

**GUIDANCE ON THE TREATMENT OF IRREGULARITIES  
FOR 2007 – 2013 PROGRAMMES**

**1. INTRODUCTION**

The following guidance sets out the action to be taken to identify, record, report, follow-up and clear irregularities involving EU Structural Funds and reflects the requirements of the Commission General Regulation (EC) No 1083/2006 and its Implementing Regulation (EC) No. 1828/2006 effective for the Programme period 2007 – 2013 as amended by EC Regulation (EC) No 846/09.

This amendment also reflects the online procedures for recording irregularities onto the Systems 2007 database and the procedures for reporting to the Member State using the AFIS website provided by OLAF.

The Irregularities Regulation 1681/94 as amended by Regulation 2035/05 has been transposed into Articles 27-36 of the Implementing Regulation 1828/2006 (as amended by regulation EC 846/09), covering:

- Définitions (Article 27);
- Initial Reporting - Derogations (Article 28);
- Urgent cases (Article 29);
- Follow-up reporting (Article 30);
- Electronic transmission (Article 31);
- Reimbursement of judicial costs (Article 32);
- Co-operation with Member States (Article 33);
- Use of information (Article 34);
- Irregularities under the reporting threshold (Article 36)

The Department for Business Innovation and Skills (BIS) is responsible for co-ordinating irregularities on behalf of the UK (as a Member State). European Division DFP acts in that capacity for Northern Ireland.

**Departments and Implementing Bodies should note that this guidance and the on-line reporting structures only relate to irregularities notified under the 2007-13 Operational Programmes. Any irregularities relating to the 2000-06 Operational Programmes should continue to use the existing paper processes.**

Updates to this guidance will be issued as necessary and will be dated to reflect effective implementation dates.

## **2. DEFINITIONS**

1. For the purposes of identifying and reporting irregularities the following definitions will apply;

*“Irregularity” means any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities by charging an unjustified item of expenditure to the Community Budget. - Council Regulation 1083/2006 Article 2(7)*

*“Suspected Fraud” means an irregularity giving rise to the initiation of administrative and/or judicial proceedings at national level in order to establish the presence of intentional behaviour, in particular fraud, as referred to in point (a), of Article 1(1) of the Convention (drawn up on the basis of Article K.3 of the Treaty on European Union), on the protection of the European Communities’ financial interests.*

*“Bankruptcy” means insolvency proceedings within the meaning of Article 2 (a) of Council Regulation 1346/2000 Annex A: -*

- *Winding up by or subject to the supervision of the Court;*
- *Creditors’ voluntary winding up (with confirmation by the Court);*
- *Administration;*
- *Voluntary arrangements under insolvency legislation; and*
- *Bankruptcy or sequestration.*

**“Economic operator”** means any natural or legal person or other entity taking part in the implementation of assistance from the Funds, with the exception of a Member State exercising its prerogatives as a public authority.

**“Primary administrative or judicial findings”** means a first written assessment by a competent authority, either administrative or judicial, concluding on the basis of specific facts that an irregularity has been committed, without prejudice to the possibility that this conclusion may subsequently have to be revised or withdrawn as a result of developments in the course of the administrative or judicial procedure.

2. Any failure to comply with the EC Regulations and or any breakdown of management and/or control systems should be treated as an irregularity whether or not the irregularity itself involves any loss or potential loss of funds.
3. In applying this to the management of projects part funded by Structural Funds, an irregularity should be taken as meaning *any breach of the conditions of grant set out in the terms of the Letter of Offer*. Such breaches will include action on the part of those receiving grant or failure by them to take action.
4. It is advisable to take note of the definition of ‘*primary administrative or judicial finding*’ in Section 2 as the Commission auditors are adamant that irregularities must be reported as soon as the report is written identifying an irregularity. Even if, as a result of further investigation or enquiries that the report is withdrawn at a later date, or the amount of irregular expenditure has been reduced. This means that if a reportable irregularity is identified during the first quarter of the year (i.e. end March) within two months of the end of that quarter (i.e. end May) an initial report of the irregularity (under Article 28) must be submitted to OLAF, via European Division, DFP and BIS providing the information required under the regulation. If the case is not closed when the Article 28 notification takes place then follow up Article 30 (1) reports will

be due subsequently to detail the progress and resolution of the case and any financial impact it may have/has had .

5. Examples of irregularity will therefore include:

- Evidence gathered at a monitoring visit indicating that items of ineligible expenditure have been included in the calculation of grant previously claimed and paid.
- Evidence that a project has failed to implement the European Commission's requirements on publicity or procurement.
- A qualified annual audit certificate received for a project – if appropriate.
- Evidence that an Implementing Body has not set up adequate systems to control and monitor the grant awarded to projects.

In addition, Article 28(2) of, Commission Regulation 1828/2006 indicates that the following cases need **not** be reported:

- (a) cases where the irregularity consists solely in the failure to execute, in whole or in part, an operation included in the co-financed operational programme owing to the bankruptcy of the beneficiary;
- (b) cases brought to the attention of the managing authority or certifying authority by the beneficiary voluntarily and before detection by either of them, whether before or after the inclusion of the expenditure concerned in a certified statement submitted to the Commission;
- (c) cases which are detected and corrected by the managing authority or certifying authority before inclusion of the expenditure concerned in a statement of expenditure submitted to the Commission.

*However, irregularities preceding a bankruptcy and cases of suspected fraud must be reported. It is important to note that although not all irregularities need to be reported, all irregularities must be recorded.*

6. The extent of the definition of irregularity means that all those engaged in delivering Structural Funds Programmes must have systems and resources in place to detect, record, report and follow-up cases. This must involve not only those responsible for monitoring/inspection and financial administration. All irregularities, suspected or attempted fraud or other illegal act being suspected must be recorded and where appropriate, reported immediately.
7. Reportable irregularities must be, and other irregularities may be, recorded on the Systems 2007 database. Managing Authorities may authorise the use of other systems to record irregularities which fall below the reporting threshold but must satisfy themselves that appropriate information can be retrieved and presented on demand from the Member State authorities and/or the European Commission.

### **3. IDENTIFICATION OF IRREGULARITIES**

1. Whilst not underestimating the difficulties inherent in tackling this work the normal conduct of business provides plenty of mechanisms for identifying irregularities including:
  - monitoring visits;
  - notification by grant recipients;
  - detailed checking of grant claims and progress reports;
  - management verification visits;
  - local knowledge (press/members of the public); and
  - National and Commission audit reviews.
- i. Managing Authorities/Implementing Bodies must ensure that irregularities identified are recorded immediately and in enough detail to allow them to check whether there is any evidence of a breakdown of systems or a need to take action to correct emerging systemic weaknesses in the programme management and control arrangements they have put in place. Managing Authorities/Implementing Bodies must also ensure that all relevant original

documentation and computer based files are preserved in a safe place for further investigation.

- ii. Details of identified systemic weaknesses should be reported to the Audit Authorities and the relevant Certifying and Managing Authorities.

#### **4. REPORTING OF IRREGULARITIES**

1. Irregularities, involving loss or overpayment of grant of the equivalent of €10,000 (E.U. Element) or more must be reported. In the 2007-13 programmes this will be via the System 2007 database and web based pages have been developed for this purpose.
2. With the potential for financial correction, which may have an impact on the budget of a Department, irregularities documentation must be authorised at **Head of Branch** level and copied to the relevant Audit Authority and Certifying Authority for information. When recorded on the Systems 2007 database, each irregularity must be accepted by a representative of the Programme Managing Authority for this purpose.
3. All irregularity returns must be reported in Euro, not in £'s Sterling whether payment has been made or not. For ease of future identification it would also be useful to keep a record of the original sterling amount used. The amount recorded under project financing and irregular expenditure shall be converted into Euro as follows: -

**(A) Total amount of project financing** – Convert into Euro using the Commission monthly accounting rate in force for the month in which the irregularity is detected.

**(B) Amounts of irregular expenditure:**

(i) If no payments made – convert into Euro using the Commission monthly accounting rate in force for the month in which the irregularity was detected before any payment was made.

(ii) Where payment has been made - convert into Euro using the Commission monthly accounting rate in force for the month in which the payment was made. If more than one payment has been made use the rate

for the month in which the last payment was made. *Details of monthly accounting rates can be found on the following Commission website*  
[http://ec.europa.eu/budget/inforeuro/index.cfm?fuseaction=currency\\_historique&currency=GBP&Language=en](http://ec.europa.eu/budget/inforeuro/index.cfm?fuseaction=currency_historique&currency=GBP&Language=en)

**(C) Recovery of irregularly paid monies** – Convert into Euro using the same rate as above (to ensure consistency of Euro / Sterling value).

Note, the Irregularities Module of the Systems 2007 database enables the officer recording an irregularity to enter a single date (the 'effective date') by reference to which all conversions to euro of the irregularity amount and any subsequent recoveries will automatically be made when reporting to BIS and OLAF. This should be determined by the officer entering the irregularity using the rules above.

This enables irregularities and recoveries to be recorded on the system using the currency in which they were incurred and converted to euro when being reported to OLAF.

4. Article 28(1) requires Member States to report, to OLAF, each calendar quarter any new irregularities and the action taken to clear both them and any existing cases. For the UK this report is collated by BIS, from information entered onto the Commission's AFIS site. European Division, DFP is responsible for entering onto the AFIS site the necessary information relating to Structural Funds in Northern Ireland. This will include the following detail:
  - a) The Fund, objective, operational programme, priority axis and operation concerned and the Common Identification Code (CCI) number;
  - b) The provision which has been infringed;
  - c) The date and source of the first information leading to suspicion that an irregularity had been committed;
  - d) The practices employed in committing the irregularity;
  - e) Where appropriate, whether the practice gives rise to suspicion of fraud;
  - f) The manner in which the irregularity was discovered;
  - g) Where appropriate, the Member States and third countries involved;
  - h) The period during which, or the moment at which, the irregularity was committed;

- i) The national authorities who drew up the official report on the irregularity and the authorities responsible for administrative and/or judicial follow-up;
  - j) The date on which the primary administrative or judicial finding on the irregularity was established – See Section 2 for definition.
  - k) The identity of any natural and/or legal persons involved or any other participating entities, except where this information is irrelevant for the purposes of combating irregularities, given the nature of the irregularity in question;
  - l) The total eligible expenditure and public contribution approved for the operation together with the corresponding amount of Community contribution calculated by application of the co-financing rate of the priority axis;
  - m) The expenditure and the public contribution certified to the Commission which are affected by the irregularity and the corresponding amount of the Community contribution at risk calculated by application of the co-financing rate for the priority axis;
  - n) in case of a suspected fraud and where no payment of the public contribution has been made to the persons or other entities identified in k), the amounts which would have been unduly paid if the irregularity had not been identified.
  - o) The code of region or area where the operation has been located or carried out, by specifying the NUTS level or otherwise;
  - p) The nature of the irregular expenditure.
5. If a Managing Authority/ Implementing Body has evidence that an irregularity involves fraud, theft or corruption or there is a suspicion of fraud, theft or corruption details should be reported. In such cases the Managing Authority/Implementing Body must also take action in line with Departmental Fraud Policy and relevant chapter of the Managing Public Money NI (MPMNI).

6. As part of the closure process, at the end of the 2007-13 round of programmes, all irregularities must be notified to the Commission therefore cases below de minimis level (€10,000) must be recorded by each Managing Authority/Accountable Department/Implementing Body. To facilitate accurate and timely recording the System 2007 database must be updated with this data on a quarterly basis. Where under section 2, paragraph 7, managing authorities have authorised the use of local systems for the recording of irregularities, these also should be kept up to date. As a best practice approach Managing Authorities/Implementing Bodies/Accountable Departments should apply the standard of procedures associated with reported irregularities when dealing with irregularities that need only to be recorded. European Division, DFP will confirm data on the System 2007 database at the end of each calendar year with Programme Managing Authorities.
7. It should also be remembered that if a beneficiary has more than one project and each project has a de minimis level irregularity the sum of all its irregularities must be taken into account to ensure that it is still below the de minimis threshold. An applicant with multiple projects and a number of irregularities of the same or similar nature could suggest as systemic failure and must be reported and action taken to remedy systemic failure as soon as possible.
8. Exemption for bankruptcy – if the only cause of the irregularity is the bankruptcy of the project (i.e. unable to deliver requirements of the Letter of Offer) it is exempt from the reporting requirement. If, however, there was an irregularity **before** the bankruptcy occurred it must be reported.
9. If it is considered that irregularities reported may have wider impact across other Member States for example, where a new malpractice has been employed, European Division, DFP, will alert BIS immediately in order that the Member State may circulate details in compliance with Article 29 of Regulation 1828/2006.

## 5. FOLLOWING UP AND CLEARING IRREGULARITIES

1. Good working practice would dictate clearance of irregularities in a timely fashion. Based on previous guidance the European Commission has indicated that irregularities should in the main be cleared **within six months of being identified**. Responsibility for investigating and resolving irregularities rests with the Managing Authorities/Implementing Bodies. If irregularities are not cleared within 6 months a separate detailed report will be sought by European Division, DFP on likely timescales.
2. Managing Authorities/Implementing Bodies must take timely and appropriate action to follow-up and correct all irregularities, recover grant where appropriate and take steps to reduce the risk to the EU and public purse. As recording will be via the Systems 2007 database it is imperative that details of follow-up and clearance action are updated regularly. These updates must also be communicated to both the Audit and relevant Certifying Authority.
3. Failure to recover the grant paid may result in a net loss to the Department and the general presumption is that recovery will be pursued in all cases. If recovery proves to be impossible, or the Managing Authority/Accountable Department/Implementing Body wishes to recover less than the full amount due the matter must be referred to European Division, DFP using the processes for the 'special report' as detailed at paragraph 6 below. European Division, DFP will consider with the relevant Accountable Department before forwarding any documentation to OLAF via BIS.
4. Member States are required to provide a quarterly report on irregularities. At the end of each calendar quarter European Division, DFP, will run the necessary prints from the System 2007 on irregularities reported to date which remain uncleared. Managing Authorities/Implementing Bodies will be asked to update these records with details of follow-up and clearance action as appropriate. EUD will then enter the appropriate update information onto OLAF's IMS database for transmission to BIS, who will in turn transmit the information to OLAF on the same database.

5. Article 30 (1) updates on each reported irregularity are mandatory and should be in proportion to the amount of grant involved and the seriousness of the irregularity. Systemic irregularities will clearly warrant more explanation than one-off individual errors in record keeping which may have led to a failure of systems within a single project. The 'update report' page on System 2007 has been developed to include the following information:

- Action taken since the last report including details of action taken to minimise the risk of recurrence;
- The amount of any funds recovered and separately, the amount expected to be recovered;
- Details of any legal proceedings.
- Referral to European Division, DFP/BIS in the event of partial or non-recovery; and
- Action taken following the formal investigation to implement recommendations and lessons learnt.

6. Reduced or abandoned cases

If the recovery of grant has been or is to be reduced or abandoned, a full explanation is required, particularly if the EU budget is being asked to share any loss. Member States are no longer required to submit a special report for each such case. Instead, the decision to abandon recovery has to be reported in the annual report made by the Certifying Authority under Article 20 (2). The sharing of the loss with the EU budget will be accepted by default if the Commission does not object within the following year. To avert objections, where it is proposed to write off recoveries a full explanation should be entered in the closure comments space on Systems 2007, which will be extracted into the Certifying Authority report.

7. In addition to the recording and reporting described above, Article 20 of Commission Regulation (EC) No 1828/2006 requires an annual report to be provided by the Certifying Authority detailing the amounts of grant recovered and the amounts to be recovered, which have resulted from irregularities during the previous calendar year. Records are required/maintained on the

Systems 2007 database to link recovery corrections to irregularities already registered and this data will be extracted for the annual Certifying Authority Article 20 report. .

8. When closing a case there must be a clear statement that any funds recovered have been deducted from a payment declaration to the Commission and the date of that declaration specified. (It may be necessary to check such details with the Fund/Programme Certifying Authority). OLAF has indicated that it will not consider a case closed without this information.

**European Division**

**Department of Finance and Personnel**

**First Issued: October 2008**

**1<sup>st</sup> Revision: February 2009**

**This revision: January 2011**

**COMMON TYPES OF IRREGULARITY (this list is not exhaustive)**

Ineligible costs

- Use of ineligible costs to obtain grant
- Inflated project costs
- Activities already funded from other sources
- Charging costs to a project already used in another Structural Funds project
- Fees, overhead costs not allowed under the regulations
- Incorrectly calculated overheads/staff salaries

Administrative errors – other than simple calculation errors

- Incorrectly completed claim form
- Failure to advertise contracts in the Official Journal
- Failure to maintain records – lack of clear audit trail
- Awarding contracts/committing funds after programme closure date
- Claiming for work done before start of programme

Breach of Terms and Conditions of Letter of Offer

- Failure to respect deadlines
- Lack of supporting documents to support expenditure
- Claiming for expenditure not defrayed
- Retention of documents

False claim/false supporting documents – suspected fraud

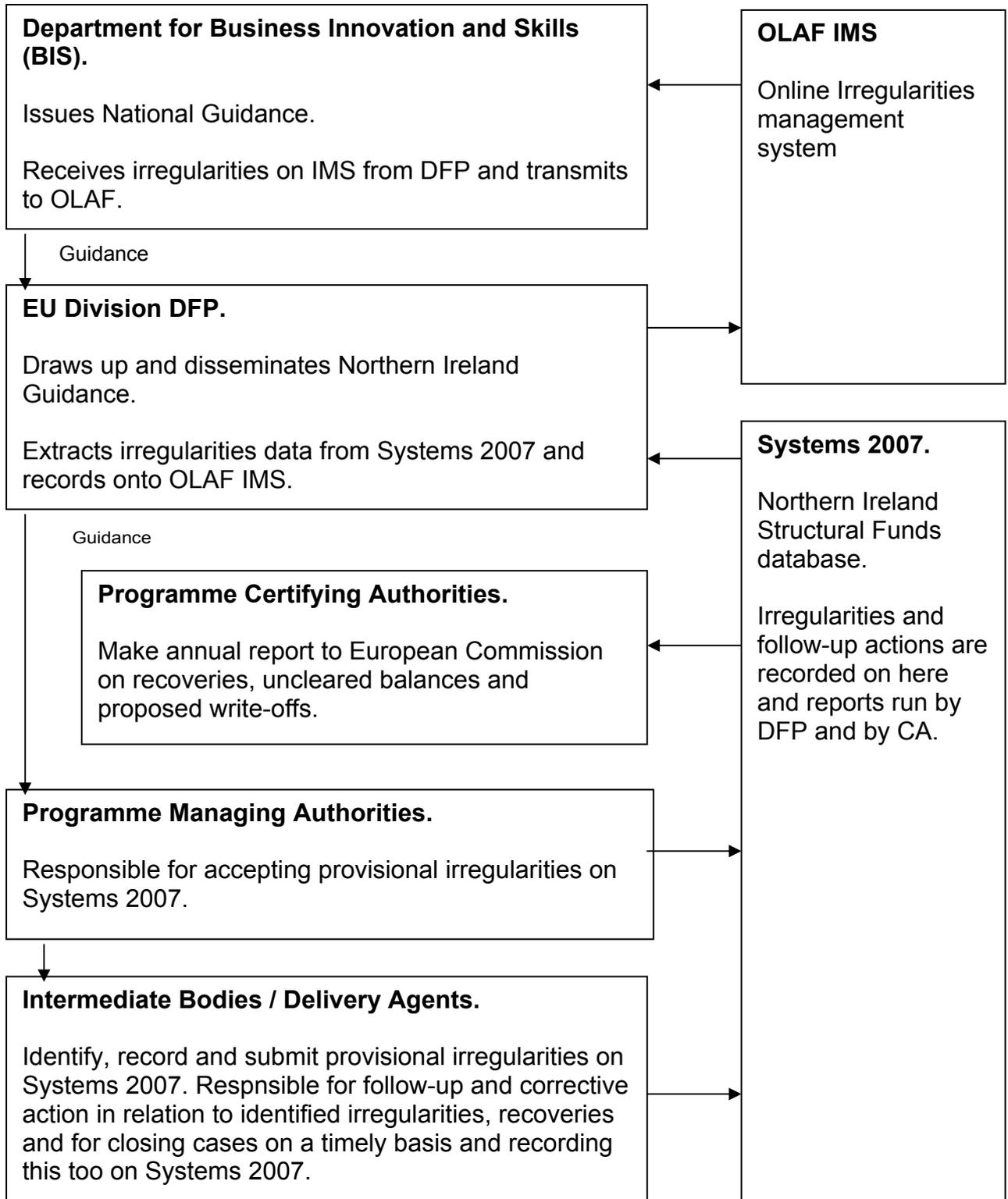
Incorrectly completed supporting documents – often down to poor managements skills

Misleading description of project – project not proceeding as in the application

Non-existing or incorrect match funding

Reduced assurance following Article 13 and Article 16 inspections

**Northern Ireland System for Identifying, Recording and Reporting Irregularities under EC Regulation 1828/2006**



**Implementing Regulation EC 1828/06 as amended by EC846/09****Article 20(2).**

By 31 March 2010 and by 31 March each year thereafter, the certifying authority shall send a statement to the Commission a statement, in the format in Annex XI, identifying for each priority axis of the operational programme:

- (a) The amounts withdrawn from statements of expenditure submitted during the preceding year following cancellation of all or part of the public contribution for an operation;
- (b) The amounts recovered which have been deducted from statements of expenditure submitted during the preceding year;
- (c) A statement of amounts to be recovered as at 31 December of the preceding year, classified by the year in which recovery orders were issued;
- (d) A list of amounts for which it was established during the preceding year that they cannot be recovered or which are not expected to be recovered, classified by the year in which the recovery orders were issued.

For the purposes of points (a), (b) and (c) of the first subparagraph, aggregate amounts related to irregularities reported to the Commission under Article 28 shall be provided for each priority axis.

- 2a. For each amount referred to in point (d) of the first sub-paragraph of paragraph 2 the certifying authority shall indicate whether it requests the Community share to be borne by the general budget of the European Union.

If, within one year from the date of the submission of the statement, the Commission does not request information for the purposes of Article 70(2) of Regulation (EC) No 1083/2006, inform the Member State in writing about its intention to open an enquiry in respect of that amount or request that the Member State continue the recovery procedure, the Community share shall be borne by the general budget of the European Union.

The time limit of one year shall not apply in cases of suspected or established fraud.

- 2b. For the purposes of the statement provided for in paragraph 2, Member States which have not adopted the euro as their currency by the date when the statement is submitted shall convert amounts in national currency into euro using the exchange rate referred to in Article 81(3) of Regulation (EC) No 1083/2006. Where the amounts refer to expenditure registered in the accounts of the certifying authority during more than one month, the exchange rate in the month during which expenditure was last registered may be used.

## Article 28.

1. Without prejudice to the other obligations under Article 70 of Regulation (EC) No 1083/2006, within two months following the end of each quarter, Member States shall report to the Commission any irregularities, which have been the subject of a primary administrative and/or judicial finding.  
In this report Member States shall in all cases give details of the following:
  - a) The Fund, objective, operational programme, priority axis and operation concerned and the Common Identification Code (CCI) number;
  - b) The provision which has been infringed;
  - c) The date and source of the first information leading to suspicion that an irregularity had been committed;
  - d) The practices employed in committing the irregularity;
  - e) Where appropriate, whether the practice gives rise to suspicion of fraud;
  - f) The manner in which the irregularity was discovered;
  - g) Where appropriate, the Member States and third countries involved;
  - h) The period during which, or the moment at which, the irregularity was committed;
  - i) The national authorities which drew up the official report on the irregularity and the authorities responsible for administrative and/or judicial follow-up;
  - j) The date on which the primary administrative or judicial finding on the irregularity was established
  - k) The identity of the natural and legal persons involved or any other participating entities, except where this information is irrelevant for the purposes of combating irregularities, given the nature of the irregularity concerned;
  - l) The total eligible expenditure and public contribution approved for the operation together with the corresponding amount of Community contribution calculated by application of the co-financing rate of the priority axis;
  - m) The expenditure and the public contribution certified to the Commission which are affected by the irregularity and the corresponding amount of the Community contribution at risk calculated by application of the co-financing rate for the priority axis;
  - n) in case of a suspected fraud and where no payment of the public contribution has been made to the persons or other entities identified in k), the amounts which would have been unduly paid if the irregularity had not been identified.
  - o) The code of region or area where the operation has been located or carried out, by specifying the NUTS level or otherwise;
  - p) The nature of the irregular expenditure.
2. By way of derogation from paragraph 1, the following cases need not be reported:
  - (a) cases where the irregularity consists solely in the failure to execute, in whole or in part, an operation included in the co-financed operational programme owing to the bankruptcy of the beneficiary;

- (b) cases brought to the attention of the managing authority or certifying authority by the beneficiary voluntarily and before detection by either of them, whether before or after the inclusion of the expenditure concerned in a certified statement submitted to the Commission;
- (c) cases which are detected and corrected by the managing authority or certifying authority before inclusion of the expenditure concerned in a statement of expenditure submitted to the Commission.

However irregularities preceding a bankruptcy and cases of suspected fraud must be reported.

3. Where some of the information referred to in paragraph 1, and in particular information concerning the practices employed in committing the irregularity and the manner in which it was discovered is not available or needs to be rectified, Member States shall as far as possible supply the missing or correct information when forwarding subsequent quarterly reports of irregularities to the Commission.
4. Irregularities relating to operational programmes under the European territorial cooperation objective shall be reported by the Member State in which the expenditure is paid by the beneficiary in implementing the operation. The Member State shall at the same time inform the managing authority, the certifying authority for the programme and the audit authority.
5. If national provisions provide for the confidentiality of investigations, communication of the information shall be subject to the authorisation of the competent court or tribunal.
6. Where a Member State has no irregularities to report pursuant to paragraph 1, it shall inform the Commission of that fact within the time limit set out in that paragraph.

#### **Article 29 Urgent Cases.**

Each Member State shall immediately report to the Commission and, where necessary, to the other Member States concerned, any irregularities discovered or supposed to have occurred, where it is feared that they may very quickly have repercussions outside its territory or they show that a new malpractice has been employed.

#### **Article 30 Follow-up reporting**

1. In addition to the information referred to in Article 28(1), Member States shall provide the Commission within two months following the end of each quarter, with reference to any previous report made pursuant to that Article, with details concerning the initiation, conclusion or abandonment of any procedures for imposing administrative or judicial penalties related to the reported irregularities as well as the outcome of such procedures.

With regard to irregularities for which penalties have been imposed, Member States shall also indicate the following:

- (a) whether the penalties are of an administrative or criminal nature;
- (b) whether the penalties arise from a breach of Community or national law;

(c) the provisions in which the penalties are laid down;

(d) whether fraud was established.

2. At the written request of the Commission, the Member State shall provide information in relation to a specific irregularity or group of irregularities.

### **Article 31 Electronic transmission.**

The information referred to in articles 28, 29 and 30(1) shall be sent, whenever it is possible to do so, by electronic means, using the module provided by the Commission for this purpose via a secure connection.

### **Article 32 Reimbursement of judicial costs.**

Where the competent authorities of a Member State decide, at the express request of the Commission, to initiate or continue judicial proceedings with a view to recovering amounts unduly paid, the Commission may undertake to reimburse to the Member State all or part of the judicial costs and costs arising directly from the proceedings, on presentation of documentary evidence, even if the proceedings are unsuccessful.

### **Article 33 Co-operation with Member States.**

1. The Commission shall maintain appropriate contacts with the Member States concerned for the purpose of supplementing the information supplied on the irregularities referred to in Article 28, on the procedures referred to in Article 30 and, in particular, on the possibility of recovery.
2. without prejudice to the contacts referred to in paragraph 1, where the Commission considers that, due to the nature of the irregularity, identical or similar practices could occur in other Member states, it shall submit the matter to the advisory committee for the coordination of fraud prevention set up by Commission Decision 94/140/EC.  
The Commission shall each year inform that Committee and the committees referred to in Articles 103 and 104 of Regulation (EC) No 1083/2006 of the order of magnitude of the funds affected by the irregularities which have been discovered and of the various categories of irregularities, broken down by type and number.
3. The Commission shall organise information meetings at Community level for representatives of the Member States in order to examine with them the information obtained pursuant to Articles 28, 29 and 30 and paragraph 1 of this Article. The examination shall focus on the lessons to be learned from the information in connection with irregularities, preventative measures and judicial proceedings.
4. At the request of a Member State or of the Commission, the Member States and the Commission shall consult one another for the purpose of closing any loopholes prejudicial to Community interests, which become apparent in the course of the enforcement of provisions in force.

#### **Article 34 Use of Information.**

The Commission may use any information of a general or operational nature communicated by Member States under this Regulation to perform risk analyses and may, on the basis of the information obtained, produce reports and develop early-warning systems to identify risks more effectively.

**(Article 35 deleted)**

#### **Article 36 Irregularities under the reporting threshold.**

Where the irregularities relate to amounts of less than EUR 10,000 chargeable to the general budget of the European Communities, Member states shall not send the Commission the information provided for in Articles 28 and 30, unless the Commission expressly requests it.

2. Member States which have not adopted the euro as their currency by the date when the report under Article 28 (1) is submitted shall convert amounts in national currency into euro using the exchange rate referred to in Article 81(3) of Regulation (EC) 1083/2006.

Where the amounts relate to expenditure registered in the accounts of the certifying authority during a period of more than one month, the exchange rate in the month during which the expenditure was last registered may be used. Where the expenditure has not been registered in the accounts of the certifying authority, the most recent accounting exchange rate published electronically by the Commission shall be used.