

GUIDELINES FOR THE COMPLETION OF THE STANDARD FORM QUARTERLY COMMUNICATIONS OF IRREGULARITIES IN CONNECTION WITH THE STRUCTURAL POLICIES

INTRODUCTION

Commission Regulations covering ERDF (EC) No.1681/94 as amended by Commission Regulation (EC) No. 2035/2005 and Commission Regulations covering Cohesion Fund (EC) No. 1831/94 as amended by Commission Regulation (EC) No. 2168/2005 require Member States to make quarterly reports to the Commission of irregularities connected with the Structural policies. In order to facilitate this task and to ensure the uniform registration of cases in the "IRENE" database (Irregularities, ENquetes and Exploitation) the Commission has developed a standard form based on the above regulations.

These guidelines serve in the completion of the "paper version" of the standard form. The automation of the process is envisaged in the near future.

The Commission is aware that the successful application of the relevant regulations is dependant on a dialogue and cooperation with the Member States. For this reason the standard form and the guidelines are considered drafts which will be finalized after a testing period (till July 1st 1995). Until then, Member States are invited to submit their comments and suggestions to UCLAF G3 of the Secretariat General of the Commission at the address below on page 13.

GUIDELINES

Preliminary remarks

- Only the headings followed by":" are to be completed.
- Since the standard form is generally applicable for both the different funds and the communications according to Article 3 and Article 5 of the Regulations involved, a certain number of issues will eventually not be answered.
- Please note the different ways to complete the standard form according to whether it concerns a communication according to Article 3 or to Article 5. In the case of an Article 3 communication, all the information available at the moment of completion of the form should be communicated. In case of an Article 5 communication, only the information complementary to that already communicated previously should be given.

IDENTIFICATION OF THE COMMUNICATION

Member State: Please indicate the Member State.

Format: Free text in capitals.

Example: UNITED KINGDOM

Case N°: The number of the case has to be indicated by the Member State on each page of the form.

Format: XX1/992/999 fXX4/95 , X = capital letter, 9 = figure from 0 till. 9

Examples: BE/94/001/FD/O 'EU91/003/FO/2

- 1 Member State's initials: two digits; the initials to be used compulsorily are: BE,DA,DE,EL, ES, FR ,IR ,IT, LU, NL, PO and UK.
- 2 Year: two digits: 90,91,92,93,94, etc.
- 3 The number of the case: three digits: 001, 002, etc.

The numbering is consecutive and is attributed by the Member State for each (:", Fund and for each year.

ATTENTION: The initial number of the case stays the same throughout the years!!

- 4 The abbreviations identifying the fund to which the communication relates: two digits. The abbreviations for the funds to be used compulsorily are:
FD European Regional Development Fund
FO European Agricultural Guarantee and Guidance Fund - Guidance \ section
FS European Social Fund
FP Financial Instrument of Fisheries Guidance
IC Cohesion Financial Instrument
FC Cohesion Fund
- 5 New case or the update of a case already communicated: one digit: 0 for a new case, 1 for a first update, 2 for a second update, etc.
For example: Initial Communication: FR/94/003/FS/0
First update: FR/94/003/FS/1
Second update: FR/94/003/FS/2

Quarter:

Please indicate the quarter of the year in question.

Format: 9999, 2 digits for the year and 2 digits for the quarter. The reference to the quarter should correspond to the last month of the quarter in question. Thus the quarters for 1994 are: 9403, 9406, 9409, and 9412.

For updates of existing cases, please quote the current reporting quarter, i.e. the quarter (s) during which change(s) occurred.

Date sent:

The date sent is the date of communication to the Commission. It will normally be a date during the two months following each quarter.

Format: YYMMDD, Year month day.

Example: **070210**

In case the data are not known, please use the figures "00".

Example: **060000**

N.B. This rule is valid for all other dates**Administrative Department in the Member State:**

Please indicate the administrative, national and/or regional department(s) responsible for the administration of the operation.

Example: UK64 MIN.OF AGRICULTURE,FISHERIES AND FOOD (ERDF) .

Format in case of an addition to the list: Free text uninterrupted (without blank lines!!)

Example: **MINISTRY OF ECONOMIC AFFAIRS**

DETAILS OF IRREGULARITY

1. Description of operation

Objective: Please tick the objective(s) involved. If the irregularity concerns forms of assistance falling outside the 5 objectives or not covered by a Community Support Framework, the Cohesion Financial Instrument or the Cohesion Fund, please tick "others".

1.1 Name of programme, Project or Form of Assistance:

If the programme or project has a name or number, please quote it. If not, please specify the form of assistance. In the case of a regional programme this may be the name of the region, in the case of a road, the name of the road, for forms of assistance this may be for example compensatory payments in disadvantaged and mountainous areas.

Format: Free text uninterrupted (without blank lines).

Examples: P.O. Bretagne- Tregor Obj. 2
Programme n° 93.CT.Fr.05A
Projet n° 93/10/65/006 troncon d'autoroute Cruz-Braga

1.2 EC Decision No and Date:

Please quote the number and date of the EC Decision by virtue of which the assistance was granted

Format: Free text, date YYMMDD

Example: C (92) 278S 920211

1.3 Member States' Reference No:

If the operation was allocated a national reference number, please quote it. **Format:** Free text

1.4 ARINCO No:

If known, please quote the ARINCO number.

Format: Free text

Example: N094NL 16001

2. Provisions infringed

2.1 Community provision infringed.

Please give the number(s) and article(s) of the regulation(s) or decision(s) infringed.

Format: Free text

Example: R.866/90
C(91)2255/4

2.2 National provision infringed.

Please give the national provisions infringed and please specify the articles.

Format: Free text

Example: Article X of the Penal Code

3. Date of first information leading to suspicion of irregularity:

Please indicate the date on which the first information leading to the suspicion of an irregularity was received. For example in the case of a denunciation by phone, the date of the telephone conversation.

Format: YYMMDD

Example: 941017 .

3.1 Source of first information leading to suspicion of irregularity:

Please indicate how you first became aware of the existence of the irregularity.

Format: Free text.

Example: Informant, press report.

4. The manner in which the in-irregularity was discovered:

Please choose from the list in Annex 1. In case of the use of code 999 OTHER METHODS, please give a description using block capitals. A code will then be allocated by the Commission.

Format: Multiple field, code plus description using block capitals. The first description used is considered to be the most important one. Multiple inputs are to be separated by the symbol "<".

Example: 211 ON-SITE INSPECTIPN<209 ON- THE-SPOT CONTROL

5. Type of irregularity:

Please select the type of irregularity/irregularities from the non-exhaustive list in Annex 2. If the type of irregularity does not figure in the list, please give description in block capitals. A code will then be allocated by the Commission.

Format if the list is used: code plus description in block capitals. The first description used is considered to be the most important one. Multiple inputs are to be separated by the symbol "<".

Example: **212 FALSE SUPPORTING DOCUMENTS<299 OTHER CASES OF - IRREGULAR DOCUMENTS**

5.1 Practices employed in committing the irregularity:

Describe the practices employed.

Format: Free text.

Example: **Falsification of Invoices by changing the original amounts.**

5.2 Are these practices considered new 1 yes , no , not known

Please tick as appropriate. It is for the Member States to decide whether in their opinion, the practices employed are new or not.

5.3 If yes, has notification been sent under article 4 of Regulation (EC) No 1681/94 or Regulation (EC) No 1831/94 1: yes , date and references: no , not known

Please tick as appropriate. If the answer is yes please give the date and references of the communication

Format: For the date: YYMMDD; for the references: Free text.

6. Other Member States and third countries involved.

This heading applies in the case of cross-border/transnational operations (participation in the programme by more than one Member State) (INTEREG)), as well as in cases where the beneficiary is an international firm participating in Social Fund actions such as investment projects or training courses in more than one Member State.

Format: Free text in block capitals.

6.1. If yes, has notification been sent under article 4 of Regulation (EC) N° 1681/94 or of Regulation (EC) N° 1831/94 1:

Yes date and references: no , not knOW1

Please tick as appropriate. If the answer is yes please give the date and references of the communication

Format: For the date: YYMMDD; for the references: Free text.

7. Period of Irregularity

7.1 Date on which, or dates between which, irregularity was committed:

Indicate the date(s) on which, or between which, the irregularity was committed.

Format for date: YYMMDD

Example: **061111**

For the period: date of the beginning of the irregularity/ date of the end of the irregularity.

Format: YYMMDD/YYMMDD

Example: **060930/061224**

If this information is not known, please indicate this by using "00"

Example: **060000**

8. Authorities or bodies.

8.1 Authorities or bodies which drew up the official report on the irregularity:

Please name the authority or body which acted upon the initial discovery and drew up the official report.

Format if the list is used:

code plus description in block capitals.

Example: **UK64 MIN.OF AGRICULTURE, FISHERIES AND FOOD (ERDF)**

Format in case of an addition to the list:

Free text in block capitals, uninterrupted (*without blank lines!!)

Example: **MINISTRY OF JUSTICE.**

8.2 Authorities or bodies responsible for administrative or judicial follow-up:

Please name the authority or body which is responsible *for* the administrative or judicial follow-up.

Format and example: see 8.1

9. Date on which the official report on the irregularity was drawn up:

Please give the date of the first official report on the irregularity . Format: YYMMDD

If this information is not known, please indicate this by using "00".

10. Name and address of the natural and legal persons involved.

10.1 Physical persons:

Please give the name, address etc. of the person(s) involved in the irregularity

Format: Text, but strict rules have to be applied:

names and first names have to be given in block capitals after the symbol ":" followed by a blank;

special characters have to be avoided (e.g.-,\$,&);

indications like M,Mr,Mrs etc., have to be avoided;

addresses have to be given in small print except for the first letter.

Example:

-Name: JANSEN

-First name: JOHN

-Address: Wetstraat 900

-Postal code: 1094 AB

-City: Maastricht

-Country: Belgium

-Function: Administrator

10.2 Legal persons:

Please give the name, address etc. of the legal person involved in the irregularity.

Format: Text, but strict rules have to be applied:

names have to be given in block capitals after the symbol ":"

followed by a blank;

special characters have to be avoided (e.g.-,\$,&);

legal abbreviations like Ltd,Co,N. V..etc., have to be given in small print, after the name;

addresses have to be given in small print *except for* the first letter.

the same applies to references to cities or countries in the name of the firm (e.g. NIXDORF Paris, IBM Nederland)

Example: -Name: TALKER Ltd
 -Registered Office: Wallstreet 900
 -Postal code: 1094 AB
 -City: London
 -Country: IRELAND

The name and address required is that of the company. *If* individuals working for the company are involved in the irregularity, this information should be entered under point 10.1.

If more names are to be provided as foreseen on page 3 of the form, please add an extra copy of that page.

NB. In order to comply with rules guaranteeing the confidentiality of personal data, please do not refer to the names of physical or legal persons other than under points 10.1 and 10.2.

FINANCIAL ASPECTS

11. Total amount and distribution between sources of financing

11.1 Total amount of operation:

Please indicate the total amount of the operation within the operational programme (final beneficiary), except in case the totality of the OP is at issue. The amounts have ~ to be given in the national currency. This enables the conversion rate to be chosen at the moment of exploitation of the data. The amount mentioned has to equal the sum of the points 11.2 and 11.3.

Format: 999999999999 currency. Do not separate the figures and do not use
 decimals. Put a blank after the last figure, followed by the currency

Example: **22345000 FL**

11.2 Community financing:

Please give the community share of the amount under 11.1.

Format: See point 11.1

11.3 Member State financing:

Please give the Member State share of the amount under 11.1. Private financing is treated as Member State financing.

Format: See point 11.1 .

12. Nature and amount of the expenditure found to be irregular

12.1 Nature of the expenditure:

Please indicate the nature of the expenditure found to be irregular.

Format: Free text

Examples: Salaries, computer equipment, expenditure for carrying out a study.

12.2 Total amount of the expenditure:

Please indicate the total amount of the expenditure considered to be *irregular*. The amount has to be given in Euro. The amount mentioned has to equal the sum of the points 12.3 and 12.4.

Format: See point 11.1

12.3 Community expenditure:

Please give the community share of the amount under 12.2.

Format: See point 11.1

12.4 Member State expenditure:

Please give the Member State share of the total amount under 12.2. Private financing is treated as Member State financing.

Format: See point 11.1

NB. The *division of the financing between the Community and the Member State* is known, *at the level of the final beneficiary* to be the *same* as *at the level of the O.P. or measure*.

13. Amount which would have been wrongly paid had the irregularity not been discovered:

Please indicate the amount in question. This point is concerned with attempted irregularities covered by articles 3.1 line 3 of the relevant regulations.

Format: See point 11.1

14. Financial consequences

14.1 Amount of expenditure under 12.2 not yet paid:

Please give the amount in question.

Format: See point 11.1

14.2 Suspension of payment: yes amount: no not known

Please tick as appropriate and quote the amount in question.

Format: See point 11.1

15. Possibility of recovery:

Please give an assessment of the likelihood of recovery and give as far as possible the underlying reasons.

Format: Free text

Example: **possible, not possible because of bankruptcy.**

16. Total amount recovered:

Please give the amount recovered.

Format: See point 11.1 .

Attention, in case of an Article 5 communication, only the information complementary to that already communicated previously should be given.

16.1 Community share:

Please give the community share of the amount under 16.1.

Format: See point 11.1

16.2 Member state's share:

Please give the Member State share of the amount under 16.1. Private financing is treated as Member State financing.

Format: See point 11.1

17. Total amount to be recovered

Please give the total amount to be recovered.

Format: See point 11

**17.1 Community share: **

Please give the community share of the amount under 17.

Format: See point 11.1

17.2 Member State's share:

Please give the Member State share of the amount under 17. Private financing is treated as Member State financing. Format: See point 11.1

NB. For cases where there is no obligation to communicate irregularities because the amount involved does not exceed 10.000 euro (Article 12), Member States are obliged to undertake recovery proceedings but, unless the Commission explicitly requests information, need not inform the Commission.

18. Date of special report in accordance with article 5.2 of Regulation (EC) N°

1681/94 as amended by Regulation (EC) N° 2035/2005 or with Regulation (EC) N° 1831/94 as amended by Regulation (EC) N° 2168/2005 :

To be completed if Article 5,2 applies (in a case where a Member State considers that recovery of an amount cannot be effected or anticipated). Please give the date and reference of the communication.

Format: Date: YYMMDD, reference: free text.

STAGE OF PROCEDURES

19. Action by the Member State.

19.1 Interim measures:

Please indicate what interim measures have been taken by the national authorities (under national legislation) in order to safeguard the recovery of irregular payments.

Format: Free text.

20. Administrative proceedings:

Please indicate the administrative proceedings initiated by the responsible body against the beneficiary and the relevant provisions (for example decision on recovery, setting-off against payments to be made in the context of another operation, case forwarded to administrative tribunal if action is envisaged at national level, etc).

Format: Free text.

21. Judicial proceedings:

If the matter has been the subject of criminal proceedings please give the case number, date, court and stage of proceedings.

Format: Free text.

22. Reasons for any abandonment of the recovery procedures:

Please state the reasons *for* abandoning recovery procedures. For example: bankruptcy or lack of assets, death of the beneficiary with no estate etc.

Format: Free text.

22.1 Was the Commission notified before the decision to abandon the recovery procedure was taken? yes date and references: no , not known

Please tick as appropriate.

Format: Date: YYMMDD, references: *free* text

23. Have criminal proceedings been abandoned ?: yes , no , not known Please tick as appropriate.

24. Termination of procedures

24.1 Has the Commission been notified of administrative or judicial decisions or the main points thereof, concerning termination of proceedings in accordance with Article 5.1 of Regulation (EC) N° 1681/94 as amended by Regulation (EC) N° 2035/2005 or with Regulation (EC) N° 1831/94 as amended by Regulation (EC) N° 2168/2005

Yes date and references: no , not known

Please tick as appropriate.

If the answer is yes please give the date and references of the communication. Format: Date: YYMMDD, references: free text

25. Penalties imposed (administrative and/or judicial):

Please list the penalties imposed.

Format: Free text.

26. If article 3.3 of Regulation (EC) N° 1681/94 or of Regulation (EC) N° 1831/94 applies;

- **to which of the above questions does it apply?:**

Please indicate the number of the questions concerned.

Format: Free text.

- **has authorization of the competent court or tribunal been applied for ?**
: yes , no , not known

Please tick as appropriate.

27. Additional observations:

Please give any additional information which you consider relevant and which is not covered by the above points.

DETECTION METHODS

Annex 1

101 NATIONAL ADMINISTRATIVE OR FINANCIAL CONTROL
102 MUTUAL ASSISTANCE (REG. 515/97)
103 INTERSERVICE COLLABORATION
104 NATIONAL FISCAL CONTROL
105 NATIONAL CUSTOMS CONTROL
106 NATIONAL SANITARY CONTROL
107 JUDICIAL ENQUIRY
111 ASSOCIATED CONTROLS
113 COMMUNICATION OR REQUEST BY ANOTHER MS
130 CONTROL BY NATIONAL ANTI-FRAUD SERVICE
140 CONTROL BY POLICE
150 INTERSERVICE COLLABORATION
160 COMMUNITY INITIATIVE
161 ADDITIONAL CONTROL ON REQUEST BY THE COMMISSION
162 ASSOCIATED CONTROLS
170 COMMUNITY CONTROLS
180 JUDICIAL ENQUIRY
190 TELEDETECTION
199 OTHER CONTROLS
201 CONTROL OF PRODUCTION
202 CONTROL OF PRODUCTS
203 ANALYSIS OF SAMPLES
204 CONTROL OF MOVEMENT
205 CONTROL OF PRODUCT IN INTERVENTION
206 CONTROL OF DOCUMENTS
207 CONTROL OF ACCOUNTS
209 CONTROL ON THE PREMISES OF THE COMPANY
220 PHYSICAL CHECK OF GOODS
221 COMPLIANCE WITH CUSTOMS REGIME (OTHER THAN TRANSIT)
222 CHECK OF TRANSIT PROCEDURE
230 ON THE SPOT CONTROL OF ACHIEVEMENT OF PROJECT OR ACTION
301 SPONTANEOUS CONFESSION
302 INFORMANT
303 COMPLAINT
304 STATISTICAL ANALYSIS
305 COMPARISON OF DATA
306 PROBABILITY CHECKS
307 ROUTINE
308 CHANCE
309 EXISTING DOUBTS
310 REFUSAL TO ACCEPT CONTROLS
311 SUSPICIOUS CONDUCT
316 INFORMATION PUBLISHED IN THE MEDIA
317 PARLIAMENTARY ACTION
320 EX POST CONTROL
330 PREVENTIVE CHECK
341 INTERMEDIATE OR FULL PAYMENT
342 PAYMENT OF BALANCE
343 RELEASE OF GUARANTEE
350 REVIEW OF CONDITIONS
999 OTHER FACTS

Types of Irregularity Annex 2

101	Absence of accounts
102	Incorrect accounts
103	Falsified accounts
104	Accounts not presented
199	Other cases of irregular accounts
207	Request for aid incorrect or incomplete
208	Request for aid falsified
209	Request for aid false
210	Supporting document missing or incomplete
211	Incorrect supporting documents
212	False supporting documents
213	Falsified supporting document
299	other cases of irregular documents
324	Measure not eligible for aid
325	Non eligible expenditure
401	Incorrect identity
402	Non-existent operation
403	Misdiscription of use
404	Irregular resumption of production
405	Irregular termination, sale or reduction
406	Non-termination, uprooting not carried out, slaughter not carried out...
407	Failure to respect quotas, thresholds...
408	Operator/Beneficiary not having the required quality
409	Absence of identification, of marking...
410	Non-reconversion
491	Other irregularities by the operator
601	Failure to respect deadlines
602	Operation prohibited during the measure
605	Absence of declaration or late return
606	Incompatible cumulation of aid
607	Absence of the evidence required
608	Refusal of control
609	Refusal of payment
610	Several requests for the same subject
611	Failure to respect other regulation/ contract conditions
614	Infringement of the rules concerned with public works
699	Other irregularities concerning the right to aid
810	Action not carried out
811	Action not completed
812	Action not carried out in accordance with rules
822	Expenditure not related to the period in which action carried out
823	Expenditure not legitimate / cost benefit not credible
831	Over financing
832	Insufficient contribution from the Member States / private
840	Revenue not declared
998	Not indicated
999	Other irregularities (to be specified)