

SPECIAL REPORT No 12/98
**on the implementation of the operational programmes relating to the promotion of rural
 development in the Objective 5b areas together with the Commission's replies**

(Submitted pursuant to Article 188c(4)(2) of the EC Treaty)

(98/C 356/02)

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1. OBJECTIVES AND SCOPE OF THE AUDIT

1.1. The audit conducted by the Court covered the closure of the operational programmes (OPs) covering the first programming period of the reform of the Structural Funds (FS) which was approved in 1988 ⁽¹⁾ (1989 to 1993) to promote the development of rural areas in Objective 5b regions, and, in particular, on examining the management of Community appropriations from the EAGGF Guidance Section used for the implementation of the OPs, in respect of both the legality/regularity of the transactions and the soundness of the financial management.

1.2. The audit examined the following:

- (a) the situation in respect of the closure of the OPs;
- (b) the reliability of the certificates of expenditure and of the progress reports;
- (c) the quality of the management and monitoring systems of the OPs;
- (c) the transition to the second period of programming (1994 to 1999).

1.3. The audit was conducted in the relevant departments of the Commission and the Member States. It concentrated, in particular, on a sample of 12 OPs, some of which had been closed and some not, which had received ECU 388,3 million of aid, or 36 % of the total EAGGF-Guidance contribution to Objective 5b. Audit visits covering 60 measures and 272 projects, of which 101 were carried out on the final beneficiaries' premises, took place in Germany, Spain, France, Italy and the Netherlands.

1.4. *Annex 1* contains a summary of the underlying principles of the reform, of its objectives and the main elements of its implementation.

2. SUMMARY OF THE MAIN OBSERVATIONS

2.1. Of the 58 OPs financed within the framework of Objective 5b under the EAGGF-Guidance, only 12 were closed within the time originally planned. At the end of 1997, 32 had still not been closed (see paragraphs 3.1 to 3.9).

⁽¹⁾ Council Regulation (EEC) No 2052/88 of 24 June 1988 concerning the purpose of the Funds in respect of structural objectives, their effectiveness and the coordination of their interventions with one another and with the funds of the European Investment Bank and other existing financial instruments (OJ L 185, 15.7.1988, p. 9).

2.2. In seven cases out of 11 of the 12 OPs in the sample, the certificates of expenditure forwarded by the Member States to the Commission in support of their requests for payment of the balance did not correspond to the actual expenditure because there were disparities between the amount of EAGGF appropriations received and the amount utilised, because estimates of expenditure were taken into account or because it was not possible to validate the list of projects submitted (see paragraphs 4.1 to 4.4).

2.3. The progress reports for the OPs do not allow the Commission to form a precise idea of the progress made as the physical indicators are inadequate and the financial data too general (see paragraphs 4.5 to 4.9).

2.4. This situation has its roots in a series of delays which led to a concentration of operations at the end of the period. These delays occurred from the very start of programming the operations and their negative effects were not rectified by the management and monitoring systems.

2.5. The Commission took no decision in 1989, in respect of the initial programming, on the 58 OPs concerned, only adopting five of them in 1990, 50 in 1991, and two in 1992. The last OP was not approved until 1993, in the final year of the period (see paragraphs 5.1 to 5.4).

2.6. In order to resolve the problems posed by the shortening of the period of implementation of the OPs, the national management bodies had recourse to the inclusion of projects for which no provision had been made at the outset, and to transfers of actions programmed for the 1994 to 1999 period (see paragraphs 5.5 to 5.6).

2.7. In addition, at the end of the period, the Commission was induced to grant, almost automatically, deadline extensions and amendments to the contents of the OPs. These practices were detrimental to the coherence of the programming (see paragraphs 5.7 to 5.9).

2.8. The differences of opinion as to the definition of the concept of a commitment led to a situation of stalemate which prevented the closure of the majority of the OPs in one Member State (see paragraphs 5.10 to 5.11).

2.9. A number of measures and beneficiaries were selected just before expiry of the eligibility deadlines, which had already been extended once. The justification for the selections made in this way was inadequate (see paragraph 5.12).

2.10. The management and monitoring mechanisms, which should have rectified these deficiencies, proved ineffective. Either the Commission did not devote the attention it should have to checking requests for payment

relating to the balance outstanding of each annual instalment, which was reduced to a simple financial exercise, or the appropriations provided for technical assistance were used for other purposes (see paragraphs 5.14 to 5.25).

2.11. These weaknesses were accentuated by the inadequacy of the on-the-spot controls, both by the Commission's departments and by the national authorities (see paragraphs 5.26 to 5.31).

2.12. Moreover, the evaluations carried out while the OPs were being implemented did not enable management to draw any lessons from them (see paragraphs 5.32 to 5.33).

2.13. Finally, the execution of the actions coincided, to a large extent, with the start of the programmes of the second period, causing confusion between the two periods and delays for the second (see paragraphs 5.34 to 5.37).

3. SITUATION IN RESPECT OF THE CLOSURE OF THE OPs

3.1. Management of the programmes is shared between the Commission and the Member States. For the Commission, this task is assigned to two departments, DG VI/FI/3, which is responsible for the management of all operational matters, and DG VI G3, which is mainly responsible for financial aspects and checking the statements of expenditure by the Member States and the requests for commitment or payment. In the Member States this task is delegated to the departments named in the programmes.

3.2. For the first period the Commission adopted decisions approving Community Support Frameworks (CSFs) and corresponding OPs, a list of which is shown in Table 1. In this way, 44 CSFs were approved with a volume of appropriations totalling ECU 2 606,7 million under the Structural Funds, the EAGGF-Guidance contribution amounting to ECU 1 068,6 million (41 %). The CSFs gave rise to 74 OPs, financed from one Fund or more than one Fund, and EAGGF-Guidance contributed to the financing of 58 of them.

Table 1
CSFs AND OPs FOR OBJECTIVE 5b ADOPTED FOR THE PERIOD 1989 to 1993

(ECU million)

MS	REGION	EAGGF-Guidance				ERDF			ESF			TOTAL STRUCTURAL FUNDS		
		CSF	OP		%	CSF	OP	%	CSF	OP	%	CSF	OP	%
			Initial	Final										
BE	Hageland	3,16	3,42	3,60	30	4,23	4,90	40	4,16	3,70	30	11,55	12,20	0,5
	Wallonia (three single-Fund OPs)	8,38	8,05	8,60	42	7,06	8,10	39	5,51	4,00	19	20,95	20,70	0,9
		11,54	11,47	12,20	37	11,29	13,00	40	9,67	7,70	23	32,50	32,90	1,5
DK	Denmark	5,00	4,50	3,80	18	12,20	10,80	51	5,80	6,70	31	23,00	21,30	1,0
		5,00	4,50	3,80	18	12,20	10,80	51	5,80	6,70	31	23,00	21,30	1,0
DE	Baden-Württemberg	10,34	11,21	12,50	38	15,25	17,70	54	3,16	2,70	8	28,75	32,90	1,5
DE	Bavaria	88,81	88,81	111,00	45	108,17	103,20	42	60,22	31,80	13	257,20	246,00	11,0
DE	Hesse	18,76	20,33	21,70	56	16,51	15,60	40	2,73	1,40	4	38,00	38,70	1,7
DE	Lower Saxony	35,60	38,57	42,60	41	54,62	43,30	42	17,75	18,10	17	107,97	104,00	4,7
DE	North Rhine-Westphalia	4,21	4,21	5,80	26	11,80	14,60	66	3,53	1,60	7	19,53	22,00	1,0
DE	Rhineland-Palatinate	10,76	11,66	13,10	47	15,53	9,90	36	4,94	4,80	17	31,23	27,80	1,2
DE	Saarland	1,21	1,40	1,50	42	3,38	0,80	22	1,26	1,30	36	5,85	3,60	0,2
DE	Schleswig-Holstein	24,74	13,11	14,60	41	10,22	20,20	57	1,52	0,50	1	36,47	35,30	1,6
		194,41	189,30	222,80	44	235,49	225,30	44	95,10	62,20	12	525,00	510,30	22,9
ES	Aragon (three single-Fund OPs)	90,64	71,23	81,50	71	31,00	29,30	25	13,71	4,80	4	135,35	115,60	5,2
ES	Balearic Islands	11,22	8,64	8,60	45	6,80	8,80	46	6,39	1,90	10	24,41	19,30	0,9
ES	Cantabria	23,22	19,89	15,30	58	4,40	11,00	42	1,77			29,39	26,30	1,2

(ECU million)

MS	REGION	EAGGF-Guidance				ERDF			ESF			TOTAL STRUCTURAL FUNDS		
		CSF	OP		%	CSF	OP	%	CSF	OP	%	CSF	OP	%
			Initial	Final										
ES	Catalonia	26,60	17,32	19,60	71	5,00	5,80	21	4,47	2,10	8	36,07	27,50	1,2
ES	La Rioja	7,40	6,55	7,10	61	4,00	4,60	39	0,36			11,76	11,70	0,5
ES	Madrid	5,81	4,12	4,70	61	3,90	3,00	39	0,74			10,45	7,70	0,3
ES	Navarra	13,83	13,73	17,30	76	4,00	4,30	19	2,10	1,10	5	19,93	22,70	1,0
ES	Basque Country	6,18	4,65	5,80	62	2,00	3,10	33	0,46	0,50	5	8,64	9,40	0,4
ES	Multi-regional (two OPs)								9,00	24,60	100	9,00	24,60	1,1
		184,90	146,13	159,90	60	61,10	69,90	26	39,00	35,00	13	285,00	264,80	11,9
FR	Alsace	3,80	4,11	5,00	63	1,31	1,80	23	1,99	1,20	15	7,10	8,00	0,4
FR	Aquitania (three OPs - North/Pyrenees/ Tourism)	40,05	41,59	48,30	58	38,42	20,50	25	16,54	14,30	17	95,01	83,10	3,7
FR	Auvergne (three single-Fund OPs)	43,85	32,26	43,85	56	32,60	15,80	20	25,93	19,30	24	102,38	78,95	3,5
FR	Lower Normandy	21,97	23,81	25,50	48	13,63	16,80	32	12,66	11,00	21	48,26	53,30	2,4
FR	Burgundy	30,79	26,32	36,30	63	15,00	17,70	31	6,93	3,90	7	52,72	57,90	2,6
FR	Brittany	13,58	14,72	15,70	51	34,76	9,20	30	8,94	5,80	19	57,28	30,70	1,4
FR	Centre	11,87	10,26	12,40	50	6,03	10,40	42	5,83	1,90	8	23,73	24,70	1,1
FR	Champagne- Ardennes	4,87	5,28	5,60	47	3,70	5,10	43	1,98	1,30	11	10,55	12,00	0,5
FR	Franche-Comté	2,57	2,79	3,00	67	0,66	0,80	18	1,82	0,70	16	5,05	4,50	0,2
FR	Jura (Bugey two OPs)	11,66	12,64	13,20	44	6,28	8,80	29	8,03	8,10	27	25,97	30,10	1,3
FR	Languedoc- Roussillon	47,69	12,13	13,70	57	31,81	6,90	29	14,71	3,60	15	94,21	24,20	1,1
FR	Languedoc- Roussillon - Aude/ Hérault		10,26	11,90	58		5,70	28		2,80	14		20,40	0,9
FR	Languedoc- Roussillon - Marketing channels forestry/timber		0,95	0,90	75		0,30	25					1,20	0,1
FR	Languedoc- Roussillon - Lozère		20,43	24,60	58		13,30	31		4,70	11		42,60	1,9
FR	Limousin	49,96	42,11	52,70	61	24,76	17,60	21	18,05	15,40	18	92,77	85,70	3,8
FR	Lorraine	7,41	8,03	8,70	43	6,72	6,40	31	5,17	5,30	26	19,30	20,40	0,9
FR	South of France-Pyrenees	61,72	60,74	66,10	64	63,51	27,70	27	12,38	9,00	9	137,61	102,80	4,6
FR	Pays-de-Loire	8,29	8,98	11,30	57	3,51	6,40	32	6,19	2,20	11	17,99	19,90	0,9
FR	Poitou-Charentes (two OPs - Arc Est/Marais)	21,41	21,55	23,00	51	12,95	14,90	33	10,49	7,20	16	44,85	45,10	2,0
FR	Provence-Alpes-Côte d'Azur	40,72	30,35	37,00	52	21,02	26,60	38	10,21	7,30	10	71,95	70,90	3,2
FR	Rhône-Alpes	26,82				18,30			8,16	6,80	100	53,28	6,80	0,3
FR	Rhône-Alpes - Ain/Bresse		3,09	3,30	66		1,70	34					5,00	0,2
FR	Rhône-Alpes - Ardèche		14,86	16,00	66		8,40	34					24,40	1,1
FR	Rhône-Alpes - Drôme		4,88	5,30	60		3,60	40					8,90	0,4
FR	Rhône-Alpes - Isère		3,41	3,60	65		1,90	35					5,50	0,2
FR	Massif central		2,48	2,60	38		4,20	62					6,80	0,3
		449,02	418,03	489,55	56	334,96	252,50	29	176,01	131,80	15	960,00	873,85	39,2
IT	Bolzano (three single-Fund OPs)	24,91	18,29	25,70	43	27,17	31,30	52	1,64	2,70	5	53,72	59,70	2,7
IT	Lazio	39,75	29,73	26,60	55	32,22	13,90	29	12,77	7,70	16	84,74	48,20	2,2
IT	Marches	26,64	18,64	14,80	38	21,06	17,20	45	11,02	6,60	17	58,72	38,60	1,7
IT	Piedmont	4,24	3,32	4,90	56	3,06	3,30	38	0,90	0,60	7	8,20	8,80	0,4
IT	Tuscany	24,91	25,50	22,20	46	21,17	19,80	41	8,65	5,90	12	54,73	47,90	2,1
IT	Trento	10,78	7,11	10,30	52	5,70	6,60	34	2,84	2,80	14	19,32	19,70	0,9
IT	Umbria	21,90	14,37	22,20	49	12,10	19,30	42	5,86	4,10	9	39,86	45,60	2,0
IT	Venice	31,77	31,49	48,40	53	22,92	34,90	38	11,02	7,80	9	65,71	91,10	4,1
		184,90	148,45	175,10	49	145,40	146,30	41	54,70	38,20	11	385,00	359,60	16,1

(ECU million)

MS	REGION	EAGGF-Guidance				ERDF			ESF			TOTAL STRUCTURAL FUNDS		
		CSF	OP		%	CSF	OP	%	CSF	OP	%	CSF	OP	%
			Initial	Final										
LU	Lac de la Haute-Sûre	1,42	1,51	1,60	57	0,90	1,00	36	0,18	0,20	7	2,50	2,80	0,1
		1,42	1,51	1,60	57	0,90	1,00	36	0,18	0,20	7	2,50	2,80	0,1
NL	Frisia	12,50	13,55	14,30	43	24,90	12,60	38	6,60	6,00	18	44,00	32,90	1,5
		12,50	13,55	14,30	43	24,90	12,60	38	6,60	6,00	18	44,00	32,90	1,5
UK	Devon & Cornwall (two OPs)					59,49	30,20	75	14,95	10,20	25	74,44	40,40	1,8
UK	Dumfries & Galloway					12,00	13,60	91	1,87	1,30	9	13,87	14,90	0,7
UK	Dyfed Gwynedd					106,44	33,60	86	14,95	5,60	14	121,39	39,20	1,8
UK	Powys													
UK	Highlands & Islands of Scotland	24,90	7,41	7,50	20	98,88	19,40	52	16,22	10,60	28	140,00	37,50	1,7
		24,90	7,41	7,50	6	276,80	96,80	73	47,99	27,70	21	349,69	132,00	5,9
	Total	1 068,59	940,35	1 086,75	49	1 103,04	828,20	37	435,06	315,50	14	2 606,69	2 230,45	100,0

Source: OP Decisions and DG VI-FI.

3.3. 31 December 1993 was the final date set for Community commitments to the OPs of the first period. The national payments were to be made two years later, at the latest, and the Commission was to pay the balances outstanding before 31 August 1996. The deadline for commitments was respected but not the deadline for Community payments.

3.4. On 31 December 1993, the commitments under the EAGGF-Guidance for the OPs came to ECU 1 084,96

million (see Table 2). Whereas it should have been staggered over a period of five years, 80 % of the total amount of appropriations was committed in the course of the last two years of the programming period. If the de-commitments recorded on 31 December 1997 are taken into account, actual commitments come to ECU 1 072,64 million. Payments came to ECU 988,79 million.

Table 2

EAGGF-Guidance

IMPLEMENTATION OF OBJECTIVE 5b OPs FOR THE PERIOD 1989 to 1993

(ECU million)

MS	REGION	Commitments					Decommitments	Payments					%
		1990 to 1991		1992 to 1993		Total		1990 to 1993		1994 to 1997		Total	
		Amount	%	Amount	%	Amount		Amount	%	Amount	%	Amount	
BE	Hageland Wallonia	0,90	25	2,74	75	3,64		1,50	41	2,14	59	3,64	100,0
		2,36	28	6,20	72	8,56	-0,30	3,32	40	4,94	60	8,26	100,0
		3,26	27	8,94	73	12,20	-0,30	4,82	41	7,08	59	11,90	100,0
DK	Denmark	1,05	28	2,73	72	3,78		2,71	72			2,71	71,7
		1,05	28	2,73	72	3,78		2,71	72			2,71	71,7
DE	Baden-Württemberg	2,56	20	9,95	80	12,51		9,15	73	3,36	27	12,51	100,0
DE	Bavaria	21,53	19	89,44	81	110,97		93,08	84	7,19	6	100,27	90,4
DE	Hesse	4,57	21	17,17	79	21,74		16,96	78	4,78	22	21,74	100,0
DE	Lower Saxony	9,26	22	33,38	78	42,64		28,72	67	13,92	33	42,64	100,0
DE	North Rhine-Westphalia	1,09	19	4,76	81	5,85		5,07	87			5,07	86,7
DE	Rhineland-Palatinate	1,98	15	11,09	85	13,07		8,86	68	3,52	27	12,38	94,7
DE	Saarland			1,51	100	1,51		0,75	50	0,76	50	1,51	100,0
DE	Schleswig-Holstein	3,36	23	11,22	77	14,58		13,30	91	1,28	9	14,58	100,0
		44,35	20	178,52	80	222,87		175,89	79	34,81	16	210,70	94,5

(ECU million)

MS	REGION	Commitments					Decom- mitments	Payments					%
		1990 to 1991		1992 to 1993		Total		1990 to 1993		1994 to 1997		Total	
		Amount	%	Amount	%	Amount		Amount	%	Amount	%	Amount	
ES	Aragon	21,60	27	59,88	73	81,48		72,58	89			72,58	89,1
ES	Balearic Islands	2,73	32	5,85	68	8,58		7,48	87	1,10	13	8,58	100,0
ES	Cantabria	4,79	31	10,48	69	15,27	-1,65	11,14	82	2,48	18	13,62	100,0
ES	Catalonia	4,06	21	15,49	79	19,55		12,61	65	4,47	23	17,08	87,4
ES	La Rioja	1,62	23	5,53	77	7,15	-0,96	4,70	76	1,49	24	6,19	100,0
ES	Madrid	1,15	24	3,55	76	4,70	-0,18	2,89	64	1,63	36	4,52	100,0
ES	Navarre	4,14	24	13,17	76	17,31		15,13	87	2,18	13	17,31	100,0
ES	Basque country	1,14	20	4,68	80	5,82	-0,17	4,05	72	1,60	28	5,65	100,0
		41,23	26	118,63	74	159,86	-2,96	130,58	83	14,95	10	145,53	92,8
FR	Ain - Bresse	1,32	29	3,24	71	4,56		4,04	89	0,19	4	4,23	92,8
FR	Alsace	1,03	20	4,02	80	5,05		3,49	69	1,08	21	4,57	90,5
FR	Aquitaine - North	7,63	21	28,38	79	36,01		27,52	76	5,42	15	32,94	91,5
FR	Aquitaine - Pyrenees	2,77	23	9,53	77	12,30		10,39	84	0,95	8	11,34	92,2
FR	Ardeche	3,31	21	12,64	79	15,95	-0,29	13,43	86	2,23	14	15,66	100,0
FR	Aude/Hérault	2,57	22	9,35	78	11,92		6,07	51	4,85	41	10,92	91,6
FR	Auvergne	7,99	18	35,87	82	43,86	-0,02	39,19	89	4,65	11	43,84	100,0
FR	Lower Normandy	4,71	18	20,80	82	25,51		17,97	70	5,29	21	23,26	91,2
FR	Burgundy	9,03	25	27,28	75	36,31	-1,81	25,07	73	9,43	27	34,50	100,0
FR	Bresse - Revermont	0,88	27	2,41	73	3,29		2,80	85	0,22	7	3,02	91,8
FR	Brittany	3,61	23	12,10	77	15,71		11,35	72	3,06	19	14,41	91,7
FR	Centre	2,57	21	9,82	79	12,39		8,44	68	2,62	21	11,06	89,3
FR	Champagne-Ardenne	1,32	23	4,31	77	5,63		4,03	72	1,13	20	5,16	91,7
FR	Drôme	1,29	24	3,98	76	5,27	-0,12	3,90	76	1,25	24	5,15	100,0
FR	Franche-Comté (Jura Bugey)	1,97	23	6,59	77	8,56		6,48	76	1,37	16	7,85	91,7
FR	Franche-Comté (Jussey)	0,77	26	2,19	74	2,96		2,21	75	0,54	18	2,75	92,9
FR	Isère	0,85	23	2,79	77	3,64		3,09	85	0,26	7	3,35	92,0
FR	Languedoc-Roussillon — Marketing channels forestry/timber			0,95	100	0,95		0,47	49			0,47	49,5
FR	Languedoc-Roussillon	3,03	22	10,63	78	13,66		8,02	59	3,84	28	11,86	86,8
FR	Limousin	8,93	17	43,74	83	52,67		40,68	77	11,99	23	52,67	100,0
FR	Lorraine	2,01	23	6,66	77	8,67		6,25	72	1,70	20	7,95	91,7
FR	Lozère	6,55	27	18,05	73	24,60		18,17	74	6,43	26	24,60	100,0
FR	Massif central	0,93	35	1,69	65	2,62		2,00	76	0,42	16	2,42	92,4
FR	South of France												
	Pyrenees	15,22	23	50,89	77	66,11		47,46	72	8,47	13	55,93	84,6
FR	Pays-de-Loire	1,66	15	9,64	85	11,30		8,67	77	1,48	13	10,15	89,8
FR	Poitou-Charentes	2,66	19	11,58	81	14,24		9,58	67	3,10	22	12,68	89,0
FR	Poitou-Charentes — Marais			8,78	100	8,78		4,39	50	2,63	30	7,02	80,0
FR	Provence-Alpes-Côte d'Azur	6,94	19	30,09	81	37,03		25,38	69	7,89	21	33,27	89,8
		101,55	21	388,00	79	489,55	-2,24	360,54	74	92,49	19	453,03	93,0
IT	Trento	2,36	23	7,92	77	10,28	-1,12	6,57	72	2,59	28	9,16	100,0
IT	Tuscany	4,89	22	17,35	78	22,24		11,12	50	6,79	31	17,91	80,5
IT	Bolzano	5,64	22	20,04	78	25,68		16,47	64	9,21	36	25,68	100,0
IT	Umbria	2,96	13	19,24	87	22,20		11,10	50	11,10	50	22,20	100,0
IT	Venice	7,95	16	40,49	84	48,44		24,62	51	13,20	27	37,82	78,1
IT	Piedmont			4,69	100	4,69	-0,84	3,34	87	0,51	13	3,85	100,0
IT	Marches	2,09	14	12,71	86	14,80	-2,60	7,40	61			7,40	60,7
IT	Latium	4,99	19	21,58	81	26,57		13,28	50	8,08	30	21,36	80,4
		30,88	18	144,02	82	174,90	-4,56	93,90	55	51,48	30	145,38	85,3
LU	Lac de la Haute-Sûre	0,52	33	1,08	68	1,60	-0,51	0,42	39	0,67	61	1,09	100,0
		0,52	33	1,08	68	1,60	-0,51	0,42	39	0,67	61	1,09	100,0
NL	Frisia	3,90	27	10,35	73	14,25	-1,05	8,03	61	5,17	39	13,20	100,0
		3,90	27	10,35	73	14,25	-1,05	8,03	61	5,17	39	13,20	100,0
UK	Highlands & Islands of Scotland	1,18	16	6,37	84	7,55	-1,21	6,28	99	0,06	1	6,34	100,0
		1,18	16	6,37	84	7,55	-1,21	6,28	99	0,06	1	6,34	100,0
	Total	227,40	21	857,56	79	1 084,96	-12,32	782,75	73	206,04	19	988,79	92,2

Source: DG VI-G3, ARINCO, SINCOM

3.5. On 31 December 1997, 26 OPs, or fewer than half, had been closed. Of these only 12 were closed before the deadlines set by the approval decisions for the OPs.

3.6. The 32 OPs still open at the end of the financial year 1997 were distributed as follows:

- 22 in France (out of 28),
- four in Italy (out of eight),
- three in Germany (out of eight),
- two in Spain (out of eight),
- one in Denmark (out of one).

3.7. France had obtained from the Commission, in a letter of 10 December 1993, an extension of six months for the closure dates for commitments and for payments ⁽²⁾. These new deadlines were not observed in the case of 22 OPs and France had to supply additional information on the expenditure certified.

3.8. For eight OPs the Member States did not observe the deadlines for forwarding to the Commission requests for the payment of the balance. For two of them, the requests had still not been forwarded at the close of 1997.

3.9. In sum, delays were also observed in the payment of balances outstanding both for the contributions from the ERDF and for the contributions from the ESF. As a result, only eight of the 74 Objective 5b OPs co-financed by the Community were closed on 31 October 1997.

4. CERTIFICATES OF EXPENDITURE AND PROGRESS REPORTS

4.1. Community payments are made on the strength of a request for payment, drawn up and signed by the national authority responsible ⁽³⁾. The payment of the balance outstanding for each annual instalment requires, in addition, the submission by the Member State of a report on the progress made in the use of the aid from the Fund and confirmation that the information supplied is correct.

Reliability of the certificate of expenditure

4.2. From the point of view of the Regulation, the closure of a programme does not impose any

⁽²⁾ By decision of 19 December 1995 for the Massif Central OP.

⁽³⁾ With the exception of the first advance on the first instalment, which is automatic.

requirements additional to those just mentioned. In practice, a programme is considered to be closed if the balance of all its annual instalments has been paid. The certificates and confirmation concerning the final instalment are no different from those for the preceding instalments.

4.3. The certificates should give the Commission a firm guarantee of the authenticity and eligibility of the expenditure declared. An examination of the certificates of several Member States shows that:

- (a) amounts were certified without supporting documents to confirm their authenticity and without it being possible, during the on-the-spot checks, to establish how they were arrived at;
- (b) other amounts did not correspond to the actual expenditure;
- (c) some certified expenditure is ineligible because:
 - activities carried out either before or after the period of eligibility were submitted for Community aid,
 - certain activities and expenditure are of a type that does not correspond to the provisions of the regulations of the Fund or of the programmes,
 - operating expenditure relating to the administrative and personnel costs was taken into account, in particular by deductions being made from the amounts paid to the beneficiaries.

In addition, this expenditure was affected by shortcomings in the application of the procedures for the award of public contracts, such as incomplete technical and administrative files relating to the awarding of contracts.

4.4. As far as point 4.3.1 is concerned, for the *Land* of Bavaria, which is the main beneficiary of the structural funds for Objective 5b, receiving more than 10 % of the Fund's aid, the Court had to arrange an additional on-the-spot audit in order to obtain the supporting documents which could not be produced during the first audit. However, the documents placed at the Court's disposal during this supplementary audit proved to be not very conclusive.

Progress reports

4.5. According to the terms of Article 25 of Regulation (EEC) No 4253/88 ⁽⁴⁾, the Member States are required to submit progress reports to the Commission in respect of the annual instalments and a final report within six

⁽⁴⁾ OJ L 374, 31.12.1988, p. 1.

months of the completion of a programme. These reports must present a statement of the progress made with the help, amongst other things, of previously specified physical and financial indicators.

4.6. However, these reports frequently give global figures which have been requested at the aggregate level and which do not permit identification:

- of the total cost of the projects,
- of ineligible expenditure,
- of that part of the expenditure which represents public expenditure,
- of the contribution from the EAGGF and/or from the other Funds.

4.7. In addition, the data in the progress reports in respect of the programmes' instalments are difficult to reconcile with the certificates of expenditure, by reason of the different dates of issue.

4.8. The lack of detail and the impossibility of matching the data with the certificates mean that the reports are deprived of much of their value. In practice, the Commission pays the balances of the instalments on the basis of the certificates after a very superficial analysis of the reports.

4.9. The reports, which are frequently not backed up by physical indicators, do not provide the managers at the Commission with the information necessary for an understanding of the actions. For this reason, the closure of the annual instalments and of the OPs offers no assurance that the objectives set out in the OPs have been achieved but constitutes a purely formal financial exercise.

5. MANAGEMENT AND MONITORING SYSTEMS

Implementation of the OPs

5.1. The accumulation of successive delays from the start of programming (see paragraphs 5.3 to 5.4) made it inevitable that operations would be concentrated at the end of the period. However, the reform of the structural funds should, in principle, have led to coherent planning and improved management of the Funds as well as permanent monitoring and evaluation of the actions.

Programming

5.2. Programming centres on:

- the CSFs, which describe the objectives and define the strategy to achieve them in the period under review,

- the OPs, which set out the various forms of intervention to give concrete form, on the ground, to the guidelines laid down by the CSFs.

5.3. Implementation can only be achieved in the time stipulated for the objectives ascribed to the CSFs if the CSFs and the OPs are adopted sufficiently early. However, the CSFs were not adopted until mid-1990 and the long periods of appraisal of the OPs were often in excess of the six months laid down in Regulation (EEC) No 4253/88. In fact, for 40 of the 58 OPs the appraisal period exceeded the six months stipulated in the Regulation, the average appraisal period lasting eight months and, in two cases, 22 months.

5.4. As a consequence, while the planning period began in 1989, no OP was approved in that year, five were approved in 1990, 50 were not approved until 1991, two more in 1992, i.e. one year before the end of the initial period, and the last one was not adopted until 1993.

5.5. The shortening of the implementing period which resulted from the initial programming forced the French regions to select activities which had already been carried out⁽⁵⁾. In Lower Normandy more than 32 % of public expenditure on the sub-measure projects analysed results from this practice, the audit having shown that these projects were included in the OP *a posteriori*. Although the regulations may allow this expenditure, taking payments made during the period of eligibility into account, this practice ran counter to the principle of programming because of its retroactive nature and the arbitrary separation of the actions entered in the programme by placing them in separate categories which were not subject to the same rules.

5.6. To avoid the risk of non-utilisation of Community appropriations, various forms of adjustment were made to the actions. The Limousin region carried out adjustments by transferring actions to the OP which were planned for the new SPD and by replacing cancelled operations. The adjustments carried out in this way, in contravention of the eligibility rules, were estimated to account for almost 2 % of the amount of public expenditure declared.

Reprogramming

5.7. The reform introduced an element of flexibility to the implementation of the actions, allowing, within the

⁽⁵⁾ This practice was facilitated by the alternative payment procedure, which requires a division of public spending between Community appropriations and national counterpart funds and is based on the allocation of individual projects to clearly identifiable sources of finance.

framework of the Commission/Member State partnership, the possibility of amending the original programming. This is why, in the case of the CSFs adopted for the implementation of Objective 5b, 34 CSFs were the subject of amending decisions. When applying decisions relating to the OPs, it may be decided to revise them, depending on their volume, either by a simple decision by the monitoring committee or by an amending decision by the Commission.

5.8. Of the 51 OPs which were amended according to the latter procedure, 45 decisions were taken in November and December 1993, i.e. during the two months preceding the deadline. This type of practice does not constitute real reprogramming but an acceptance, on the part of the Commission, of the actual situation.

5.9. The amendments by the monitoring committees concerned, in particular, the financial plans for the programmes, as well as the content of the measures. These alterations at the end of the period indicate an insufficiently rigorous approach during the initial programming.

Application of basic concepts

5.10. According to the French authorities the decision by the final beneficiary to participate in the execution of the OP constitutes a legal commitment giving entitlement to Community financing and to the allocation of financial support, regardless of the decision of the national authorities responsible. This problem with the application of the Community Regulations and with the decision, on the part of the Fund, to allocate financial support, which had still not been resolved at the end of 1997, resulted in the suspension of the payment of the balance outstanding to 22 OPs.

5.11. The late appearance of this problem raises questions about the effectiveness of the partnership between the Commission and this Member State, the principal beneficiary of Objective 5b, in respect of the management and the monitoring of programmes.

Selection of actions and beneficiaries

5.12. The procedures for the selection by the national managers of actions and beneficiaries suffer from inadequacies in the criteria applied. In addition to these deficiencies, the following findings were made:

- (a) the allocation of Community aid under the OPs to actions according to less stringent conditions than those set out in the specific regulations;
- (b) insufficient consideration of the usefulness of the projects and of their viability;

- (c) the application of different individual rates of intervention (from 17 % to 75 %) for actions of a similar nature included in the same measure.

Monitoring mechanisms

5.13. Monitoring is carried out through the participation of the Community and national managers in the meetings of the programme monitoring committees, whose main task is to ensure that the actions conform to the provisions of the regulations and programmes. Monitoring must be carried out on the basis of financial and physical indicators. Its effectiveness depends on the quality of the latter and on the transparency of the management of the funds.

Financial monitoring

5.14. According to the provisions of Article 21 of Regulation (EEC) No 4253/88, every advance should be charged to the commitment for the corresponding annual instalment. However, the accounting procedure for commitments and payments employed by the EAGGF automatically pays the balance of the oldest commitments in order to simplify matters⁽⁶⁾. It is, however, contrary to the Fund Regulation as well as to the Financial Regulation. It distorts the principle of annuality in respect of the annual instalments and hinders financial analyses in the course of the programme.

5.15. In addition, the financial mechanism adopted consists of payment of a first advance for each annual instalment of the OPs to the Member State concerned. Then, on the basis of certification that the actual expenditure represents 50 % of the amount of this first advance payment, a second advance is paid. Lastly, a final certificate allows the Commission to pay the balance of the annual instalment in question. Until final certification by the Member States of the expenditure actually incurred for an instalment, the Commission's payments are advances which, in accordance with Article 71 of the Financial Regulation, should have been entered in a suspense account. However, the Commission enters the advances as final expenditure and thus the Community's financial statements do not reflect the actual implementation of the programmes.

5.16. The payment of the balance of an intermediate instalment is not given any particular attention. In practice, the Commission gives these payments the same treatment as the advances and only describes the balance of the final instalment as a balance⁽⁷⁾. The absence of

⁽⁶⁾ In this connection, see the special reports in support of the Statement of Assurance for 1995 (paragraph 3.26) and for 1996 (paragraph 21.4).

⁽⁷⁾ See reply to paragraphs 3.34 to 3.35 of the 1995 DAS report quoted above.

rigour, particularly the shortcomings observed in monitoring the financial implementation of the OP and, more specifically, during closure of each annual instalment, leads to problems during final closure which could have been settled well before if proper controls had been carried out at the time the annual instalments were closed.

5.17. At national level, the start-up difficulties were compounded by other difficulties generated, in particular, by:

- (a) the absence of a document describing all the procedures, from the submission of the project to the final audit of the declaration of expenditure;
- (b) the shortcomings of the physical monitoring, which was not able to detect, apart from material errors, basic anomalies which cast doubt on the quality and the reliability of the data collected and, as a consequence, the validity of the declarations of expenditure;
- (c) inadequate electronic processing of the data, which was the origin of the difficulties encountered in the preparation of the documentation necessary for the requests for payment of balances and for the drawing-up of the final report;
- (d) the multiplication of the number of intermediaries involved in the administration of the aid, which prolongs the time required for payment to the final beneficiaries and makes monitoring more difficult.

5.18. In its reply to Special Report No 4/90 on the Integrated Mediterranean Programmes (IMPs)⁽⁸⁾, the Commission mentioned the reluctance of the national authorities to supply reliable indicators and to put in place a system which would guarantee 'the transparent management of appropriations'. The audits relating to the implementation of Objective 5b have shown that the situation has changed little.

Physical monitoring

5.19. Monitoring of the implementation of the actions is indispensable to enabling the partners to analyse the real situations and to intervene in time to correct any anomalies. However, this monitoring was inadequate for the actions undertaken in the course of the first period. The sometimes mediocre quality of the closure reports bears testimony to this shortcoming.

5.20. The audits carried out thus revealed cases where:

- the operations sheets for the actions were not kept up to date,
- the actions planned were not implemented,
- no formal analysis of the reasons for this non-implementation had been made,
- replacement actions had also been implemented with no regard for the necessary formalities.

5.21. During on-the-spot checks it was not always possible to make a connection between the financial data submitted in the reports and the physical reality observed. This situation resulted from the acceptance of financing amounts which could not be related to the state of physical implementation, from implementation estimates which differed from the situation obtaining after implementation, from an absence of activity in the period relating to the expenditure, non-compliance with the contract specifications or even from changes to the objectives specified at the time the programme was approved. In other cases, systematic recourse to the utilisation of all-in prices in support of expenditure makes finding the real cost of implementation impossible.

Technical assistance

5.22. Appropriations for technical assistance are available in respect of management, monitoring and evaluation in the case of specific measures, in order, in particular, to permit the installation of systems for the collection, collation and analysis of data.

5.23. The Member States frequently used these appropriations to cover costs unconnected with the objectives for which the technical assistance was intended, in particular for payment of:

- (a) the operating expenditure of the national administrations managing the OPs, including officials' salaries;
- (b) the operational activities of public bodies with no connection with the measures set out in the OPs.

5.24. Furthermore, the real cost of the technical assistance proved to be greater than the amounts laid down in the programmes because operational appropriations were used for actions comparable to those performed by the technical assistants. Two cases of this kind were discovered for which more than 15 % of the appropriations for operational measures were allocated to management and incentives. Though they were intended for the implementation of the programme, they were in fact used for technical assistance. This diminished the impact of the measures concerned.

5.25. This sort of situation is, moreover, open to criticism because it is contrary to the principle of the specific nature of appropriations, makes estimating the real cost of the technical assistance very difficult and is

⁽⁸⁾ OJ C 298, 28.11.1990.

tantamount to charging the operating expenditure of the national administrations, which is already covered by the corresponding national budgets, to the Community budget.

Audits

5.26. Commission staff carried out 21 audit visits in respect of 23 of the 58 OPs under Objective 5b in the course of the period 1992 to 1997. The reports relating to these audits refer to several weaknesses and shortcomings that were discovered during the implementation of the OPs.

5.27. Bearing in mind these findings and the complexity of each OP, the Commission should tighten its controls. It is astonishing that the Bavarian OP, in spite of the large sums involved (see paragraph 4.4), was not subjected to any on-the-spot audit.

5.28. The controls carried out by national officials were few in number and only covered very limited fields. By way of example, the on-the-spot inspections recorded by the authorities responsible for a measure in the *Land* of Hessen were supported by incomplete documentation. In one specific case a project worth ECU 2,7 million had been closed, financially, without the obligatory technical controls having been carried out. Nor did these controls give rise to the drawing up of an audit report in all cases.

5.29. In two cases, the checks were carried out by an internal audit department. Nevertheless, the recommendations made to the national managers were not always followed up and the Commission was not informed of them.

5.30. The OP decided on for the benefit of Bavaria was audited in 1994 by the *Land's* Court of Auditors. The report contains important audit findings.

5.31. Controls were sometimes entrusted to departments which had appraised the files. This practice is contrary to the separation of duties between management and control departments.

Evaluation

5.32. In 1994 the Commission had an *ex post* evaluation conducted pursuant to Article 26 of Regulation (EEC) No 4253/88. This involved 21 OPs. In reality, this exercise, which concentrated on OPs which were already being implemented, cannot be considered to be an *ex-post* evaluation. Moreover, the evaluation was carried out without any coordination with the regional authorities and the results were not always analysed jointly with these authorities.

5.33. In addition, of the 12 programmes audited by the Court, only one was the subject of an *ex-post* evaluation at the initiative of the national authorities. As for the others, the exercise consisted of general analyses in preparation for the second period SPDs.

Transition to the second period

5.34. The distinguishing features of the SPDs belonging to the new period are the relaxation of the criteria for the definition of the Objective 5b areas and an increase in the number of small areas, which was the exact opposite of the reform's Objective of greater concentration. The areas eligible for Objective 5b are still being defined with no regard for the existing administrative and economic boundaries for which statistical data are available. The monitoring of the expenditure continues to be complex and it is impossible to assess the value of analyses of the impact of certain measures.

5.35. The financial plans for the 84 SPDs approved provided for ECU 1 791,4 million for commitment appropriations for the first four years of implementation (1994 to 1997). However, the implementation of the programmes had already been delayed and only ECU 1 440,2 million was committed for this period.

5.36. The forecasts for the first year were easily fulfilled thanks to the automatic commitment of the first instalment. In contrast, for 1995, the estimates were far from being achieved: commitments rose to ECU 249,5 million, i.e. 56 % of the ECU 441,9 million for which provision had been made.

5.37. The implementation of the OPs often coincided with the start of the SDPs and, this being the case, certain operations were spread over the two programming periods. Apart from the exceptional nature of this practice, the audits revealed that it was not always possible in reality to clearly distinguish, physically and financially, between the two phases of the projects and, as a consequence, to justify their being linked to different programming periods.

6. CONCLUSION AND RECOMMENDATIONS

6.1. The considerable delay in the closure of the OPs should prompt the Commission and the Member States to carry out an in-depth review of the programming and monitoring procedures. As for implementation, more specifically, the practices resorted to by the Member States to make up for delays in the implementation of the OPs, such as the application of broader selection criteria, 'retroactive' programming — meaning, in concrete terms, bringing in sums which have already been spent — and reprogramming in order to authorise new expenditure, all

suffer from a lack of transparency and should be reviewed (see paragraphs 3.1 to 3.9).

6.2. The certification procedure is marred by a large number of inaccuracies and irregularities. However, as the certification of expenditure issued by a public authority is a legal act which constitutes a guarantee for whomsoever receives it and entails the liability of the person who issues it, the lack of reliability of these certificates should lead the Commission to review its system of control and the current mechanisms for the release of Community payments (see paragraphs 4.1 to 4.9).

6.3. The management and monitoring system revealed a certain number of shortcomings in respect of programming and reprogramming. Concerning the practical application of the definitions of basic concepts, the Commission should ensure that implementing rules are clearly laid down and check, from the very start, that all the Member States accept its interpretation (see paragraphs 5.1 to 5.11).

6.4. As for the mechanisms for selecting the actions and the beneficiaries, clearly defined selection criteria are necessary to give a solid basis for the decisions by the managing departments and to ensure consistency in the granting of aid to the various types of intervention and transparent implementation of the actions (see paragraph 5.12).

6.5. In respect of financial monitoring, the problems encountered during the closure of the annual instalments should have been resolved in stages in the course of the programme. One audit should be focused on the payment of the balance of each instalment, as this offers the advantage of continuity and would prevent a number of problems at the end of the programme and the resulting closure delays. It would lead to more consistent and more effective monitoring and, as a consequence, to better management of the actions implemented under the OPs by the Commission and the Member States (see paragraphs 5.14 to 5.18).

6.6. In several cases appropriations for technical assistance, the purpose of which is to improve management, monitoring and evaluation of the OPs, were used for other purposes. The Commission should ensure that these appropriations are only allocated to the purposes for which they were provided. Any other use is contrary to the budgetary principle of the specification of appropriations (5.22 to 5.25).

6.7. Considering the inadequacy, or even the absence, of checks on the OPs, closer controls by the Commission should be programmed. Every OP should be subjected to at least one on-the-spot check. As for the audits by the Member States, an audit report should be drawn up every time and the main findings of these reports should be brought to the attention of the Commission. Improved coordination of the Commission's and the Member States' audits would be appropriate (see paragraphs 5.26 to 5.31).

This opinion was adopted by the Court of Auditors in Luxembourg at the Court meeting of 16 and 17 September 1998.

For the Court of Auditors

Bernhard FRIEDMANN

President

ANNEX

OBJECTIVE 5B OF THE REFORMED STRUCTURAL FUNDS

1. The reform of the Structural Funds rests on four basic principles: concentration, partnership, programming and additionality. These are the four guiding principles which must be followed in order to achieve the six objectives assigned to the Structural Funds.
2. The EAGGF-Guidance plays a part in the achievement of three of these objectives:
 - (a) Objective 1, which aims to promote development and adaptation in under-developed regions;
 - (b) Objective 5, which covers two areas:
 - Objective 5a, which falls exclusively under the EAGGF-Guidance, to speed up the adaptation of agricultural structures,
 - Objective 5b, which involves both the ERDF and the ESF, to promote the development of rural areas;
 - (c) Objective 6, which aims to develop regions with a low population density (this objective was established for the second period of programming following the accession of the new Member States).
3. The characteristic features of the rural areas eligible under Objective 5b are a high level of employment in agriculture, as a percentage of total employment, and a low level of economic development and agricultural earnings. The actions planned, which are decided on according to the specific characteristics of each Fund, aim to adapt and diversify the agricultural sector and to develop economic activities suited to the rural environment. They take the form, in particular, of aid for rural and tourist infrastructures, for the maintenance of the countryside and the environment and for the development of forestry activities. Objective 5b covered 50 regions during the first period, 5 % of the population of the Community and 17 % of its surface area and, during the second, 89 regions, 8 % of the population and 25 % of its area.

The first programming period (1989 to 1993)

4. The actions of the first period were implemented in three main stages:
 - (a) the Member States submitted a multi-annual plan which contained a socio-economic analysis, a description of the planned development strategy, proposed intervention priorities and an evaluation of the financing requirements;
 - (b) the Commission approved a Community Support Framework (CSF) which defined the intervention priorities and presented an indicative financing plan and a survey of the forms of intervention to be implemented;
 - (c) the Commission decided on the forms of intervention, which resulted from the requests for aid by the Member States and from the CSFs, either in the form of Operational Programmes (OPs) or large projects or global subsidies, or even in the form of co-financing of aid schemes.
5. As far as Objective 5b is concerned, the Commission endeavoured to implement the CSFs during the first programming period by means of the Operational Programmes (OPs). The OPs are defined as a coherent group of multi-annual measures for the implementation of which application may be made to one or more Structural Funds.
6. The Community commitments for the OPs are made in annual instalments based on the approved financing plans and on the progress made in implementation. The payments, generally an initial advance payment of 50 % of the corresponding commitment, a second of 30 % and the balance of 20 %, are carried out according to the release thresholds relating to the eligible expenditure and set by the Commission.

The second programming period (1994 to 1999)

7. For the second programming period, the provisions were amended ⁽¹⁾ to allow the Member States to submit, in a single programming document (SPD), the information required in respect of each multi-annual plan and the information required in respect of the requests for aid. The submission of an SPD by a Member State leads to a single decision by the Commission on, simultaneously, the CSF and the aid from the Funds.

⁽¹⁾ Council Regulation (EEC) No 2082/93 of 20 July 1993 amending Regulation (EEC) No 4253/88 laying down provisions for the application of Regulation (EEC) No 2052/88 in respect of coordination with the interventions of the various Structural Funds, on the one hand, and between the latter and those of the European Investment Bank and other existing financial instruments on the other (OJ L 193, 31.7.1993, p. 20).

COMMISSION'S REPLIES

1. GENERAL

Objective 5b of the reform of the Funds seeks to promote the development of rural areas in regions not covered by Objective 1. Eligible areas were selected on the basis of a high level of agricultural employment, low agricultural incomes and low levels of social and economic development. The three Structural Funds (EAGGF-Guidance, ERDF and ESF) participated in development of these areas each in its own sector, usually in the framework of multi-fund regional programmes.

Programming of Objective 5b: timing and content

Objective 5b was implemented in accordance with the timing laid down by the reform regulations, i. e. in three stages (development plan, Community support framework, operational programme) plus an additional stage for the selection of areas for Objectives 2 and 5b.

Following publication in the *Official Journal of the European Communities* of the Council Regulations on the reform at the end of 1988, eligible rural areas were selected in May 1989, and the Member States presented their development plans for rural areas in October 1989. The Commission decided on its financial contribution to each Member State at the end of 1989.

After negotiations had been conducted in partnership on the development priorities for each region and the funds to be allocated, the Commission adopted the Community support frameworks in June 1990, opening up the way to operational programming. By the end of 1990 the Member States had presented 70 % of the planned programmes, which were approved in 1991.

In the programmes, the responsible authorities integrated traditional development projects previously in effect in the region together with new projects in accordance with Article 4 of the basic Regulation (Community action is regarded as complementing or contributing to the corresponding national action).

The planning procedure introduced by the reform of the Funds changed the existing structural action working methods. Under the programming principle each project had to be placed in the context of a development strategy with clearly defined objectives and priorities for action. The partnership required the authorities responsible for rural development at local, regional, national and Community level to work together. In the case of

multi-fund programmes — a majority in the case of Objective 5b — the innovation was reinforced by involving in the implementation of programmes the authorities responsible for agriculture, regional development and utilisation of human resources.

Implementation

The Member States implemented the programmes in accordance with each authority's procedures for the selection of beneficiaries or examination of project dossiers.

Given their regional and multi-disciplinary nature the programmes had to be implemented on a decentralised basis involving a number of bodies responsible for rural development. This required a major coordination effort by the lead departments at various administrative levels and complicated the financial management for which the Member State is ultimately accountable to the Commission. On the other hand, decentralisation brought implementation closer to the final beneficiaries thus intensifying the programmes' impact.

Monitoring

Monitoring committees involving the national, regional and local authorities concerned and the Commission were set up to ensure proper implementation of the programmes. Being involved on the committee was a novelty for most of the authorities. They monitored the financial and physical progress of projects based on information in the annual reports drawn up by the bodies responsible for implementation. They also proposed amendments to programmes wherever necessary.

The authority named in the programme as being responsible for financial implementation receives and checks the statements of expenditure from the various management bodies. On the basis of this information it submits to the Commission requests for advances and balances, together with the corresponding certificates of expenditure as and when the expenditure attains the set limits.

Assessment

As soon as Objective 5b was launched the Commission was aware of the methodological difficulties likely to affect the assessment of the programmes concerned. Therefore it immediately set up a methodological study

which, based on analysis of certain typical programmes, helped to identify the operations which would make it possible to carry out an operational evaluation. The study was continued in 1994 to 1995 and covered 22 projects with the cooperation of the authorities responsible for their implementation. It reflects the Commission's continuous interest in assessing operations under Objective 5b.

2. SUMMARY OF THE MAIN OBSERVATIONS

2.1. The factors explaining the delays are described in points 5.2 to 5.4.

2.2. The Commission is currently examining the Member States' replies.

2.3. The main purpose of the progress reports is to inform the Commission and the monitoring committee about progress in implementing the various measures and problems so that it can adopt appropriate decisions. If necessary, the Commission requests more detailed information from the authorities responsible for implementing the programmes. See also point 4.6.

2.4. It was impossible to avoid the concentration of programmes at the end of the programming period given the timetable for approval of Regulations and the type of procedures laid down in the Regulation. The level of financial implementation during these years was of the same order of magnitude as the annual average of current programmes.

2.5. The reasons for the situation described by the Court are given in the general comments in the introduction.

2.6. The development strategy adopted for the selected rural areas must necessarily integrate pre-existing aid schemes whose positive effects had led them to be retained for the 1994 to 1999 phase. Certain Member States had followed the practice of booking to the 1989 to 1993 programme any payments made in respect of these aid schemes during its period of eligibility. The Commission considers that a programme is a set of coherent measures accompanied by quantified objectives; it is left to the authorities responsible for implementation to select the specific projects which best meet the objective of the measure in question. The practices to which the Court refers are regarded as legitimate

provided they contribute to the objectives of the measure concerned and meet the conditions of eligibility.

2.7. The precise nature and justification for the amendments referred to by the Court are examined in points 5.7 to 5.9. In the Commission's view these amendments were fully consistent with the programming procedure.

2.8. The precise nature of the problem raised by the Court is examined in point 5.10.

2.9. The Court's comments on the procedures for the selection of projects are examined in detail in point 5.12.

2.10. and 2.11. These aspects are considered in detail in points 5.16 to 5.18 and points 5.23 to 5.31.

2.12. The assessment process under Objective 5b, its pioneering nature and the way in which national and regional partners were associated with the exercise are discussed in points 5.32 and 5.33.

2.13. The transition to the second period is discussed in points 5.34 to 5.37.

3. SITUATION IN RESPECT OF THE CLOSURE OF THE OPs

3.3. Article 21 of Regulation (EEC) No 4253/88, as amended by Regulation (EEC) No 2082/93, provides that the Commission will make payment within a period which in general will not extend two months beyond the date of receipt of a receivable request. Some of the requests needed additional complex information or there were differences in the criteria applied by the Commission and the Member State, so the Commission felt it was preferable to exceed the deadline in order to examine these cases in depth.

3.4. Since the majority of programmes were not approved until 1991 the commitments were bound to be concentrated in the first two years of the programming period.

3.5. and 3.6. The reasons for not closing OPs left open in each country are as follows.

- France (22 out of 28 OPs are open): the Commission could not accept the interpretation by France concerning the validity of certain commitments, and the use of EAGGF appropriations in the context of the Limousin OP. These problems are on the way to being resolved.
- Italy (four out of eight OPs): by mid-1998 all the Italian programmes were closed except for those in

the Latium region where an extension was granted in respect of certain projects suspended on judicial grounds. The commitments still outstanding for three OPs will be cancelled shortly.

- Germany (three out of eight OPs): in the case of the Rheinland-Pfalz OP the unused funds (ECU 0,681 million), which had been shelved pending a possible challenge by the Member State regarding the method of calculation, will be released shortly. The other two — Bavaria and North Rhine-Westphalia are still open pending examination. The Hessen programme has been closed but will be reopened following the Court's comments.
- Spain (two out of eight OPs): at the time of on-the-spot checks of OPs in Aragon and Catalonia, the Commission considered certain expenditure was not eligible; the national and regional authorities of Spain have submitted additional information which has led to a partial change of position. The balance should be paid shortly, as soon as the situation is finally clarified.
- Denmark (one out of one OP): the request for the final balance presented by the Danish authorities was incomplete and the Commission is still awaiting the additional data requested.

3.7. As noted in points 3.5 and 3.6 above, the Commission has found certain practices it considers as irregularities in the French OPs. The Commission is obliged to make sure that the conditions laid down for granting Community assistance are observed, even if it sometimes involves going beyond the deadlines laid down in the Regulations.

3.8. The Commission regrets the failure to keep to the statutory deadline, but this in itself is not sufficient to consider the request for payment not receivable.

4. CERTIFICATES OF EXPENDITURE AND PROGRESS REPORTS

Reliability of the certificate of expenditure

4.2. When closing the programme the Commission has additional information on its implementation following meetings of the monitoring committee and various annual reports, including a report on the last instalment which contains consolidated implementation data from the beginning of the OP.

4.3. The Commission is examining the findings on which the Court bases its comments regarding the validity of expenditure certificates. The Commission makes no secret of the fact that it sometimes finds errors, negligence or inaccuracies in the Member States'

certificates, especially in the case of programmes such as those under Objective 5b covering a great variety of small projects which have to be implemented by a wide range of administrative authorities. These findings are behind most of the delays in payment of the balance of programmes pointed out by the Court in Part 3. The Commission agrees with the Court that the certificates should provide a firm guarantee of the authenticity and eligibility of the expenditure declared, and to this end adopted Regulation (EC) No 2064/97 (OJ L 290, 23.10.1997, p. 1). It includes an obligation on Member States to present no later than when requesting the final payment an independent auditor's statement as to the validity of the request for final payment and the final certificate and the legality and regularity of the expenditure operations.

4.4. The German authorities have responded to the Court's comments. Since December 1997 the Commission has suspended payment of the balance of the programme, estimated at ECU 10 million.

Progress reports

4.6. Pursuant to Article 25 of the Regulation on coordination and implementing provisions, the progress reports were designed as instruments to include physical and financial indicators showing the progress of operations, of management and any related problems. The financial information in the reports provides a guide to make it possible to check the progress of programmes.

4.7. Progress reports and certificates of expenditure are different in nature and purpose. They are governed by two different articles in the coordination Regulation; they usually have two different reference dates and are often drawn up by different organisations. Therefore the difficulty of reconciling the two documents should not be interpreted as a contradiction between them.

4.8. The Commission believes that progress reports are not intended to provide specific accounting data. The annual reports are very useful for following up the implementation of the various projects.

4.9. The Commission agrees with the Court that these annual reports should be complete and describe in full the progress achieved and the obstacles encountered. It has consistently urged the authorities concerned to make sure the reports are properly prepared since they are a key factor in the efficient operation of the monitoring committee. The average quality of the reports has improved considerably in the present 1994 to 1999 phase

and will continue to improve as the committees become more experienced. (See comments at point 5.18.) The closure of annual instalments is based on the Member State's expenditure certificates after receipt of the annual report which has to be endorsed by the Commission.

5. MANAGEMENT AND MONITORING SYSTEMS

Implementation of the OPs

5.1. Concentration of operations at the end of a period is not in itself incompatible with a coherent programming exercise, sound financial management and continuous monitoring and assessment of operations. The annual rate of investments in 1991 to 1993 was of the same order of magnitude as in 1994 to 1999.

Programming

5.2. to 5.4. The time needed for preparation, examination and approval of programmes is explained in the general comments in the introduction. The Commission considers it inevitable that this time should be required in the context of a reform which was to radically change the working methods applied in structural operations.

5.5. and 5.6. The Court is referring to operations where beneficiaries were selected before the programmes were approved, but where the Community payments were made in compliance with the eligibility dates established in the decision granting the aid. The same thing occurred in 1994 during the transition between two phases of planning where operations planned for the second phase received co-financing under the first programme replacing other cancelled operations. The Commission considers this procedure to be perfectly legitimate provided all the conditions of eligibility are met. Pursuant to Article 5 of the basic Regulation (EEC) No 2081/93 a programme is regarded as a set of consistent measures accompanied by implementation objectives, not as a set of predefined projects. To respect the planning principle and ensure the smooth implementation of the measure, the physical and financial outturn and impact objectives must be achieved.

Furthermore, even if the operational programming phase started late, the planning of rural development measures had started in regions as soon as the Objective 5b areas were defined. In fact, in the case of projects and aid schemes, Article 15 of the coordination Regulation states that expenditure incurred in the six months preceding

presentation of the aid application to the Commission is eligible.

Reprogramming

5.7. to 5.9. The Community support frameworks and OPs of Objective 5b were amended in response to a number of different circumstances, including in particular:

- reconciling the CSFs: this entailed comparing the amounts at constant 1989 prices used in 1989 to 1993 for all projects covered by each CSF (OPs, projects covered by various regulations making up the outstanding liabilities) with the amount at constant 1989 prices decided in the Community support framework. The difference, whether positive or negative, resulting from the comparison was to be passed on to the forms of assistance in force,
- technical adjustments to operational programmes with a view to planning additional appropriations generated by the deflator (not negligible at that time) and, in some cases the very significant exchange rate fluctuations between the national currency and the ECU which occurred at the end of the period of implementation of programmes,
- extension of deadlines for commitment and payment operations.

The purpose of the many amendments, which could be interpreted in the way the Court has done, was to make available the appropriations provided in the CSFs and to adapt Community assistance to the actual situation regarding the implementation of programmes.

Application of underlying concepts

5.10. The concept of legal commitment applied by the French authorities did not comply with the conditions attached to this concept in the decisions awarding assistance. Consequently, and after thoroughly examining the problem, the Commission demanded, and the French authorities agreed, that the concept of commitment should be applied correctly, in accordance with the decisions and as it is applied in all the Member States. The Commission will pay the balance of the programmes in question when it has checked that the provisions have been complied with.

5.11. The Commission considers it positive that this problem was detected: it demonstrates the efficacy of the checking system.

Selection of actions and beneficiaries

5.12. With the Member States the Commission is looking into the Court's remarks. The beneficiaries are

selected by Member States in the light of priority and suitability criteria usually included in national provisions governing the application of aid, approved in the framework of Community Regulations. Community legislation does not specify cases where viability studies are necessary, nor their content. Such studies should take account of the scale of the project and any experience with other similar projects. In the case of most Objective 5b projects, which are on a small scale and often with well-trying content, direct assessment by regional or local authorities is more appropriate. Application of different rates of assistance is the main instrument available to public authorities to classify operations in the light of their value and coherence with the development policies in force. Structural Fund Regulations allow for different rates and the Commission can understand that the rates may differ from one region to another.

Monitoring mechanisms

Financial monitoring

5.14. Currently, EAGGF-Guidance charges payments against the oldest commitments still open in the programme concerned. This practice is transparent and reduces the burden of management as the Commission pointed out in its reply to the DAS on the 1996 financial year (21.4 of the report). The Commission does not consider that this practice is incompatible with the Structural Fund regulations.

5.15. In the case raised by the Court, the Commission considers that although the terms used are not always clear, these operations should be regarded as 'payments on account' and not as 'advances'. They are in fact budgetary advances consisting of final albeit partial payments pending the final settlement and which therefore represent payments on account within the meaning of Article 46 of the Financial Regulation. Entering these advances in a suspense account would considerably reduce the level of budgetary implementation of payment appropriations and, secondly, would swell the volume of outstanding liabilities in budgetary accounting.

5.16. The fact that from the point of view of budget implementation payment of the balance of an instalment does not give rise to a cancellation of commitment in no way implies that the payment is treated like the payment of an advance. On the other hand, the balance of an instalment is paid when the Commission receives the annual progress report and the management departments endorse the contents.

5.17. The administrative arrangements for structural aid vary from one Member State to another depending on

the administrative law and budgetary traditions. They have changed considerably since the beginning of the reform of the Funds, largely thanks to experience gained from the first programmes.

- (a) There are no regulations calling for documents such as those referred to by the Court. In 1991 some Objective 5b regions had published brochures describing the procedures for potential beneficiaries to receive Community aid; similar information operations became general during the 1994 to 1999 phase.
- (b) and (c) The standard of administrative management has been considerably improved by information technology, as regards both the management of programmes and, in general all administrative and business activities.
- (d) It is true that Objective 5b was implemented in a highly decentralised manner, even though the Member State itself continued to be the Commission's ultimate contact, especially for financial implementation. Although this made management more cumbersome, on the other hand it enriched the implementation of programmes and intensified their impact.

5.18. The Objective 5b programmes were monitored on the basis of physical indicators for the various measures, although the diversity of planned operations, well suited to the precise requirements of each area, made it difficult to determine a precise indicator and particularly to draw comparisons with operations of other programmes. The standard of findings varied, depending on the complexity of the programmes and the efforts deployed by the monitoring mechanism. Although the problem had occurred in the case of the IMPs, in the case of Objective 5b the Commission did not notice any particular reluctance to supply details on the part of the authorities responsible for implementation. Rather it encountered some reservations regarding the usefulness of the exercise, given the difficulty of determining the right indicators. At present, after several years of research into the theory and practice of assessment, the specialised institutes continue to regard the selection of indicators as one of the critical aspects of assessment.

Physical monitoring

5.19. Physical monitoring of programmes can always be improved provided the effort is proportionate to the resources invested. The Commission and the Member States are endeavouring to improve this aspect and significant progress has been achieved as a result of the experience in the first phase.

5.20. Most Objective 5b programmes include many private initiative projects where implementation depends

on unforeseeable outside factors beyond the control of the authorities concerned. Therefore flexible procedures are needed for the replacement of projects.

5.21. The Commission is checking the cases referred to in the Court's sector letters.

Technical assistance

5.23. The Commission regards the operating expenditure of the public authorities as eligible only when it is additional expenditure, i. e. on top of ordinary expenditure and relating to specific additional statutory requirements stemming from the implementation of programmes. The Commission is examining the cases in question.

5.24. Sometimes it is impracticable and not even relevant to separate appropriations for material investment proper from the cost of management and incentives needed to implement a measure.

5.25. The Commission considers that including estimated incentives in operational measures is consistent with the principle of specification. In addition, only additional administrative expenditure directly generated by monitoring programmes can be covered by Community co-financing.

Audits

5.26. and 5.27. The Commission uses the limited human and material resources available to perform as well as possible the tasks entrusted to it by the Treaties. If more controls had been carried out on Objective 5b programmes other equally necessary activities would certainly have suffered.

5.29. to 5.31. The national authorities responsible for implementing programmes are competent to decide on the best follow-up to audit findings. In any case Regulation (EC) No 2064/97 will place more emphasis on audit services carrying out controls in Member States.

Evaluation

5.32. and 5.33. From the initial stages of the application of Objective 5b the Commission has paid particular attention to evaluating the impact of programmes. In 1992 it commissioned a group of consultants to carry out an intermediate evaluation study, with a strong methodological slant, on 11 Objective 5b projects, selected in such a way as to cover the different types as

regards size and administrative organisation of implementation. This was a pioneering approach to evaluation and was the first contact with well-known evaluation institutes in Europe, and amounted to a real testing ground for the evaluation of programmes under other objectives. The contracts for 21 *ex post* evaluation studies were concluded in 1994 and were completed in 1994 and 1995. They covered programmes where the period for commitment of operations had ended, and therefore all eligible operations were known, even if they were not all completed. If the evaluations had been delayed any further they would not have highlighted and passed on the experience of completed programmes and would not have been useful in the preparation phase of the 1994 to 1999 programmes. The national, regional and local authorities were first notified of the launch of the evaluations and the results of the call for tender issued by the Commission to select the evaluators. This gave the authorities the opportunity to benefit from the analyses, particularly since direct investigations of beneficiaries of measures were carried out, which is quite rare in evaluation work and which provided first-hand information. A seminar was held in Brussels on 3 May 1995, with the participation of all the authorities responsible for implementation, to consider the results of the work.

Transition to the second period

5.34. For the purposes of Objective 5b rural areas must be defined within NUTS III regions to make sure projects are concentrated in areas most in need. The drawbacks noted by the Court, especially as regards impact analyses, are overcome by evaluators using appropriate methods.

5.35. The Commission hopes that the delay noted by the Court (19,6 % against forecasts) will be made up in the remaining two years.

5.36. The Court notes that 1995 was a bad year from the point of view of financial implementation. This was due to start-up difficulties with new programmes flowing from the administrative implementation of the new operations (approval of aid schemes, invitations to tender to implement projects) and a lack of awareness on the part of potential beneficiaries.

5.37. The Commission can see no reason why an operation or measure should not extend over two programming periods, provided the projects or individual expenditure can be properly identified.

6. CONCLUSION AND RECOMMENDATIONS

6.1. A substantial revision took place in the preparation of the 1994 to 1999 programming phase, with the introduction of SPDs, which brought the planning and programming phases together into a single operation. As stated in points 5.5 and 5.6 the Commission considers that programming is based on measures, not individual projects and this is what must be respected. There is therefore no question of retroactive programming, nor of the introduction of expenditure already executed where the selection of specific projects does not coincide with the programming timetable.

6.2. As noted in point 4.3, Commission Regulation (EC) No 2064/97 provides for instruments to improve the reliability of certificates along the lines noted by the Court.

6.3. The Commission considers that the problems raised by the Court in point 5.10 of its report are due to failure to observe one of the Articles of the Decision awarding the assistance. As soon as the facts were established, the Commission had sufficient legal grounds on which to request compliance with the relevant provisions.

6.4. The Commission has always called for transparent criteria for the selection of projects within each measure. However, under the co-financing system beneficiaries are selected by the authorities responsible for implementing each measure in accordance with requirements and priority criteria established by the administrative provisions authorising public intervention.

6.5. The Commission pays the balance of annual instalments on the basis of expenditure statements sent in by the Member States, after checking annual reports and in agreement with the departments participating in the monitoring of programmes. It is inevitable, although not sought for, that data relating to the final balance can be identified only when the preparatory work for payment of the balance is carried out.

6.6. Technical assistance can also play a useful part in organising, informing potential beneficiaries, dissemination and demonstration which serve to improve programme implementation.

6.7. Regulation (EC) No 2064/97 is in line with the Court's recommendations in that it requires Member States to present, at the latest with the request for the balance for each operation, a declaration by an external auditor including a statement about the results of the checks made.
