

Member State	WWTS capacity (× 1 000 p.e.)							Total
	< 5	5-15	15-50	50-100	100-200	200-500	> 500	
Belgium	264	49	50	13	9	4		389
Denmark	1 600	183	53	26	8	2	1	1 873
France	8 502	808	804	143	69	35	7	10 368
Germany ⁽¹⁾ ⁽²⁾	7 199	716	772	90		64		9 941 ⁽¹⁾
Greece			25	8	1	1	2	170
Ireland	521	27	12	1			1	562
Italy ⁽²⁾	4 071	385	441					5 069
Luxembourg	58	6	3	4	1	1		73
Netherlands	92	112	127	66	36	24	3	460
Portugal	263	30	24	3			1	324
Spain				3 281				3 281
United Kingdom	6 598	395	493	102	108	82	19	7 797
Percent ⁽³⁾	81,9	7,6	7,9	1,3		1,3		40 307

⁽¹⁾ Data for former West Germany, except total which includes 1 100 WWTSs in former East Germany.

⁽²⁾ Change to WWTS capacity class at 10 000 p.e.

⁽³⁾ Excludes data which covers more than one WWTS capacity class, except Germany.

Source: Final report to the Commission DG XI B1: The comparability of quantitative data on waste water collection and treatment (European Water Pollution Control Association, April 1995).

TABLE 7

Population in EU Member States served by waste water treatment plants

Source	Total population	Percent of population served by waste water treatment plants					Percent of sewerage systems ⁽⁵⁾
	Eurostat (1992)	EWPCA (1984) ⁽¹⁾	Sobemap (1990) ⁽²⁾	OECD (1991)	Eurostat ⁽³⁾	WRC (1994) ⁽⁴⁾	WHO (1990)
Reference year	1991	1981-1983	1988	late 80s	1989-1990	1987-1993	1990
	millions	%	%	%	%	%	%
Belgium	9,9	24	35		25	28	45
Denmark	5,1	92	98	98	98	92	95
France ⁽⁶⁾	56,9	59	50	52	68	50	40
Germany	79,7	80	90	90	86	83	100
(former West and former East)			62		91	90	
					62	58	
Greece	10,2		10		10	34	18
Ireland	3,5		41		44	45	70
Italy	57,7	26	60	60	61	60	—
Luxembourg	0,4		83		90	87	92
Portugal	9,9		8		21	20	45
Spain	39,0	35	47	48	50	59	26
Netherlands	15,0	< 100	90	89	93	88	85
United Kingdom	57,5	82	84	84	87	85	100
Total in EU	344,8				68,9 %	66,5 %	

⁽¹⁾ EWPCA: European Water Pollution Control Association.⁽²⁾ Extracted from Morse et al. (1993), based on Sobemap (1990).⁽³⁾ Data provided by Eurostat during this study.⁽⁴⁾ WRC: Water Research Centre.⁽⁵⁾ Not clear from reference if data refer to total population, % of sewage collected or % of number of collecting systems.⁽⁶⁾ Data on population served probably not directly comparable with other countries.

Source: The European Water Pollution Control Association (April 1995).

TABLE 8

Population in EU Member States served by collecting systems

Source	Total population	Percent of population served by collecting systems				
	Eurostat (1992)	EWPCA (1982) ⁽¹⁾	WHO ⁽²⁾ (1989)	Sobemap (1990)	Eurostat ⁽³⁾	WRC (1994) ⁽⁴⁾
Reference year	1991	1981-1983	1988-1989	1988	1989-1990	1987-1993
	millions	%	%	%	%	%
Belgium	9,9	55	> 70	70	—	70
Denmark	5,1	98	83	98	99	93
France	56,9	92	85	70	87	65
Total Germany	79,7	90	94			89
former West				93	93	92
former East				70	76	77
Greece	10,2	—	> 42	40	—	
Ireland	3,5	—	66	66	66	67
Italy	57,7	56	—	80	—	75
Luxembourg	0,4	—	97	69	90	97
Portugal	9,9	—	41	6	—	52
Spain	39,0	90	68	8	—	70
Netherlands	15,0	100	90	29	95	97
United Kingdom	57,5	95	98	96	96	96
Total in EU	344,8					

⁽¹⁾ EWPCA: European Water Pollution Control Association.

⁽²⁾ Weighted mean for urban and rural population.

⁽³⁾ Data provided by Eurostat during this study.

⁽⁴⁾ WRC: Water Research Centre.

Source: The European Water Pollution Control Association (April 1995).

TABLE 9

Production of sludge (as disposed) in each EU Member State on annual and per head of population (connected to WWTP) basis (WRC, 1994)

Member State	Sludge disposed	
	tds y ⁻¹ ⁽²⁾	(%)
Belgium	59 200	(1)
Denmark	170 300	(3)
France	852 000	(13)
Germany	2 681 200	(42)
Greece ⁽¹⁾	48 200	(< 1)
Ireland	36 700	(< 1)
Italy	816 000	(13)
Luxembourg	7 900	(< 1)
Netherlands	322 900	(5)
Portugal ⁽¹⁾	25 000	(< 1)
Spain	350 000	(5)
United Kingdom	1 107 000	(17)
Total	6 476 400	(100)

⁽¹⁾ Upper estimate.

⁽²⁾ Tonnes of sludge disposed per year.

Source: EWPCA Report to the Commission in April 1995.

THE COMMISSION'S REPLIES

CHAPTER I

IMPLEMENTATION OF THE DIRECTIVES

Transposition of the directives into national law

12.-13.-14. On 1 October 1997 the Commission adopted its report on the implementation of the Nitrates Directive. According to this recent report, only four Member States (DK, F, L, E) are judged as having complied with their obligations of transposition. Figures are also given for the obligations concerning codes of good agricultural practice and action programmes for vulnerable zones. The report also states that infringement procedures against most Member States have been opened.

The Commission is currently working on its report on the implementation of the Urban Waste Water Treatment Directive, to be published next year. Infringement procedures are (November 1997) under way against six Member States (Austria, Belgium, Germany, Italy, Portugal and Spain). In three cases (Greece, Germany and Italy), the Court of Justice already ruled in 1996 that Member States had not complied with their obligations to transpose the provisions into national law.

Reporting by the Member States

17. With regard to the implementation programmes under the Urban Waste Water Treatment Directive, by November 1997 the Commission had received reports from 11 Member States, while those from Belgium (Walloon region), Greece, Italy and Portugal had still not been provided.

As concerns the comparison of Member States' provision for industrial waste water discharges, studies concerning all Member States including the three new ones have been completed, though later than expected due to Member States being late in their transposition. The results of the studies are at present being evaluated, and the Commission will publish its report under Article 13(3) in 1998.

20.-22. Regarding the legal requirement to include quantified indicators in the programming documents and monitor progress towards the achievement of targets, the situation is that, arising from the negotiations with the Member States, a range of environmental indicators has in fact been included in each programming document. It is the task of the Monitoring Committees to ensure that the necessary data are made available, from all appropriate sources, to allow such indicators to be used

in the monitoring and evaluation of the impact of programmes.

Regarding the database of indicators, it was developed in the period prior to the negotiations as a tool to assist the Member States and the Commission in the identification of indicators for inclusion in the programming documents. It was not intended that the database would be the means whereby indicators would be managed on an ongoing basis, that being the responsibility of the Monitoring Committees, on the basis of whatever sources of information they consider appropriate. Rather, the purpose of the database was to provide general background information on the 'context' of the Objective 1 regions, based largely on data collected by the National Statistics Institutes (NSI).

It is acknowledged that the range of information available in the database was insufficient. However, this reflects the limited availability of regional data on the environment at that time. It also explains why the database was confined to regions eligible for Objective 1, as very little environmental data is generally collected at the level (NUTS III) at which eligibility is established for Objectives 2 and 5b.

In the period since the development of the database, significant efforts have been made to improve the availability of regional data on the environment, including the provision of financial support to the Member States for the collection of data. This should allow an improved database to contribute to the choice of indicators for inclusion in the next generation of programming documents.

Progress against the specified timescale

Urban waste water treatment Directive

24.-28. When the Directive concerning urban waste water treatment was adopted, quantitative targets had not yet been clearly discerned. Statistics have been collected and are being compiled. The results should be available some time in 1998.

26. The widely differing rates of population/agglomerations being connected to adequate treatment plants had in fact been one of the main reasons for the Commission to propose and for the Council to adopt the Urban Waste Water Treatment Directive. Firstly, Member States have to assess the situation and to establish implementation programmes, secondly, they have to implement the necessary measures. Therefore, on adoption, the number of treatment plants could not be

foreseen throughout the Community, in particular as only a case-by-case assessment can provide a sufficiently sound basis to answer the question whether to construct a joint treatment plant for several agglomerations in a region, or individual ones. However, the Commission Report planned for 1998 (cf. response to 12.-13.-14.) will give an overview of the number of treatment plants as well.

28. The Commission is aware of the fact that some Member States seem to be late in meeting their obligations, some of them having not even formally transposed the Directive (cf. response to 12.-13.-14.). However, the Commission considers the deadlines for achieving the objectives as adopted by the Council sufficient, and does not consider at present proposing any changes to the deadlines. It feels itself supported in this context by the fact that not a single Member State has formally requested such a change. As for non-compliance with the Directive, the Commission will vigorously pursue the necessary infringement procedures, including those under Article 171 of the Treaty.

Nitrates Directive

33. The Commission has been informed that a considerable number of other farmers are interested in being equipped with treatment plants, but the cost of such installations is very high for an individual farmer. The cooperative and the regional authorities are encouraging the grouping of neighbouring farmers in order to facilitate the financing of such plants; it is true, however, that the situation is progressing slowly.

34. The last sentence refers to the data on current land application of organic waste etc. It is true that such data might, given local circumstances, lead to misinterpretation. However, Annex III.I.3 to the Directive clearly requires a balance between the nitrogen requirements of the crops and the nitrogen supply to the crops.

35. Experimental projects in Brittany have been exceptionally co-financed by the ERDF. The implementation of the projects and the respect of Community legislation relating to them is primarily the responsibility of the Member State.

36.-37. As regrettable as the pollution caused by agricultural activities in Brittany with respect to the Community's environment policy is, the national and Community public grants which could be awarded to remedy the situation are considered to be State aids, and such a definition outlaws any grants which would be awarded to enable farms to comply with the statutory provisions, since this would be contrary to the application of the 'polluter-pays' principle and hence likely to introduce distortions of competition. Consequently, when applying regional policy and promoting environmental protection, the Commission

cannot contravene the principles set out in Community policies on the environment and competition.

As part of the guidelines for the new generation of Objective 2 programmes (1997-1999), the Commission has informed the Member States of its desire to step up the share devoted to the environment. However, it must be clear that it is not the purpose of the Structural Funds to solve single-handedly all the pollution problems of a region.

Sludge Directive

40. The French authorities have stated that the controls on the use of treated sludge for agriculture will soon be strengthened.

In 1996 the Portuguese authorities adopted the Strategic Plan for Urban Waste (PERSU), the execution of which will allow 95% of the population to be served by an urban waste treatment system respecting the Community directives. A number of relevant projects are being executed or have already been completed.

As these treatment centres become operational, the Portuguese authorities are closing down the unsupervised discharge sites in the region. About 20 of these discharge sites have been de-activated.

41. These problems have been solved in the following way. The Commission approved a top-up to the Cohesion Fund in August 1995 for projects not covered by the initial decision. The new decision provides for financing to step up the disposal of sludge. It is planned to carry out tertiary treatment to deal with mercury. This reprogramming has led to a substantial increase in financing which has risen from ECU 5 million to ECU 11,1 million.

44. The results of the studies undertaken by the Commission have been distributed via the Permanent Representatives, various ministries or their contact points. Further dissemination by the Member State to interested parties may not always be sufficient, however.

CHAPTER II

EU EXPENDITURE ON THE IMPROVEMENT OF WATER QUALITY

Budgetary implementation

46. Because of the programme approach adopted in the case of the Structural Funds, it is normal that the Commission should not be in a position to provide systematic information below the level of priorities or

measures approved by it, such as information concerning the individual projects approved by the Member States. In many cases, water measures are integrated into general priorities for the environment. This is reflected in the environmental reporting in the Annual Reports.

However, the 7th Annual Report on the Structural Funds in 1995 gave special attention to the environmental aspect, giving a breakdown of Community support for direct environmental investments, including those for reducing water pollution. The report also contains numerous examples of environmental aspects in the programmes. The increasing focus on integrating the environmental dimension into the different programme priorities, especially in Objective 2 programmes, has precluded a more systematic approach.

50. Regarding the agricultural development Operational Programme in Northern Ireland, the decentralised nature of the Structural Funds means that the Commission does not have details on individual projects. In the case in point, decisions on approval of individual farm investments come under the responsibility of the Member State, which has a series of administrative and on-the-spot checks as part of its control procedures.

Data deficiencies

52. The proposed Water Framework Directive (Commission Proposal COM(97)49 of 26 February 1997, as amended by COM(97)614 of 26 November 1997) will provide common definitions for water-related Community legislation.

53. Please see reply to paragraph 46.

Lack of specialised data

54.-55. The relative shares spent for environmental purposes are presented as aggregate figures, reflecting the integrated approach of the Structural Funds. Moreover, while Commission reporting aims at giving an overview of the Funds' operations, details on individual regions are accessible in the published programmes concerned.

The extent to which environmental measures are included in the programmes differs according to the Member State and to the Objectives concerned. As regards Objective 1, the CSF for the Netherlands, for example, contains a specific measure on 'water management'.

Others, such as Portugal or Belgium, include 'environment' measures, but not explicitly for water. In Objective 2, the co-financing of basic infrastructure investments such as the collection and treatment of water

has not been a priority and therefore requires a specific justification in terms of regional development needs.

The non explicitly environmental projects are important; however, it is not possible to identify the shares of non-environmental measures which have a positive environmental effect, as these are not specifically indicated in the programmes.

The 1994 CSFs contain an assessment of the environmental investments supported in the 1989-1993 CSFs. However, programme level evaluations can only address priorities (e.g. 'environment') and not individual measures (such as 'waste water treatment'). In view of the importance of environmental issues, the Commission has launched a broad thematic evaluation of the impact of the Structural Funds on the environment, covering all Member States and aimed at providing guidance for future programmes; it is expected to be completed in 1998.

With regard to the Cohesion Fund and within the context of action as part of technical assistance, the Commission has financed studies carried out by a private consultant to identify the situation in the cohesion countries with respect to Directive 91/271/EEC.

56. The harmonisation of data is already a continuous concern of the Commission. The differences in data, however, reflect the variety of content and form of the different programmes. It is only possible to harmonise the data on the environment in the programmes to a limited extent at this stage. Already, the category 'environment' is very differently defined by the Member States and regions in their programmes. The growing and certainly welcome trend to integrate the environment horizontally into non-environmental measures increasingly complicates the clear identification of environmental measures.

CHAPTER III

AUDIT OF PROJECT IMPLEMENTATION

Conformity with the Urban Waste Water Directive

57. Under the rules governing the Structural Funds, ensuring the conformity of co-financed measures with Community policy on environmental protection is a clear responsibility of the Member States. According to Article 23(2) of Council Regulation (EEC) No 4253/88, the Commission may carry out on-the-spot checks. If irregularities are detected, the Commission applies, where necessary, the provisions of Article 24 of Council Regulation (EEC) No 4253/88 and takes the necessary corrective action.

The application of Commission Regulation (EC) No 2064/97, establishing detailed arrangements for the implementation of Council Regulation (EEC) No 4253/88 as regards the financial control by Member States of operations co-financed by the Structural Funds, will improve the financial monitoring of compliance with all Community rules, including those on the environment.

59. The deadline for commitments for most of the programmes of the 1989-1993 programming period was 31 December 1993. Given the timetable for the implementation of the UWWT Directive (30 June 1993 for bringing into force the laws and 31 December 1993 for the establishment of an implementation programme by Member States), it seems reasonable that a number of projects which were in the process of being implemented could not be modified to reflect the new requirements of the Directive.

a) According to information obtained from the Member State, the Coruña pre-treatment plant will be enlarged to comply with Directive 91/271/EEC. Additional works of 5 billion PTS have been planned in this respect.

b) Only 70 % of the waste water of this conurbation is currently treated by the Funchal waste water treatment plant in Madeira because the sewer networks have not been completed and some of these networks do not function very well. Works currently being carried out under the responsibility of Funchal municipal authorities will enable the system to function properly.

c) Following an enquiry by the Commission, the Italian authorities have replied that, at the present time, the parameters concerning discharges of effluents for the Mola di Bari waste water treatment plant comply with the standards set out in Directive 91/271/EEC where the majority of values are concerned. This result has been achieved precisely on the completion of the finishing works financed under the ENVIREG programme. The Commission has asked for detailed technical information in this respect.

61. a) According to information from the Member State, it is planned to enlarge the pre-treatment plant to comply with Directive 91/271/EEC.

b) The investments co-financed by the Cohesion Fund in the framework of the project 'Enlargement of sewers and construction of the Nigran water purification plant with secondary treatment' will guarantee compliance with the Directive.

c) Biguglia: As explained by the French authorities, this project had been approved before the application of Directive 91/271/EEC. Additional works have been planned in order to meet the requirements of the Directive.

With respect to the Alviela Basin purification plant, of which only the improvement (third phase of the project) is being financed by the Cohesion Fund, the decision to grant funding approved in July 1993 clearly specifies that the Portuguese authorities must fulfil the quality criteria of the Directive. Checks regarding this will be carried out before the balance of funding for the project is disbursed.

Outdated design of projects

65. The Commission will ask the Greek authorities to provide information about the operating conditions of this sewage plant today.

67. Please see reply to para. 59. b).

68. According to information supplied by the Member State, the sewers of the town of Ribeira can cope adequately with the evacuation of rain and waste water. It seems that the technical problems which appear in some municipal collectors under exceptional conditions do not cause serious problems in the functioning of the system as a whole.

The problems of stormwater and industrial waste water

69. As concerns the choice of 'separate' or 'combined' collecting systems, there are no general advantages or disadvantages attached to either. The choice will have to be made case by case, depending on environmental, meteorological, local and hydrological considerations. However, surface water drainage (in most cases of separate systems) will discharge into the receiving waters without further treatment.

In the case of combined systems (one collecting system for sewage and one for rain water run-off), the Directive does not require that rain water run-off be collected but requires that pollution to receiving waters from stormwater overflows be limited (see Annex I.A).

70. It is true that the municipal network of Biguglia is not a separate system. The explanation of the French authorities is that it is unthinkable to build a network to collect and treat rain water because of the investment needed. The cost of re-dimensioning the sewers under the national trunk road alone is estimated at FF 30 million.

At its meeting on 15 October 1993, the ENVIREG-Stride programme Monitoring Committee proposed increasing funds under the 'sanitation' heading by ECU 0,379 million to cope with the additional requirements for sanitation connected with the flooding in Corsica in 1993.

71. It is correct that the Spanish authorities use mixed sanitation systems, which does not in itself constitute a technical problem. A mixed system does not necessarily entail problems for the functioning of the purification plants which are now able to incorporate storage systems or evacuation devices leading to the general floodway. These investments are financed by the Cohesion Fund.

In the case of Portugal, the Court's assertion applies only to the ancient and/or historical areas of towns. The new treatment systems or those which have been replaced are already equipped with two separate systems (urban waste water/rain water).

73. The proposed Water Framework Directive (Commission Proposal COM(97)49 of 26 February 1997, as amended by COM(97)614 of 26 November 1997) has as one of its objectives the obligation to introduce full cost recovery charges for services such as water supply and waste water collection and treatment, since the aim is to utilise natural resources prudently and rationally, which is a goal enshrined in Article 130r of the Treaty.

74. The Member State has reported that the regional administration is doing all it can to effectively apply the 'polluter-pays' principle, to organise the way in which industrial effluent is discharged and to encourage the pre-treatment of water before it reaches the connections to the communal networks.

75. The Commission will examine this case with the Spanish authorities.

76. The Irish authorities have indicated that they are following up the case highlighted by the Court.

77. a) Monitoring of waste water discharges from industries/installations under the Integrated Pollution Prevention and Control Directive is already subject to adequate monitoring requirements under Directive 96/61/EC. Monitoring of discharges from 'non-IPPC industries/installations' will be dealt with under the proposed Water Framework Directive. The Commission amended, on 26 November 1997, its proposal for a Water Framework Directive, by:

- incorporating the principle of emission controls,
- obliging Parliament and the Council to set (via Directives) emission limit values based on best available techniques (BAT) — for all those sources which are not yet covered by Community legislation,

- obliging the Commission to come forward at short notice with a first batch of emission limit value proposals for priority substances (COM(97)614).

- b) both the IPPC Directive and the proposed Water Framework Directive foresee a system of prior authorisation and/or permit procedure, those owning and maintaining the urban waste water systems will have to be part of the decision taking process and be kept informed.

The costs of projects — planned versus actual costs

79. The Psytalia water purification plant was started with ERDF funding and continued with support from the Cohesion Fund. It is correct that the initial cost estimate (ECU 40,1 million) for a purification plant to cover a metropolis the size of Athens was not realistic. This error occurred because of the particular way in which the Greek public works system operated, making it possible to begin the structure without having calculated sufficiently precisely its real cost and without having made sure that all the financing would be forthcoming. In addition, the practice at the time favoured companies which offered substantial discounts to obtain the contract. Meanwhile this system has been largely reviewed and modified due, in particular, to the efforts of the Commission. Current legislation should no longer permit such practices.

80. On the basis of the comments of the Spanish authorities, it seems that the increased costs for these projects as indicated in the revised regional plan of 1993 are mainly due to the additional works required in order to correspond to the provisions of the Directive.

In addition, where the Cohesion Fund is concerned, it is accurate that requests for grants are submitted on the basis of regional reprogramming which does not yet incorporate all the components of the cost of the investment. The real cost of the project can only be known after the contract has been signed. The Commission is aware of this problem and is trying to find solutions.

81. The reasons for the increase in relation to the original cost estimate are an extension to the scheme which was approved in 1994, increases in materials and labour costs under the price variation clause, increases in measured work, contractors' claims and currency fluctuations.

82. Under the Structural Funds the Commission finances programmes and not projects. The project mentioned by the Court is part of a programme which benefited from EAGGF Guideline financing. Even if the cost of this project has risen, the Commission's total

commitment for the entire programme has remained identical to its forecasts.

83. The German authorities have provided a justification for the extension of the installation and related cost increase. The justification for the building of a cellar appears to be well founded in so far as technical requirements had to be taken into account.

Delays in carrying out the projects and their effects on the increase of costs

86. The Commission, aware of the delays in the execution of projects in Corsica, has already raised these problems and recommended improvements in a number of cases through the Monitoring Committees.

It is true that, in certain cases, the tendering procedures took place after the deadline for commitments because the French authorities had interpreted the notion of 'legal and financial commitment' in a way corresponding to the national procedures. The Commission is currently in discussion with the French authorities for the clarification of this aspect.

The French authorities have provided the following explanations regarding the individual projects:

- 1) 'sanitation of the Biguglia lagoon barrier': the delays in execution and the increase in cost are due to technical modifications of the initial project which were made for environmental purposes: change of location of the treatment plant, transfer of effluents from the municipalities of Biguglia and Lucciana to the lagoon barrier network;
- 2) transfer of effluents from Biguglia municipality to the lagoon barrier purification plant: the works were executed late — but in a short time — because it was not possible in 1992 to discharge effluents into the lagoon barrier;
- 3) the 'expansion of capacity of the greater Ajaccio treatment plant' project, studies for which were financed by ENVIREG and launched in 1993, concerns not only the town of Ajaccio but also the peripheral municipalities of Afa, Alata, Appietto, Sarrola and Bastelicaccia. While the treatment of effluents in Ajaccio itself is deemed satisfactory (but there is no reserve capacity), the same is not true of the peripheral municipalities. If a decision is taken quickly, the major part of this operation (plant and network) can be executed in the context of the SPD and the date of 31 December 2000 respected;
- 4) the South Bastia plant will indeed be operational at the end of 1998 or the beginning of 1999. The reason for the major delay in building the South Bastia purification plant is that financing by the awarding

authority was diverted to rebuilding the Furiani stadium after the disaster which took place there;

- 5) Studies on the sanitation of the southern bank of the Gulf of Ajaccio did indeed begin in 1984 but the service only started operating in 1991. Despite its obvious merits, this project was strongly opposed by some inhabitants. The Minister for the Environment had two surveys carried out, the conclusions of which were highly favourable. This held up the launching of the project considerably. In addition, and this is true for all the projects mentioned above, the awarding authorities are not always structured in a way which enables them to launch such projects quickly; the difficulty of raising finance, often requiring much time to finalise, should also not be forgotten.

87.-88. Changes in the projects have led to a substantial improvement in quality and have extended the coverage of the service. All the projects mentioned are operating at the present time, run by the respective municipalities.

89. The cost of these plants rose for the reasons mentioned in the reply to paragraph 79. This practice in Greece was modified during the second programming period.

90. Many of the projects carried out in Italy during the period in which the programme was running suffered considerable delays due, *inter alia*, to the introduction of new rules and new procedures governing the award of contracts and changes in the responsibilities of officials employed by the public administrations responsible for managing the projects.

91. As the Court states, delays in the execution of these two projects are due to the technical improvements required.

Management of projects by the competent authorities

92.-93. Cohesion Fund: With regard to Greystones, the decision to award a grant under the Cohesion Fund clearly specifies in its Annex I (Decision C(94)3513 final of 9 December 1994) the works which are subject to co-financing. The criterion governing the breakdown between the ERDF and the Cohesion Fund was not in the contract but dictated by the nature of the works. Even if there is only one contract, it is therefore possible to distinguish between that part of the works financed by the ERDF under the ENVIREG programme and that financed by the Cohesion Fund.

Where financial independence is concerned, it cannot be deduced from the existence of a single contract that such independence does not exist. The works financed by the Cohesion Fund can be identified as a part of the contract and the invoices and related documents can clearly be connected to the works in question.

With regard to the Wexford Main Drainage project, it is accurate that this project was identified as one of those in the ENVIREG programme, but the amount allocated to it was minimal and related only to the initial planning phase. The actual project was later submitted as a candidate for the Cohesion Fund and adopted under it. The Commission decision clearly spells out what constitutes ineligible expenditure.

As to the accounting difficulties encountered by the Court when trying to verify expenditure on these two projects, the Commission will ask the Member State to supply more information concerning the accuracy of the amounts declared.

ERDF: In order to give continuity to the global effort of improving water quality, the ERDF has allowed the phasing of projects where they span overlapping programming periods. This phasing requires that there be no double funding and that the basic criteria in relation to start and end dates are met.

The splitting-up of major public works schemes (across all sectors) in Ireland has more to do with the nature of the works involved and the limited financial resources available to local authorities than with the motives suggested by the Court. If local authorities were to await financial approval for all the schemes, far fewer projects would be started and completed in any given programming period.

94. Meanwhile, the situation has improved, thanks to a series of ministerial decrees which have amended the way in which public works contracts are carried out in Greece. Furthermore, a new law is being drafted along the same lines. In the meantime, this project has been withdrawn from the programme by the Greek authorities.

95.-96. The Commission is aware of the accounting, reporting and control weaknesses in Corsica. In this context, it decided on 30 July 1996 to reduce the Community grant for the 1994-1999 OP (Commission Decision C(96)1895).

The Commission, however, regards the establishment by the regional authorities of a computerised management system and the instructions for use by the services concerned, as stated by the national authorities, as improvements which will guarantee the proper implementation of the Community co-financed operations.

As regards the accounting problems encountered by the Court in Spain, the Commission has been informed that improvements in the processing of the co-financed expenditure accounts were introduced in 1994.

Malfunctioning treatment plants

98. Information now available to the Commission leads us to believe that solutions have been found to the majority of problems reported by the Court in 1996 concerning projects financed under ENVIREG. Before the ENVIREG programme is closed, a last check will be made by the Italian authorities as part of their monitoring operation.

99. Sada: The Spanish authorities have explained that the Regional Government has financed additional works in respect of this project from its own resources; the Commission will ask for information about the operation of this sewage plant today.

Rianxo: The Spanish authorities have explained that the plant is now functioning properly, because of additional works executed. The call for tenders to operate the plant was made in December 1995 and the contract was signed on 1 July 1996.

Problems of implementing the ENVIREG Community Initiative

105. Delays in implementing the ENVIREG programmes are due mainly to the lack of infrastructure, technical know-how and experience on the part of implementing authorities and beneficiaries. At the end of 1997, only 5 ENVIREG programmes remained open.

106. The financial implementation provisions attached to the Commission co-financing decision on the Irish ENVIREG programme state that the expenditure declarations should refer to amounts spent by the final beneficiaries, which are deemed to be organisations or public or private undertakings responsible for ordering the works (project managers). It appears that there was a misinterpretation of these provisions by the Irish authorities.

The Irish authorities now accept the common definition of final beneficiary and have withdrawn their original claim for the Water and Sanitary Services OP (based on their old definition) and resubmitted a revised claim, where the local authorities are deemed final beneficiaries. The same definition is being applied to the new Operational Programmes for Environmental Services 1994-1999.

The financial implementation provisions attached to the ERDF co-financing decisions are in principle the same for all programmes in all Member States. In order further to clarify these rules, the Commission has adopted clear and detailed implementation provisions attached to the ERDF co-financing decisions for the 1994-99 programming period.

107. The Commission concurs with the Court's analysis concerning shortcomings in the management of the ENVIREG programme. It should be recalled that this was the first time the Italian Ministry of the Environment had managed a Community programme. Difficulties arose, above all, when defining organisational aspects and in the choice of procedures for selecting and financing projects as adopted by the Ministry. The monitoring of the programme could have been improved in the latter management period.

108. The time-scale for ENVIREG did not allow (considering lead-in times for projects in this sector) for the conception, definition and completion of totally new innovative projects of a scale large enough to absorb all the funds available to Northern Ireland. After careful consideration and after commissioning a new cost-benefit analysis and taking into account the long-term environmental impact of this project, including its impact on Belfast Lough, the Commission agreed to the project being included in the ENVIREG programme for Northern Ireland to enable the remainder of the available funds to be used.

109. The Spanish authorities have explained that additional works valued at 5 billion PT have been planned for this project in order to correspond to the requirements of the Directive.

110. The Commission considers that ENVIREG has made it possible to remedy partially the almost total absence of environmental measures within the CSF 89-93 in Portugal. The positive impact of ENVIREG has not made it possible to make up all the shortcomings in the environmental field in Portugal. Financing through the Cohesion Fund and the ERDF during the period 1994-1999 will, however, play a very important part in making up for these shortcomings, particularly as regards basic sanitation.

111. In Greece, the amounts awarded under the ENVIREG initiative have been reduced on a proposal from the competent Greek authorities which has been accepted by the Commission. The reason behind this reduction was the very low rate of use of funds at the beginning of ENVIREG. The delay was due to the lack of experience on the part of the public authorities for this type of structure (municipal waste water purification plants). The lack of experience in question led to major delays in launching projects in the field which meant that the funds were hardly used.

Consequently, the Greek authorities transferred these funds to other initiatives or to projects ready for co-financing. The reduction in the budget has led to a substantial drop in the number of projects.

Results in the field have shown that the Greek authorities underestimated the real costs, even though they reduced the number of projects. It is true that this was practically the first time such structures had been built in Greece and the cost estimates were inaccurate. Those plants

which it has not been possible to complete with the limited funds under the ENVIREG initiative will be included for completion within the 'Environment' Operational Programme under the Community support framework (CSF) for Greece in 1994-99 on a Greek proposal accepted by the CSF Monitoring Committee. The Commission will hold the balance of funds owing to Greece (for ENVIREG) in abeyance as long as this question has not been solved definitively.

112. It is true that the programme proposed in 1991 and adopted in April 1992 suffered delays due both to a lack of experience in the programme's approach and owing to the fact that this programme contained innovatory measures. This led the French authorities to propose changes to the Commission on two occasions by adjusting the appropriations between measures and ERDF participation rates, decisions which were taken in October and December 1993. According to information contained in the final report on the completion of the programme and submitted by the French authorities, it transpires that this programme has been 100% executed, when compared with the latest version of the financial tables.

'Ambiente e Regione' (AMBER) technical assistance network

113.-119. The AMBER technical assistance network was set up to develop the exchange of know-how in all areas covered by ENVIREG and not just in the area of water.

The heading entitled 'requests for expert appraisals' (point 116) in the contract was the subject of an order form worth ECU 45 000 for 30 expert appraisals. The fact that the request is lower than the forecasts is due largely to the fact that, as indicated in paragraph 124, most of the projects financed were not new projects needing analysis to identify the most appropriate purification system. The ECU 45 000 spent on expert appraisals (ECU 1 500 per expert appraisal) concerned the cost of such identification for AMBER by the appropriate experts and a check on the quality of the work carried out. It is accurate that the cost of the appraisal should be borne by the ENVIREG OPs.

The manuals of best practice and seminars focused on water treatment, management of urban waste and the taking into account of the environment in coastal planning. The manuals were first distributed to the national and regional authorities and to participants at seminars, national and regional authorities being totally at liberty either to adapt the manuals, reproduce them and distribute them to local communities or to ask AMBER to supply them with further copies for distribution or to give AMBER a list of the communities to whom they should be sent. Since the Member States did not supply any lists, AMBER proceeded to distribute the manuals to local communities, particularly during the seminars.

It was the purpose of the conferences to enable exchanges to take place between participants during them and not afterwards. It transpired in some cases that exchanges were pursued after the conferences but without any financial participation from AMBER, as no provision existed for this, which probably limited their number.

Ex post facto assessment of the ENVIREG C.I.

121. The draft final report submitted in December 1995 had to be completed by additional information and was finalised in October 1996.

In the report, the assessor included a collection of data which covered as much information as could be produced, account being taken of the constraints governing this assessment. That is why the Commission felt that it was not useful to spend any more money on an assessment which could not go into further detail.

The additional delay in finalising the study is due to organisational difficulties affecting the carrying out of the assessment in certain Member States, notably the United Kingdom (Northern Ireland), Spain, Portugal, Greece, Italy and the Overseas Departments of France. It took five months, for example, to obtain agreement from the authorities to initiate the assessment of Northern Ireland.

122. The Commission believes that this assessment was able to gather the maximum of information concerning the analysis of administrative procedures and the implementation of the initiative. It was of course difficult to establish the final impact of this programme. Actions of the kind promoted by ENVIREG have since been multiplied and largely stepped up in the planning for 1994-99.

123. As the Court states in paragraph 59, in the framework of negotiations between the Commission and the Member States on the ENVIREG Community initiative, it was agreed that, as far as possible, projects involving treatment plants would comply with the terms of Directive 91/271/EEC.

Under Article 7 of Regulation (EEC) No 2052/88, measures co-financed by the Structural Funds must comply with the provisions of the Treaties, with the instruments approved pursuant thereto and with Community policies; moreover, specific reference to compliance with all Community policies is included in the implementation provisions attached to the co-financed programmes.

124. Initial delays in implementing the Italian programme have now been caught up. Indeed, data on the carrying out of works in the month of December 1997 make it clear that the final execution rate is close to 100 % of the sums programmed.

As regards the difficulties of implementing ENVIREG in Greece and Northern Ireland, please see the comments on paragraphs 111 and 108.

The LIFE programme

127. Local and regional authorities were closely associated with the project. The mayors of 137 municipalities in the Contrat de Baie perimeter were approached to give their opinion of the results of the pilot projects and to draw consequences as regards investments since the financiers of the project included — apart from the European Union — the State (Ministry of the Environment), the Regional Council of Brittany, the Département of Finistère and the Loire-Brittany Water Board.

The exploitation of these results by the Commission and the Member States could nevertheless be improved and the departments of DG XI which are involved are endeavouring, precisely, to institute a strategy to disseminate the results of LIFE projects.

CHAPTER IV

THE QUESTION OF WATER CHARGES

Water charges

128.-134. One of the main objectives of the proposed Water Framework Directive (COM(97)49 of 26 February 1997, as amended by COM(97)614 of 26 November 1997), is an obligation to introduce full cost recovery charges for all services related to water (i.e. basically water supply and waste water collection and treatment). This provision (in Article 12 of the Proposal) will not only provide for the necessary financial means for maintenance etc, but also constitute a financial incentive for the sustainable use of water as a resource. However, certain exemptions will be possible:

- to allow a basic level of water supply and waste water collection and treatment for domestic purposes at an affordable price,
- to allow capital costs subsidies for infrastructure projects where Community funding is provided under Articles 130a to 130e of the Treaty,
- to take account of specific situations of regions eligible for assistance pursuant to Objectives 1, 5b and 6 of the Structural Funds.

134. Whenever the Commission calculates the amount of financing to grant for a project under the Cohesion Fund, it takes into account all the estimates of receipts received by the promoter on condition that such receipts are net, intrinsic and directly attributable to the project. At the present time there is no legal basis in Community law for imposing a pricing policy on the Member State as regards water. In its proposal for a framework Directive on water, the Commission has introduced a provision along these lines.

In the area of ERDF expenditure, the individual projects and the corresponding grant rates are in principle

approved by the national authorities; these are required to modulate the amount of Community grant in line with (among other elements) the capacity of the investments concerned to generate revenue (Article 17 of the Coordination Regulation).

CONCLUSION

135.-141. Despite the difficulties underscored by the Court, the Commission considers that considerable progress has been made in introducing a water policy.

Substantial efforts still need to be made, of course, particularly to devise a strategy for the integrated planning and management of water resources which takes account of qualitative as well as quantitative factors. In addition, it is true that the way in which the Directives are applied in many Member States is still not wholly satisfactory. The latter have, however, organised substantial investment programmes to meet the objectives of these Directives and thus to achieve a considerable increase in water quality.

Such activities are also boosted by the increased application of the 'polluter-pays' principle, as proposed by the Commission (Commission proposal COM(97) 49 of 26 February 1997, amended by proposal COM(97) 614 of 26 November 1997).

The Commission is also trying to step up coordination and cooperation between all the Directorates-General involved in implementing the environment policy. The incorporation of this policy into other Community policies (agriculture, Structural Funds) is one of the major concerns of the Commission at the present time and is also subscribed to by the Parliament through the 'Greening of the Budget'.

139. The proposed Water Framework Directive (Commission Proposal COM(97)49 of 26 February 1997, amended by COM(97)614 of 26 November 1997) has as one of its objectives the obligation to introduce full cost recovery charges for services such as water supply and waste water collection and treatment, since the aim is to utilise natural resources prudently and rationally, which is a goal enshrined in Article 130r of the Treaty.
