INTERACT European Union

Sharing Expertise

INTERACT POINT VIENNA

Territorial Cooperation Project Management and Implementation

19 - 20 November 2009, Istanbul

Irregularities

What is an irregularity?

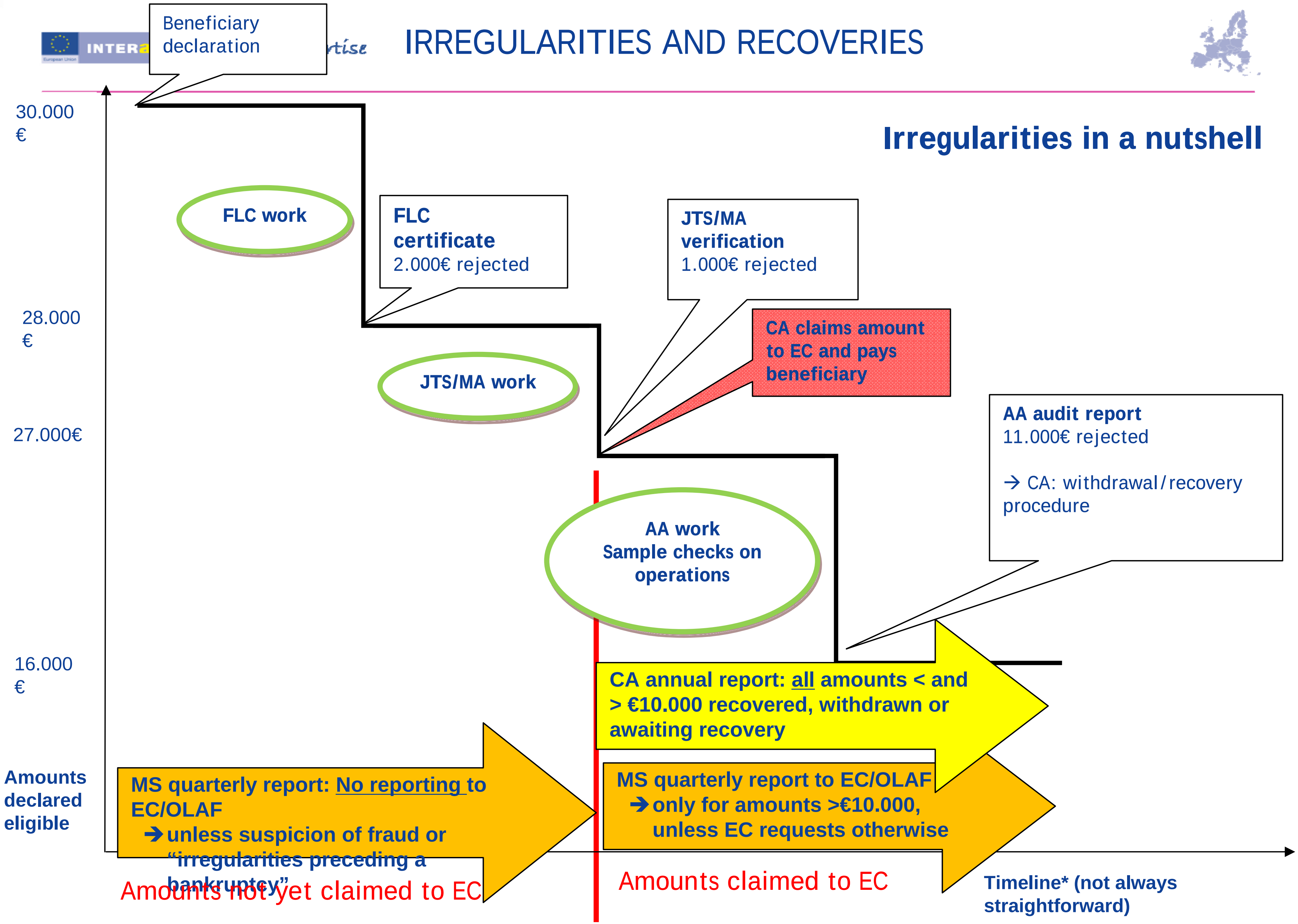
- An irregularity is essentially an action that affects or could affect the European Community budget.
- Where the irregularity is as a result of a deliberate act or omission then it is a fraud
- Most irregularities and most findings of ineligible expenditure are a result of mistakes.

What is important to consider?

- ALL Irregularities must be detected and corrected, no matter if intentional or not
- ALL irregularities detected in a programme must be corrected until programme closure
- Irregularities can be detected by different bodies, not just by controllers or auditors.
- SOME irregularities need to be reported to EU COM, others not

→ Whether an irregularity needs to be reported usually depends on the time of the detection.

Irregularities in a nutshell



- Quarterly reporting by the Member States to EC (art.28):
  - →For irregularities subject to primary administrative or judicial finding
  - →No need to report amounts <EUR 10.000 unless required by EC (art. 36)
  - →If suspected fraud, must be mentioned in the report
  - →No need to report on following cases:
  - Bankruptcy of the beneficiary
  - Cases brought to the attention of the MA or CA by the beneficiary directly – either before or after inclusion in the statement of expenditure to EU COM.
  - Cases corrected by the MA or CA before payment of the contribution to the beneficiary and before inclusion in the statement of expenditure to EU COM.
  - Unless there is a suspicion of fraud

Annual reporting by the CA to EC (art. 20, 1828/2006)

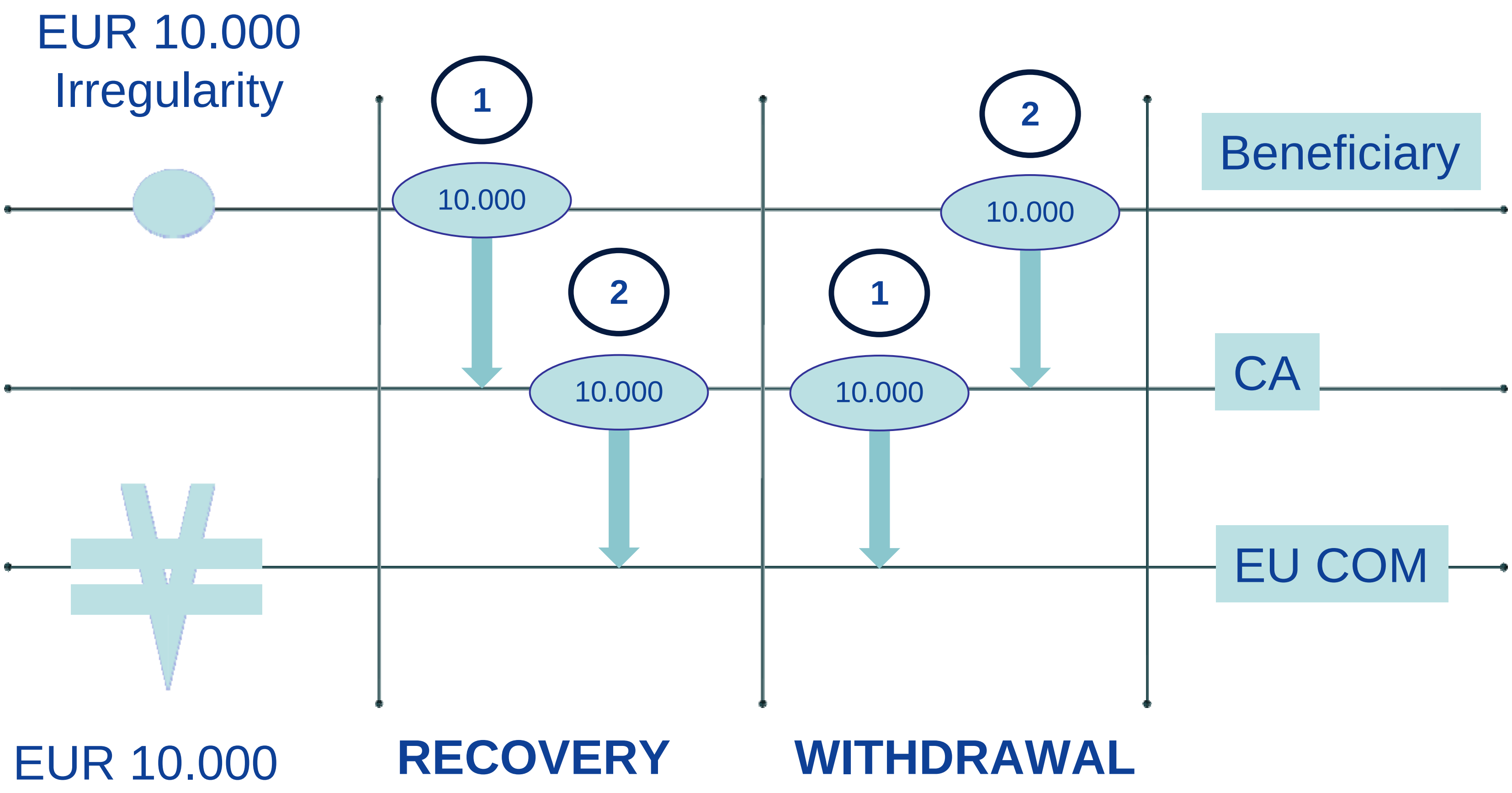
- By 31 March every year
- The statement must indicate for each priority axis

1) Amounts withdrawn from statements of expenditure submitted to the EC in the previous year,

2) Amounts recovered which have been deducted from statements of expenditure submitted to the EC and

3) Amounts to be recovered as of 31.12 of preceding year

Difference Withdrawal and Recovery



Recovery procedures set out how to deal with irregularities at various stages in the project lifecycle including:

- A clear definition of who does what, when and how
- A clear definition of who must be informed and in which cases
- Deadlines defining when a MS should take over

IV. How to achieve swift and effective closure of projects and programmes?

1. How do projects claim final payments and what information needs to be retained?
2. Situations we want to avoid running into at programme closure

Effective closure depends on:

- Quality and outputs of first and second level controls
- Follow up on control and audit findings
- Cooperation between controllers, auditors, MS and the programme bodies
- Swift completion of all processes

- Early completion of all project controls
- Not only control but also finalise all follow-up actions (resolve or quantify all problems)
- Depending on programme, final project control may require certification of <u>total project expenditure</u> and/or assessment of general budgetary performance
- May reveal new problems. No longer possible to ‘wait and see’
- Project retention now limited to amount claimed with final report and only until approval of project closure
- MA role in project closure:

→ Is there an adequate audit trail down to final recipient level for Community and national funds?

→ Have all errors and irregularities been treated satisfactorily?

Projects to be made aware of post-closure requirements and rules:

- Inform all projects of closure date – 3-year document retention period starts from then (until March 2020 at least)
- Make sure Lead Partners inform all partners (and sub-partners)
- Inform about rules on change of ownership or other substantial modification within 5 years – (for projects with investment in infrastructure or productive investment) -(art.57 1083/2006) – subject to recovery
- Revenue generated after project closure (5 years) to be returned to the programme – requires monitoring

Situations we want to avoid running into at programme closure (1)

- Unclosed projects with open items (irregularities etc) or with several prolongations
- Insufficient programme cash-flow to close projects
- Objectives of certain priorities not reached
- Output and result indicators not reached
- Lack of TA budget available for closure activities and expenditure (e.g. staff, audit costs etc)
- Non-reconciliation between programme accounting records and amounts claimed to EC
- More than 2% difference to the latest approved financial table (at priority level)

Situations we want to avoid running into at programme closure (2)

•A negative or qualified opinion of the winding-up body:

→ **Qualified opinion:** For example, sampling technique is weak, there is no formal procedure for identifying and treating systemic errors

→ **No opinion or adverse opinion**: e.g. failure to carry out SLC checks, failure to check down to final recipient level, failure to check main IB and/or beneficiaries, serious management weaknesses not addressed.

- Both delay the final payment and request to quantify amount affected and reduce final claim accordingly (how much money to deduct?)
- Demand for further audit more or less certain

2% error rate is the limit:

- Based mainly on the findings of the Audit checks
- Taking account of the findings of other checks

If error rate is more than 2% - Winding up Body expresses qualified opinion unless MA and CA can take effective corrective actions

Most important to avoid **systemic problems,**

since they could lead to

cut in funding for all priorities where these systems / procedures are in place

if **corrective action** cannot be taken

Thank you very much for your attention!

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INTERACT Point Turku
P.O.Box 236
Ratapihankatu 36 | TE Centre
20101 Turku
Finland

ip.turku@interact-eu.net
www.interact-eu.net

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Sharing Expertise

INTERACT Point Vienna
Museumstrasse 3/A/II
1070 Vienna
Austria

ip.vienna@interact-eu.net
www.interact-eu.net

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