



**EUROPEAN COMMISSION**

DG Regional Policy  
DG Employment, Social Affairs and Equal Opportunities

**Guidance note to Certifying Authorities on reporting on withdrawn amounts, recovered amounts, amounts to be recovered and amounts considered irrecoverable, applicable to programming period 2007-2013 and the remainder of the 2000-2006 programming period**

***DISCLAIMER:***

*"This is a Document prepared by the Commission services. On the basis of the applicable Union Law, it provides technical guidance to the attention of public authorities, practitioners, beneficiaries or potential beneficiaries, and other bodies involved in the monitoring, control or implementation of the Cohesion policy on how to interpret and apply the Union rules in this area. The aim of the working document is to provide Commission's services explanations and interpretations of the said rules in order to facilitate the implementation of operational programmes and to encourage good practice(s). However this guidance is without prejudice to the interpretation of the Court of Justice and the Court of First Instance or evolving Commission decision making practice."*

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## **1. INTRODUCTION**

### **1.1. Background**

In line with Article 70 of Council Regulation 1083/2006, Member States are responsible for measures aiming at preventing, detecting and correcting irregularities and recovering amounts unduly paid together with interest on late payments where appropriate and without any unnecessary delays. Furthermore, the Commission shall be informed of the measures taken.

In 2006 the Commission decided to anticipate the simplified reporting arrangements to be introduced for withdrawals, recoveries and pending recoveries in the 2007-2013 period, also for the remainder of the 2000-2006 period.

As from the 2006 financial year the Commission requested the Member States to send data on withdrawals, recoveries and pending recoveries once a year in a single package. It also requested Member States to present in the package the cumulative amounts of withdrawals and recoveries since the beginning of the programme period.

The anticipation of the streamlined reporting arrangements and the terminological clarifications have led to an improvement in the quality of the information available to the Commission on Member States' financial corrections in the 2000-2006 programming period. In addition, the Commission began in 2008 to perform on-the-spot verifications of the systems for reporting withdrawals and recoveries in the Member States and has made appropriate recommendations to correct any deficiencies found. These visits will be concluded in 2010, when all Member States will have been reviewed. This experience has produced a solid basis for the reporting in the 2007-2013 period.

In the context of simplification efforts, and following discussions in the COCOF committee in 2009, on 1 September the Commission adopted the new Commission Regulation (EC) N° 846/2009<sup>1</sup> amending Commission Regulation (EC) N° 1828/2006.

The amendments with respect to the procedures for reporting on irregularities introduce a more streamlined approach for the benefit of the Member States. The Commission also sought to simplify the procedures whereby it monitors Member States' compliance with those obligations in order to render them more efficient and cost-effective.

### **1.2. Previous guidance on recoveries for the 2000-2006 programming period**

For the 2000-2006 programme period, the Commission had clarified the content of the data required under the various headings in a guidance note on “deduction of recoveries from the next statement of expenditure and payment claim and on completion of the appendix on recoveries under Article 8 and Annex II of Regulation (EC) No 438/2001”, finalised in February 2006 (CDRR/05/0012/01), and through the amendment of Article 3(2) of Regulation (EC) No 448/2001 by Regulation (EC) No1978/2006.

In complement to the previous guidance note from 2005, the last section of this guidance note provides practical information and an overview of the key issues related to the remainder of the 2000-2006 programming period.

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<sup>1</sup> OJ L 250, 23.9.2009

### **1.3. Purpose of the guidance note**

The purpose of this note is to provide to the Member States the following guidance

- for the programming period 2007-2013 for which the first annual statement should be submitted by 31 March 2010:
  - guidance on the annual statement to be submitted under Article 20(2) of Regulation (EC) No 1828/2006<sup>2</sup> (hereafter "Regulation (EC) No 1828/2006"), on amounts withdrawn, recovered, pending recoveries and on irrecoverable amounts in the 2007-2013 programming period (*sections 2 to 5*). The relevant Articles are quoted in **Annex 1** together with the new tables 1, 2 and 3 of Annex XI to Regulation (EC) No 1828/2006. Moreover, **Annex 2** provides practical examples for the completion of the aforementioned tables.
- for the programming period 2000-2006 for which the last annual statement on withdrawals, recoveries and pending recoveries should be submitted before 31 March 2010:
  - guidance on the arrangements for submission of the last annual statement, before the information required at closure, during the remaining period of implementation of 2000-2006 programmes;
  - summary feedback on the reporting until to-date (*section 6*).

## **2. THE MODIFIED IRREGULARITY REPORTING REQUIREMENTS FOR 2007-2013**

### **2.1. Streamlining of reporting**

The new requirements for reporting on irregularities in the 2007-2013 programming period represent a considerable simplification and consolidation compared with the 2000-2006 programming period.

For the 2007-2013 programming period, Article 20(2)(a), (b) and (c) of Regulation (EC) No 1828/2006 as amended requires one single statement by 31 March each year covering withdrawals, recoveries and pending recoveries.

In addition, the Commission has streamlined the procedure for reporting on irrecoverable amounts by providing for their inclusion in the same annual report (Article 20(2)(d) of Regulation (EC) No 1828/2006 as amended).

### **2.2. Replacement of the procedure set out in Article 5(2) of Regulation (EC) No 1681/94 – irrecoverable amounts**

Article 20(2)(d), introduced by the amendments to Regulation (EC) No 1828/2006, is the most fundamental simplification of all. Article 5(2) of Regulation (EC) No 1681/94<sup>3</sup>, required a

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<sup>2</sup> As amended by Regulation (EC) N ° 846/2009

<sup>3</sup> As amended by Regulation (EC) N ° 2035/2005

detailed special report from the Member State on every irregularity case above the reporting threshold, providing the reasons why any amount which is not recovered or not expected to be recovered should, in its view, be born by the Community budget. In the 2007-2013 period from the date of entry into force of Regulation (EC) No 846/2009 amending Regulation (EC) N° 1828/2006 this requirement has been abolished. Table 3 (irrecoverable amounts) of Annex XI to Regulation (EC) No 1828/2006 as amended puts into practice the objective of simplified reporting on those amounts for which Member States establish that they cannot be recovered or are not expected to be recovered. The Commission will only require the basic information on each case and will exercise a presumption that the Member State has been diligent in pursuing recovery.

By Regulation (EC) No 846/2009 the following two new paragraphs have been added to Article 20 of Regulation (EC) No 1828:

*“2a. For each amount referred to in point (d) 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 submission of the statement, the Commission does not request information for the purposes of Article 70(2) of Regulation (EC) No 1083/2006, does not inform in writing the Member State about its intention to open an enquiry in respect of that amount or does not request the Member State to 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 relate 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.”*

Consequently, the Commission will analyse the list of irrecoverable amounts provided by the Member States in table 3 of Annex XI to Regulation (EC) No 1828/2006 as amended, and based on a risk assessment or other indications such as that the loss would have incurred as a result of fault or negligence on the part of a Member States, it might proceed as follows: the Commission might request further information, it might open an enquiry or it might request the Member State to continue the recovery procedure. If the Commission has not contacted the Member State within one year from the submission of the statement, the amounts at stake will automatically be born by the EU budget (however, the time limit of one year does not apply in cases of suspected or established fraud).

It is worth recalling that the simplification of the requirements on the reporting do not exempt Member states from their obligation, under Article 70 of Regulation (EC) No 1083/2006, to take all the necessary measures in order to try to recover the amounts unduly paid. It is only when all the available means have been carried out till their end without result that the Member state will be able to request that the unrecoverable amounts are shared by the EU budget. The Commission may decide to contact the Member State within one year, as above in order to investigate in full the due diligence of the Member state. Whereas the Commission

must have contacted the Member State within one year, the enquiry itself might extend over a period exceeding one year from the date of submission of the statement.

### 3. DISTINCTION BETWEEN WITHDRAWAL AND RECOVERY

Pursuant to Article 70 of Regulation (EC) No 1083/2006, Member States are required to correct and recover amounts unduly paid. Member States have two choices:

- 1) withdrawing the irregular expenditure from the programme immediately when they detect the irregularity, by deducting it from the next statement of expenditure, thereby releasing EU funding for commitment to other operations or
- 2) leaving the expenditure for the time being in the programme, pending the outcome of proceedings to recover the unduly paid grant from the beneficiaries, and deducting the expenditure from the next statement of expenditure only once recovery has been effected.

Each of the two options has advantages, disadvantages and implications which Member States should take into account. Immediate withdrawal of the irregular expenditure releases the respective amount of the EU funding for use in other operations immediately, but the Member State assumes with its national budget the risk of failing to recover from the beneficiary the unduly paid public funding. Deferring withdrawal until recovery has been effected from the beneficiary leaves less time for re-using the EU funding to other eligible operation(s), but protects the Member State financially should it be unable to recover the grant from the beneficiary.

Withdrawals of irregular amounts from payment claims made to the Commission are considered definitive. It is not permitted to reintroduce previously withdrawn irregular expenditure into payment claims except if the irregular amounts were later found out to be regular and eligible. In these exceptional circumstances the Commission would request the Certifying Authority to obtain and keep available for audit purpose evidence to justify the reintroduction of such expenditure. The certifying authority is obliged to ensure that only correct, regular and eligible expenditure is declared to the Commission.

The information required by Article 20(2)(a) and (b) of Regulation (EC) No 1828/2006 on “amounts withdrawn” and “amounts recovered” relates to the two alternative ways of deducting irregular expenditure from statements of expenditure.

Where the Member State withdraws the irregular expenditure immediately, the case is to be classified as a “*withdrawal*” and the amounts included in the cumulative “amount withdrawn” under Article 20(2)(a) of Regulation (EC) No 1828/2006. In cases where the expenditure is not withdrawn immediately but only deducted after recovery from the beneficiary has been effected, the transaction is to be reported as a “*recovery*” and the amounts are included in the cumulative “amount recovered” under Article 20(2)(b) of the amended Regulation.

The two cumulative amounts, representing “withdrawals” and “recoveries, are intended to be mutually exclusive: although after withdrawal the Member State will normally go on to recover the grant or part of the grant from the beneficiary, such subsequent recovery should nevertheless not be included again in the “recovered amounts” reported under Article

20(2)(b) of Regulation (EC) No 1828/2006 as amended, because this would lead to overlap and double counting between the amounts reported under Article 20(2)(a) and (b) of the amended Regulation.

Apart from being reported under Article 20(2)(a) and (b), withdrawn and recovered amounts must be deducted without any unnecessary delay from statements of expenditure according to the format set out in Annex X to Regulation (EC) No 1828/2006 as amended.

Withdrawals and recoveries are reported in table 1 of Annex XI to Regulation (EC) No 1828/2006 as amended.

For pending recoveries, see section 5.2.

#### **4. ADVICE ON COMPLETION OF THE TABLES IN ANNEX XI**

The footnotes to the annual statements for withdrawals, recoveries, pending recoveries and irrecoverable amounts in Annex XI to Regulation (EC) No 1828/2006 as amended provide clarifications for filling in the individual columns of the statements. Transmission of the data is through the SFC2007, which also provides a "help" function.

A few points are nevertheless worth underlining:

- the Commission will calculate the relevant amount of Fund contribution from the co-financing base (total or public funding) and co-financing rate applicable to the priority axis concerned. It should be reminded that the contribution of the Funds to the operational programmes is an overall contribution to the national public effort to the priority axis, and not an EU reimbursement operation by operation<sup>4</sup> aggregated at priority axis level (see also the guidance note on calculating interim and final payments for the 2007-2013 period – COCOF note No 09/0036/00-EN).
- Figures for “corresponding public contribution withdrawn” are only required when the co-financing base is public expenditure.
- In the recoveries table, the “public contribution recovered” should be the actual amount recovered taking into account the co-financing rates of the individual operations concerned. This amount is required for information purposes in order to link the data to reported irregularities.

Annex 2 of this guidance note provides two scenarios and the completion of the required tables in each case.

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<sup>4</sup> However pursuant to Article 54 3 (c) of Regulation (EC) No 1083/2006 an operation shall not receive an assistance from a Fund higher than the total public expenditure allocated [to this operation].

## 5. FURTHER SPECIFICATIONS ON THE REPORTING REQUIREMENTS

### 5.1. Scope of the reporting

#### 5.1.1. *Definition of irregularity*

All the data to be communicated under Article 20(2) of Regulation (EC) No 1828/2006 relates to financial corrections due to irregularities.

“Irregularity” is defined (Article 2(7) of Regulation (EC) No 1083/2006) as “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 European Union by charging an unjustified item of expenditure to the general budget.”

#### 5.1.2. *Identification of irregularity reported to the Commission in the accounting records of the Member States*

In Article 14 of Regulation (EC) No 1828/2006 as amended, the following paragraph 3 has been added:

*"In the accounting records maintained in accordance with Article 61(f) of Regulation (EC) N° 1083/2006, any amount related to an irregularity reported to the Commission under Article 28 of this Regulation shall be identified by the reference number attributed to that irregularity or by any other adequate method."*

The purpose of this amendment is to ensure that irregularities reported to the Commission are clearly identifiable by a reference in the accounting records held by the Member States should the Commission/OLAF wish to request further information about an amount linked to a particular reported case of irregularity.

#### 5.1.3. *Expenditure which has been certified to the Commission*

The data communicated should concern only expenditure that has been certified by the certifying authority and declared to the Commission for reimbursement during the previous calendar year for table 1 of amended Annex XI, and outstanding amounts for all years of the period up to 31/12<sup>5</sup> of the previous calendar year for tables 2 and 3 of amended Annex XI (cf. amended paragraph 2, first subparagraph of Article 28 of Regulation (EC) No 1828/2006). Thus table 1 of the amended Annex XI allows to report on all withdrawals and recoveries deducted by the certifying authority from all payment claims submitted to the Commission in the previous calendar year (negative amounts), independently of whether such claims were already reimbursed or not by the Commission. Table 2 on pending recoveries allows the Commission to know the cumulative state of play of possible future recoveries, for the whole implementation period up to 31/12 of the previous calendar year, and independently from the year of launch of recovery proceedings (amounts still included in the last, cumulative payment claim submitted in the previous calendar year). And table 3 provides a list of all amounts declared as irrecoverable at 31/12 of the previous year, per year of launch of proceedings. Such amounts were included in previous payment claims to the

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<sup>5</sup> The end-of-year date of 31 December is used for all Member States to provide consistency for the Commission's reporting requirements.

Commission but recovery proceedings were initiated at some period of time, while the amounts continued to be declared (amounts probably reported as "pending recovery" for some time). For these irrecoverable amounts the certifying authority must indicate in column "k" of the table whether it requests the Community share to be borne by the Budget of the European Union, for the one-year period to start counting (see also points 2.2. above and 5.2. below).

**5.1.4. Amounts not covered by the reporting obligation also to be included**

For the purposes of the annual statement under Article 20(2) as amended, the Commission also requests information on amounts which are exempt from the reporting obligation under Article 28 and 30 of Regulation (EC) No 1828/2006. Pursuant to Article 36 of Regulation (EC) No 1828/2006 amounts below € 10,000 need not be reported under Article 28 and 30 of Regulation (EC) No 1828/2006, unless the Commission expressly requests it. For irregular amounts falling below the above-mentioned reporting threshold, Member States are not exempt from the recovery obligation, and any amounts recovered must be reimbursed.

**5.1.5. Financial corrections resulting from audits by the Commission or the Court of Auditors or OLAF enquiries**

Financial corrections result both from the work of national control and audit bodies and from the audit work of the Commission or the Court of Auditors or from OLAF investigations. Corrections resulting from EU bodies' work and which are accepted by the Member State (but without a formal Commission decision) should be included in the data reported under Article 20(2)(a) and(b) of Regulation (EC) No 1828/2006. However, financial corrections based on formal Commission decisions should not be included in the amounts reported under Article 20(2) of Regulation (EC) No 1828/2006, as amended.

SFC2007 makes provision for the Member States to distinguish the amounts of corrections resulting from their own work and those resulting from the work of EU bodies<sup>6</sup>. The Member States must use this facility in order to meet the need for analysis and reporting of the data for the purposes of the annual Court of Auditors Declaration of Assurance and the discharge, in order to avoid overlaps in reporting figures and to demonstrate that corrective mechanisms and supervision are effective, at national and Community levels

**5.1.6. Corrections made for technical reasons or clerical mistakes – not to be included**

Corrections of statements of expenditure or recoveries from beneficiaries not due to the detection of irregular expenditure in payment claims but made for technical reasons or to correct clerical mistakes<sup>7</sup> by the managing authorities should not be included in the data communicated under Article 20(2) of Regulation (EC) No 1828/2006.

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<sup>6</sup> Concerning recoveries and withdrawals, one table must be filled in for corrections resulting from the work of national bodies and one table for corrections resulting from the work of EU bodies.

<sup>7</sup> These are obligatory corrections which should always be made but not included under this reporting mechanism.

## **5.2. Pending recoveries**

Pending recoveries are reported in table 2 of Annex XI to Regulation (EC) No 1828/2006 as amended.

The amounts reported as "to be recovered" under Article 20(2)(c) of Regulation (EC) No 1828/2006 as amended should relate to amounts left in statements of expenditure pending recovery from beneficiaries but not yet actually recovered. Thus, they should be distinct both from the amounts reported under Article 20(2)(a) (withdrawals) and from those reported under Article 20(2)(b) (recoveries) of the Regulation. Any overlap between these three categories, withdrawals, recoveries and pending recoveries should be avoided. Such pending recoveries may, at some stage and after all national legal proceedings have been carried out, be declared as "irrecoverable" to the Commission under table 3 of Annex XI. In such case these irrecoverable amounts disappear from table 2 on "pending recovery".

## **5.3. Aggregate data**

The figures to be reported as amounts withdrawn, recovered and to be recovered under Article 20(2)(a), (b) and (c) of Regulation (EC) No 1828/2006 as amended are to be the aggregate amounts falling into each of these categories under a given priority axis of the operational programme concerned. For the irrecoverable amounts reported under Article 20(2)(d) of the amended Regulation, details have to be provided of each operation (see table 3 of Annex XI to the amended Regulation).

## **5.4. Interest**

According to Article 70(1) of Regulation 1083/2006, default interest is normally charged if repayments are made after the deadline set in the recovery order. Such interest earned on account of late payment should be added to the amounts that are deducted from the expenditure declared in the statement of expenditure. This requirement is mentioned in the model certificate of expenditure in Annex X to Regulation (EC) No 1828/2006, as amended.

## **5.5. Exchange rate to be used by non-Euro-zone countries**

Member States which have not adopted the euro as their currency by the date when the annual statement under Article 20(2) is submitted, should convert amounts in national currency into euro using the monthly accounting exchange rate of the Commission in the month during which the expenditure was registered in the accounts of the certifying authority of the operational programme concerned (in line with Article 81(3) of Regulation (EC) No 1083/2006). Paragraph 2b of Article 20(2) provides the possibility of using the exchange rate in the month during which expenditure was last registered, if amounts relate to expenditure registered in the accounts of the certifying authority during more than one month.

# **6. REPORTING ON WITHDRAWALS, RECOVERIES AND PENDING RECOVERIES IN THE REMAINDER OF THE PERIOD OF IMPLEMENTATION OF 2000-2006 PROGRAMMES**

## **6.1. Current practice of comprehensive annual statements to be continued**

The streamlined reporting arrangements of a comprehensive annual statement modelled on the reporting of the 2007-13 period have been found to produce more complete and reliable

aggregate figures on Member States' financial corrections than the previous piecemeal arrangements of the 2000-2006 period. The Commission's follow-up of the data submitted to date point out apparent anomalies and missing information, and its review of the recording and reporting systems in Member States under the Action Plan to strengthen the Commission's supervisory role in the shared management of structural actions have contributed to this improvement.

## **6.2. Last annual statement on withdrawals, recoveries and pending recoveries by end of 31 March 2010**

The last annual statement, for the year 2009, is requested by 31 March 2010, followed by a final statement at programme closure. The minority of Member States that have so far been unable to provide cumulative data since the beginning of the programme period have committed themselves to provide this information at closure.

## **6.3. Key findings in the data provided**

The Commission through its review process of the data provided so far and its on the spot verifications has detected certain common problems, although these have diminished over time. The main problems found, which should be avoided for subsequent reporting, concern:

- confusion surrounding the distinction between withdrawals and recoveries and the resulting risk of double counting (for example, recording withdrawals again as recoveries once the recovery has been effected). As mentioned in point 3 of this note, withdrawals and recoveries, are intended to be mutually exclusive;
- inclusion of technical or clerical adjustments or errors. It is reiterated that only amounts related to irregularities should be included in the reporting;
- misunderstanding of the term "total public funding". This should be understood as the sum of national public funding plus the EU contribution; and
- non-inclusion of irregularities below the reporting threshold or exempted from reporting. As mentioned in point 5.1.5 above, irregularities below the threshold for notification to OLAF should be included in the reporting on withdrawals and recoveries.
- withdrawals and recoveries relating to financial corrections based on formal Commission decisions were included in the amounts reported, whereas they should not have been (see also point 5.1.5 supra).

All Member States are encouraged to take note of these common problems and ensure their internal procedures prevent and/or correct such problems, before submitting the data to the Commission. The detection of these problems has led some Member States to already commit themselves to reissuing internal guidance/procedures on recording and reporting on withdrawals, recoveries and pending recoveries.

It is reminded that the Commission considers necessary, in order to be able to process the closure of any programme, to obtain as part of the closure documents for that programme an exhaustive, coherent and accurate reporting on financial corrections for the whole

period of implementation of the 2000-2006 programmes, verified, validated and certified by the paying authority.

**Commission Regulation (EC) No 846/2009 of 1 September 2009 amending Regulation (EC) No 1828/2006 setting out rules for the implementation of Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and of Regulation (EC) No 1080/2006 of the European Parliament and of the Council on the European Regional Development Fund**

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(4) In **Article 14**, the following paragraph 3 is added:

"3. In the accounting records maintained in accordance with Article 61(f) of Regulation (EC) No 1083/2006, any amount related to an irregularity reported to the Commission under Article 28 of this Regulation shall be identified by the reference number attributed to that irregularity or by any other adequate method."

(6) **Article 20** is amended as follows:

(a) paragraph 2 is amended as follows:

(i) the introductory sentence is replaced by the following:

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

(ii) point (b) is replaced by the following:

"(b) the amounts recovered which have been deducted from statements of expenditure submitted during the preceding year;"

(iii) the following point (d) is added:

"(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."

(iv) the following subparagraphs are added:

"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.

For the purposes of point (d) of the first subparagraph, any amount related to an irregularity reported to the Commission under Article 28 shall be identified by the reference number of that irregularity or by any other adequate method."

(b) the following paragraphs 2a and 2b are inserted:

"2a. For each amount referred to in point (d) of the first subparagraph 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 relate 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."

(7) **Article 28** is amended as follows:

(a) in paragraph 1, second subparagraph, points (l) to (o) are replaced by the following:

"(l) the total eligible expenditure and the public contribution approved for the operation together with the corresponding amount of the 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 of 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 pursuant to point (k), the amounts which would have been unduly paid had the irregularity 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;"

(b) in paragraph 2, first subparagraph, points (b) and (c) are replaced by the following:

"(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."

(c) paragraph 3 is replaced by the following:

"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."

(8) **Article 30** is replaced by the following:

"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 criminal penalties related to the reported irregularities as well as of 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 a criminal nature;

(b) whether the penalties result 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"



**ANNEX XI**

**ANNUAL STATEMENT ON WITHDRAWN AND RECOVERED AMOUNTS, PENDING RECOVERIES AND IRRECOVERABLE AMOUNTS (ARTICLE 20(2))**

**1. WITHDRAWALS AND RECOVERIES DEDUCTED FROM STATEMENTS OF EXPENDITURE DURING THE YEAR 20...**

	(A) withdrawals <sup>(1)</sup>				(B) recoveries <sup>(2)</sup>			
a	b	c	d	e	f	g	h	i
Priority axis	Total amount of expenditure paid by beneficiaries withdrawn <sup>(3)</sup>	Corresponding public contribution withdrawn <sup>(4)</sup>	Total amount of expenditure withdrawn relating to irregularities reported under Art. 28(1) of Regulation (EC) No 1828/2006 <sup>(5)</sup>	Amount of corresponding public contribution withdrawn relating to irregularities reported under Art. 28(1) of Regulation (EC) No 1828/2006 <sup>(6)</sup>	Public contribution recovered <sup>(7)</sup>	Total amount of expenditure paid by beneficiaries <sup>(8)</sup>	Amount of public contribution recovered relating to irregularities reported under Art. 28(1) of Regulation (EC) No 1828/2006 <sup>(9)</sup>	Total amount of expenditure relating to irregularities reported under Art. 28(1) of Regulation (EC) No 1828/2006 <sup>(10)</sup>
1								
2								
3								
4								
...								
<i>Total</i>								

- 
- (1) Part A) of the table (withdrawals) is completed relating to expenditure already declared to the Commission and which has been withdrawn from the programme following detection of the irregularity. In this case the tables 2 and 3 of this annex will not need to be completed.
- (2) Part B) of the table (recoveries) is completed relating to expenditure which was left for the time being in the programme pending outcome of recovery proceedings and which has been deducted following recovery.
- (3) This amount is the total amount of expenditure already declared to the Commission which was affected by irregularities and which has been withdrawn.
- (4) This column has to be completed where the contribution of the Funds is calculated with reference to public eligible expenditure.
- (5) This amount is the part of the amount in column b) which has been reported as irregular under the reporting procedures laid down in Article 28 of Regulation (EC) No 1828/2006.
- (6) This column has to be completed where the contribution of the Funds is calculated with reference to public eligible expenditure.
- (7) This is the amount of public contribution effectively recovered from the beneficiary.
- (8) This amount is the amount of expenditure paid by the beneficiary corresponding to the public contribution in column f).
- (9) This amount relates to the part of the amount in column f) which has been reported as irregular under the reporting procedures laid down in Article 28 of Regulation (EC) No 1828/2006.
- (10) This amount relates to the part of the amount in column g) which has been reported as irregular under the procedures laid down in Article 28 of Regulation (EC) No 1828/2006.

## 2. PENDING RECOVERIES AS AT 31.12.20..

a	b	c	d	e	f
Priority axis	Year of launch of recovery proceedings	Public contribution to be recovered <sup>(1)</sup>	Total amount of eligible expenditure paid by beneficiaries <sup>(2)</sup>	Total amount of expenditure relating to irregularities reported under Art. 28(1) of Regulation (EC) No 1828/2006 <sup>(3)</sup>	Amount of public contribution to be recovered relating to irregularities reported under Art. 28(1) of Regulation (EC) No 1828/2006 <sup>(4)</sup>
1	2007				
	2008				
	...				
2	2007				
	2008				
	...				
3	2007				
	2008				
<i>TOTAL</i>					

<sup>(1)</sup> This is the public contribution subject to recovery proceedings at the level of the beneficiary.

<sup>(2)</sup> This is the amount of the amount of expenditure paid by the beneficiary corresponding to the public contribution in column c).

<sup>(3)</sup> This amount relates to the part of the amount in column d) which has been reported as irregular under the reporting procedures laid down in Article 28 of Regulation (EC) No 1828/2006.

<sup>(4)</sup> This amount relates to the part of the amount in column c) which has been reported as irregular under the reporting procedures laid down in Article 28 of Regulation (EC) No 1828/2006.



## Scenario 1

Reimbursement of Funds calculated with reference to public eligible expenditure

Operation X

Total amount of eligible expenditure paid by beneficiary	€100.000
Corresponding public contribution (90%)	€90.000
Co-financing rate of priority axis applied to public contribution	70%
Co-financing rate applied by MS at level of operation to public contribution	50%
Amount of total expenditure affected by irregularity	€20.000
Amount of public contribution affected by irregularity	€18.000
Amount of EU funds affected by irregularity	€12.600





## Scenario 2

Reimbursement of Funds calculated with reference to total eligible expenditure

### Operation Y

Total amount of eligible expenditure paid by beneficiary	€100.000
Co-financing rate of priority axis applied to total eligible expenditure	70%
Co-financing rate applied by MS at level of operation to total eligible expenditure (assume no national public contribution)	30%
Amount of total expenditure affected by irregularity	€20.000
Amount of EU funds affected by irregularity	€14.000
Amount of public contribution to operation affected by irregularity	€6.000





