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INCIDENTS INVOLVING THE 1992 FUND

ERIKA

Submitted by the French delegation

- 1 At the last session of the Executive Committee, the Director put before the members of the Committee a claim for compensation from a number of communes concerning losses of tourism tax revenue.
- 2 The Committee expressed the hope that, before deciding on whether such claims were admissible, the Director would provide it with further information on this tax.
- 3 The delegates will find attached to this document the main features of the tax, which may take two forms.
- 4 A distinction is made between the "traditional" tourism tax (which was introduced back in 1919, although the rules governing it have been substantially amended) and the flat-rate tourism tax introduced by the Law of 5 January 1988.
- 5 The information contained in the Annex clearly shows that the yield from the tourism tax is closely related to the number of tourists, while in the case of the flat-rate tourism tax this relationship is more difficult to establish. However, generally speaking, very few communes have opted for the flat-rate tourism tax system.
- 6 The proceeds of the tax are indeed earmarked for operating costs or capital expenditure intended to encourage tourism.
- 7 It should also be pointed out that during a budget year the communes cannot increase the rates of direct local taxes (*taxe d'habitation* (residents' tax), *taxes foncières* (property taxes), *taxe professionnelle* (business/self-employed taxes)) in order to compensate for losses of revenue from the tourism tax.
- 8 The reason for this is that direct local taxes must be approved by 31 March at the latest, ie well before the start of the tourist season, and it should also be noted that communes cannot change these rates during the year.

ANNEX

TOURISM TAX AND FLAT-RATE TOURISM TAX

I — INTRODUCTION

Article L. 2333-25 of the *code général des collectivités territoriales* (CGCT, the general code governing territorial authorities) states that communes located in listed resorts, littoral communes, mountain communes and communes that take measures to promote tourism may introduce either the tourism tax or the flat-rate tourism tax.

Article L. 2333-27 states that the proceeds of the tourism tax or the proceeds of the flat-rate tourism tax shall be earmarked for expenditure intended to encourage tourists to visit the commune.

This article is supplemented by regulations stipulating that communes which have introduced either of these taxes must show in a statement annexed to the administrative account (*a document which provides details of all revenue and expenditure for the financial year that has ended and which must be voted on by 1 June at the latest*) the revenue obtained and how that revenue is used for measures to encourage tourism.

The definition of such measures is relatively wide and concerns both operating costs (financial support for tourist associations, publication of brochures, subsidies for a local tourist office, running costs of information offices, maintenance of beaches or tourist facilities, etc) and capital expenditure (work on improving the appearance of the commune, construction of car parks, etc).

NB: In the event of a tourist office being established, that office must receive the proceeds of the tourism tax or the flat-rate tourism tax, although it cannot determine the relevant procedures (exemption after deliberation by the communes, for instance).

II — CHARACTERISTICS OF THE TOURISM TAX (Articles L. 2333-29 to 40 and R. 2333-45 to 58 of the CGCT in force on 1 January 2000)

The tourism tax is levied on persons who are not resident in the commune and do not own a residence there by virtue of which they are liable for the residents' tax.

However, provision is made for a whole host of exemptions concerning children's holiday camps, those receiving social security benefits, the disabled, people who are involved, through their work or occupation, in running or developing the resort (sales reps, etc).

The rates of the tax are fixed according to the type and category of accommodation. They are payable per person per night.

These rates are voted on by the town council (conseil municipal), in accordance with the scale laid down by decree by the Council of State (Conseil d'Etat).⁽¹⁾

The amount of the tax payable by holidaymakers is obtained by multiplying the rate corresponding to the category of accommodation by the number of nights of the stay.

The tax is levied by the landlords/landladies or hoteliers, who, at the end of the collection period, pay the municipal tax collector the amount of the tax received from holidaymakers.

⁽¹⁾ The rates per category of accommodation are given in Article R. 2333-45 of the *code général des collectivités territoriales*.

III — CHARACTERISTICS OF THE FLAT-RATE TOURISM TAX

This tax, which was introduced by the Law of 5 January 1988, can be distinguished from the tourism tax in two respects.

1- It is based on the accommodation capacity of the establishment and not on the number of nights spent there by the holidaymaker.

None of the exemptions provided for in respect of the tourism tax are therefore applicable.

2- Here the person liable for the tax is the landlord/landlady and not the holidaymaker.

The amount of tax payable by the landlord/landlady corresponds to the accommodation capacity of the establishment multiplied by the rates applicable⁽²⁾ and, where appropriate, by the reduction coefficient laid down by the commune, as the commune may, pursuant to Article L. 2333-42 of the CGCT, decide to reduce the amount of the flat-rate tourism tax in order to take account of the normal occupancy rates of establishments offering accommodation during the collection period. The town council fixes this coefficient according to the type of accommodation no later than two months before the start of the collection period.

NB: Accommodation capacity is assessed in terms of “accommodation capacity units”. This is the number of people that the establishment in question can accommodate during the collection period (reduced, where appropriate, to the period for which the establishment is open if that period is shorter). Where the establishment is classified, the criterion is the number of beds provided for in the classification decision. Failing that, it is up to the person liable for the tax to determine the number of people he or she is able to accommodate.

The number of accommodation capacity units is then subject to a deduction according to the accommodation capacity of the establishment (Article R. 2333-61 of the CGCT).

⁽²⁾ The rates of the flat-rate tourism tax are given in Article R. 2333-60 of the *code général des collectivités territoriales*.