



## **European Union**

European Regional

Development Fund

Investing in your future

# **INTERREG IVA Programme**

## **Guidance Note 13 on the treatment of Irregularities G13/IVA**

### **1.0 Introduction**

**1.1** The following guidance sets out the action to be taken by lead partners to identify, record, report, follow-up and clear irregularities involving EU Structural Funds. It reflects the requirements set out in European Commission Regulation No: 1828/2006 and amending Regulation No: 846/2009.

### **2.0 Definition**

**2.1** The definition of an 'irregularity' in Structural Funds terms includes any administrative or financial mismanagement that comes about either by act or by omission **whether or not** there is an actual loss of funds.

**2.2** Article 1(a) of Regulation 2035/2005 sets out definitions for the identifying and reporting irregularities and this is provided at Annex 1. Examples of irregularity types are also provided at Annex 2.

### **3.0 Identification of Irregularities**

**3.1** The contents of EC Regulation 1080/2006 and 1083/2006 and other documents produced by the European Commission for the 2007-2013 round of Programmes make it clear that any failure to comply with the 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.

**3.2** 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.

**3.3** 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 gathered at a monitoring visit indicating that progress against targets / objectives which have been included in previous progress reports has been inflated.
- Evidence that a project has failed to implement the European Commission's requirements on publicity or procurement.
- Evidence that a partner organisation has not set up adequate systems to control and monitor the grant awarded to projects.
- An incorrectly calculated grant claim received from the Lead Partner or project partners.
- See Annex 2 for further examples.

**3.4** The extent of the definition of irregularity means that Lead Partners must have systems and resources in place to detect and record irregularities in line with clause 21 of the Standard Conditions of Grant; these should be submitted to the case officer in SEUPB with claims. Programme authorities must also have systems in place to detect, record, report and follow-up cases. This must involve not only those responsible for monitoring/inspection and financial administration but also all those engaged in delivering Structural Funds Programmes.

**3.5** 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;

- Verification visits;
- On the spot checks;
- local knowledge (press/members of the public); and
- National and Commission audit reviews.

**3.6** Lead partners and the programme authority should ensure that irregularities identified are recorded 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.

**3.7** Details of identified systemic weaknesses should be reported to the Controller of SEUPB.

#### **4.0 Reportable and Recordable Irregularities**

In line with Article 36 of Council Regulation (EC) No: 1828/2006, the Commission may request, at any stage of the programme, a list of all irregularities, including recordable and reportable. Irregularities **reportable** to OLAF are those that;

- are greater than €10,000 ERDF, which translates to a total payment of €13,333 in the case of the INTERREG IVA Programme; or
- involve Fraud of any value

There are, however, three exceptions where irregularities do not need to be reported to OLAF as follows;

- bankruptcy of the Beneficiary;
- cases brought to the attention of the Managing Authority or Certifying Authority voluntarily by the beneficiary (whether before or after payment); and
- cases detected and corrected by the Managing Authority or Certifying Authority before payment is made to the beneficiary.

In the case of the three exceptions, these irregularities although not reported, should be recorded.

It is the responsibility of the representative in Department of Finance and Personnel (DFP) to compile irregularities from all EU Structural Funds Programmes in Northern Ireland and forward a report to BERR.

## **5.0 Process for recording and reporting Irregularities**

### **5.1 Pre-payment Irregularities**

It is essential that all detected irregularities are recorded and where appropriate, followed up throughout the lifetime of the programme. It is anticipated that pre-payment irregularities will be detected by the following bodies;

- Financial Control Unit – during verification visits;
- Lead Partners – verifying sub or partner project claims;

Where an irregularity is discovered at sub project or project partner level as part of pre-payment checks by **Lead Partners**, it will be the responsibility of the **Lead Partner** to record details of all irregularities onto the irregularities template included in Annex 5; this should be forwarded with claims to the JTS verification case officer. (An example of a completed template is included in Annex 6). It will be the responsibility of the JTS verification case officer to ensure that a summary of the pre-payment irregularities are inputted onto the Systems 2007 database.

### **5.2 Post-payment Irregularities**

It is anticipated that post-payment irregularities will be detected by the following;

- Financial Control Unit
- Managing Authority
- Certifying Authority – carrying out drawdown checks
- Internal Audit
- JTS Programme Support Unit
- Northern Ireland Audit Office
- European Court of Auditors
- Commission Audits
- Audit Authority

The processing of post payment irregularities will be as follows;

- Irregularities discovered by the Financial Control Unit during 'on the spot' checks will be forwarded to the Controller for inputting and follow up;
- Irregularities discovered by all other bodies mentioned above will be reported to the appropriate programme authority and copied to the Finance Officer in the Managing Authority;
- It will be the responsibility of the relevant programme authority to inform the Controller of identified irregularities;
- The Controller will be responsible for ensuring that all post payment irregularities are recorded which includes the identification of amounts for recovery and negotiations with the projects in question;
- It is the responsibility of the Managing Authority to review all cases, mark them as accepted or rejected and close the irregularity where appropriate.
- In the event of non agreement of recovery on the part of the project, the Controller will inform the Certifying Authority to initiate legal proceedings;
- It will be the responsibility of the Certifying Authority to manage the legal proceedings to conclusion;
- The Controller will provide a monthly irregularities report to the Certifying Authority stating agreed recoveries;
- It will be the responsibility of the Certifying Authority to take the necessary actions to recover the agreed amounts of money;
- The Certifying Authority will submit to the Commission by the 31 March each year a Recoveries Return – a copy should be forwarded to the Finance Officer in Managing Authority.

A flowchart outlining the irregularities process is included in Annex 3.

Good working practice requires the clearance of irregularities on a timely basis. The Commission has indicated that irregularities should be cleared **within six months of being identified.**

### 5.3 Recoveries

It is the responsibility of the Financial Control Unit in JTS to make the decision as to whether an irregularity results in the requirement to recover funds. Where no other remedial action will suffice and recovery is required, for example, in the case of ineligible expenditure or where it has been deemed that project targets have not been

met, the Controller will include recoveries and potential write-offs in the monthly irregularities reports to the Certifying Authority. The Certifying Authority will seek recovery at Lead Partner level only. It will be the responsibility of the Lead Partner to seek a refund from sub or partner projects. Recoveries below Lead Partner level will not be recorded on the database.

- 5.4** The Certifying Authority will take the lead in any investigations involving suspected fraudulent activity. Please refer to Guidance Note G3 on Fraud.

**Issue Date:** June 2010

# ANNEX 1

## Definitions for the Identifying and Reporting Irregularities (Section 4 of Commission Regulation No: 1828/2006)

“**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 or budgets managed by them, by charging an unjustified item of expenditure to the Community Budget.

“**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, such as is referred to in Article 1(1), point (a), of the Convention on the protection of the European Communities’ financial interests.

Fraud can only be classed as suspected fraud at the outset of an enquiry. Cases should be indicated as suspected fraud if the details suggest intent to deceive or misappropriate funds. Poor management, financial control or record keeping is not suspected fraud.

“**Bankruptcy**” means insolvency proceedings within the meaning of Article 2 point (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 administration of assistance from the Funds, with the exception of Member States exercising their 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.

### **Common Types of Irregularity** (this list is not exhaustive)

#### **Ineligible costs:**

- Use of ineligible costs to obtain grant.
- Non-compliance with procurement guidance.
- Inflated project costs.
- Activities already funded from other sources.
- Charging costs to a project already used in another Structural Funds project.
- Claiming for work done before the Letter of Offer start date.
- Fees, overhead costs not allowed under the regulations.
- Incorrectly calculated overheads/staff salaries.

#### **False claim/false supporting documents – suspected fraud.**

#### **Inadequate supporting documentation:**

- Lack of documents to support expenditure.
- Lack of documents to support progress against targets and objectives.
- No invoice or only a copy invoice.
- No timesheets.
- Incomplete timesheets.
- Insufficient tenders or quotes.
- Incomplete assessment of tenders / quotes.
- Assessment of quotes not in line with terms of reference.
- No independent evidence of exchange rates.
- No evidence of compliance with publicity.

#### **Incorrectly completed supporting documents – often down to poor management skills.**

#### **Misleading description of project – project not proceeding as in the Letter of Offer.**

#### **Non-existing or incorrect match funding.**

#### **Administrative errors:**

- Incorrectly completed claim form.
- Database inputting errors.

- Failure to maintain records – lack of clear audit trail.
- Awarding contracts/committing funds after programme closure date.

**Breach of Terms and Conditions of Letter of Offer:**

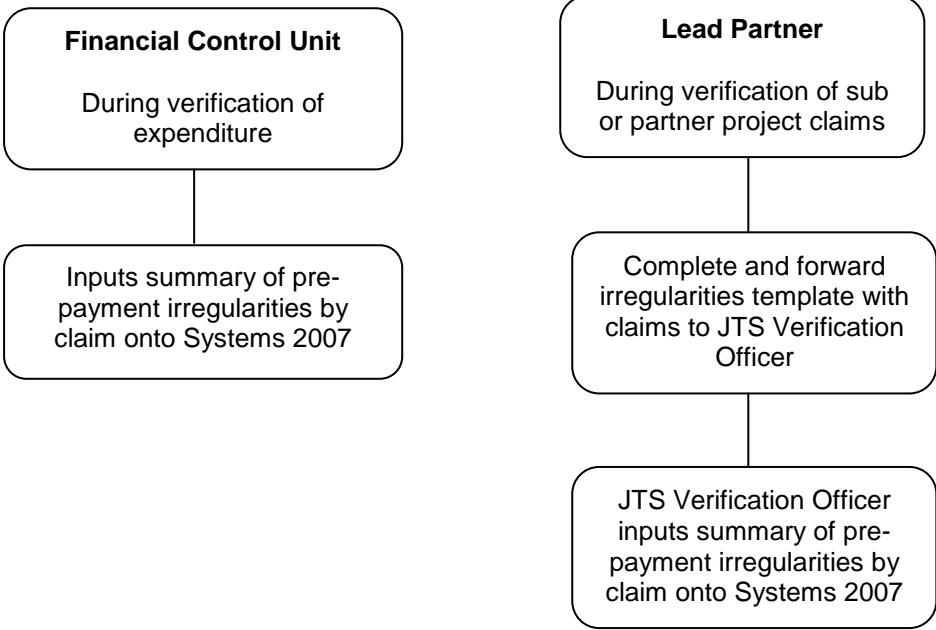
- Failure to respect deadlines.
- Claiming for expenditure not defrayed.
- Failure to retain relevant / adequate supporting documentation.
- No evidence of compliance with publicity.
- Unapproved budget variances.
- Failure to achieve targets and objectives.

# Annex 3

# Irregularities Process – flowchart of responsibilities

## Pre-payment Irregularities

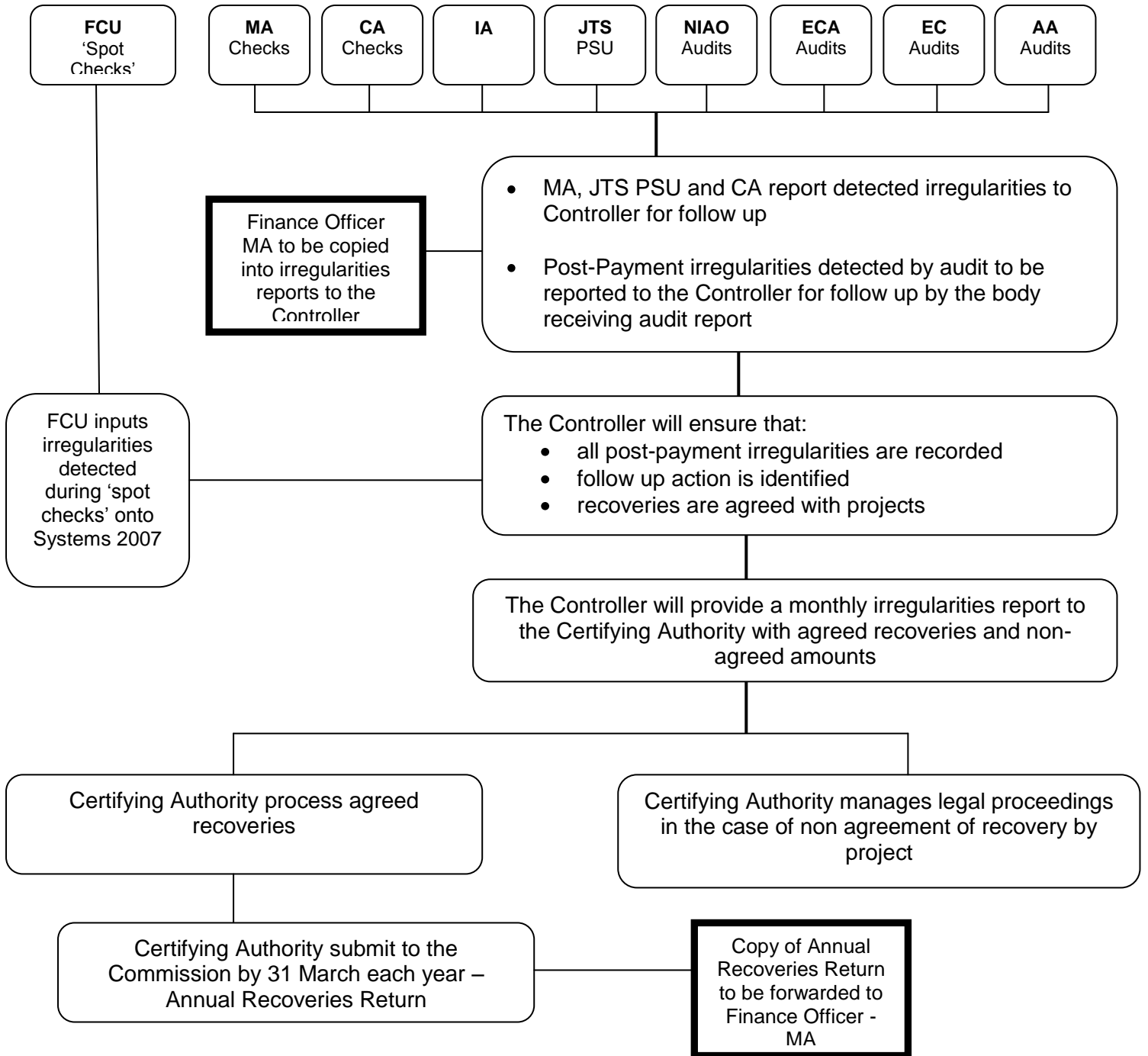
### Bodies Detecting Irregularities



# Annex 3 Irregularities Process – Flowchart of responsibilities

## Post-payment Irregularities

### Bodies Detecting Irregularities



#### Bodies Detecting Irregularities:

**FCU** – Financial Control Unit (JTS)    **MA** – Managing Authority  
**CA** – Certifying Authority    **IA** – Internal Audit  
**JTS PSU** – Joint Technical Secretariat Programme Support Unit  
**NIAO** – Northern Ireland Audit Office    **ECA** – European Court of Auditors  
**EC** – European Commission Audit    **AA** – Audit Authority

# ANNEX 4 – Irregularity processing on Systems 2007 (SEUPB only)

Highlight project and click on Project Processing

The screenshot displays the 'European Union Funding Programmes - System7' web application. The browser window title is 'European Union Funding Programmes - System7 - Windows Internet Explorer'. The URL is 'http://seupbmis.eugrants.org/AppProjMenu.aspx?FunctionCode=5'. The page content includes a search bar, a table of projects, and a navigation bar with buttons for 'APPLICATION PROCESSING', 'APPLICATION ASSESSMENT', 'CREATE / AMEND NEW LOO', 'PROJECT PROCESSING', 'CLOSED PROJECTS', and 'PROJECT MAINTENANCE'. The 'PROJECT PROCESSING' button is highlighted. A callout box on the left provides user details for Sarah Reid, logged in as Administrator for the PEACE III Programme. A note at the bottom of the page states 'User Testing System'.

Application Ref. No.	Org Name	Project Title	Status
000331	Department for Social Development	Belfast: Streets Ahead Programme - Bank Square Centre	Withdrawn
000335	fhjffjh	dgdfghg	Submitted
000337	Lisburn City Council	Community Connections - A Pathway to a 'shared' community	Withdrawn
000367	Drogheda Borough Council	Making Connections	Acknowledged
000371	Donegal Peace Centre	Donegal Peace Centre	UnderAppraisal
000381	Georgina Jones Partnership	Community Catering	UnderAppraisal
000382	Newtownards College	After School Education	Approved
000384	Bangor Building Services Limited	Children's Playground Facility	Acknowledged
000385	Glen Heatons	Heating for the elderly	UnderAppeal
000386	Barbara Stewart	Community Days Out	UnderAppraisal
000419	Roisin Driscoll Organisation	Reconciling Communities	LOOAccepted
000420	RD Organisation	Title of Project	Submitted
000430	APP 1 for Training Purposes	APP 1 Reconciling Communities	UnderAppraisal
000431	APP 2 Reconciling communities	APP 2 Reconciling Communities	Rejected
000437	JT Organisation	P1 Reconciling Communities	LOOAccepted
000438	DG Organisation	Reconciling Communities	LOOAccepted
000446	North Down Consortium	Mobile Health Check	UnderAppraisal
000447	Belfast Youth Council	Sporting Chance	UnderAppraisal
000449	Brian Foster	Kilcooley Playground	Submitted
000450	Glastry School	IT Suite	LOOAccepted
000451	Patricia Holden	Mobile Hairdresser	LOOAccepted
000452	Whitehill Youth Group	Whitehill Estate Tidy Up Group	UnderAppraisal
000453	Milkele Local Community Group	Bank Square	UnderAppraisal

Click on  
Provisional  
Irregularity  
Processing

European Union Funding Programmes - System7 - Windows Internet Explorer

http://seupbmis.eugrants.org/Default.aspx?ParentID=158

European Union Funding Programmes - System7

You are at: Home > Application and Project Processing > Project Processing

System Logout

Currently Selected Project:  
Reference: 000419 | Project Title: Reconciling Communit...  
Programme: PEACE III Programme | Priority: P1 Reconciling communities  
Sub-Priority: 1.1 Building positive relations at the local level

Welcome to the EU Funds Grants Administration System. Please click on the items below to enter that area of the system.

PROVISIONAL IRREGULARITY PROCESSING

Provisional Irregularity Processing  
ProvisionalIrregularityProcessing.aspx

Welcome back  
Sarah Reid  
Logged in as:  
SarahReid  
Account Type:  
Managing Authority  
User Group:  
SEUPB MA Administrator  
You have the following permissions:  
Administrator  
Programme:  
PEACE III Programme

Note: This system will log out after 15 minutes of inactivity

All Actions Are Being Logged - IP: 79.171.152.73 - 3.9.2 / 3.9.2 (03/11/2009 17:00)

⚠ User Testing System ⚠

Done

start | Internet | 100% | 11:02

Select New Irregularity in top left corner

You are at: Home > Application and Project Processing > Project Processing > Provisional Irregularity Processing

System Logout

Application Ref.No. 000419  
Application Status LOOAccepted  
Date Submitted 01-Apr-2008  
Currency STG  
Project Start Date 01-May-2008  
Project End Date 31-Dec-2011

Organisation Roisin Driscoll Organisation  
Project Title Reconciling Communities  
Risk Evaluation **Low**

Show Additional Details

Legal Person Details

	Irreg. No.	Date of First Suspicion	Date Irregularity Raised	Irregularity Raised By	Participating Body	Irregularity Description	Irregularity Status
<a href="#">View</a>	8	31/07/2009	09/10/2009	FrancesLavery	SEUPB Joint Technical Secretariat	missing SDs	Submitted
<a href="#">View</a>	9	30/09/2009	09/10/2009	FrancesLavery	SEUPB Joint Technical Secretariat	expenditure ...	Open

All Actions Are Being Logged - IP: 79.171.152.73 - 3.9.2 / 3.9.2 (03/11/2009 17:00)

⚠ User Testing System ⚠

Complete  
required  
fields

European Union Funding Programmes - System7 - Windows Internet Explorer

http://seupbmis.eugrants.org/ProvisionalIrregularityProcessing.aspx?FunctionCode=278

European Union Funding Programmes - System7

You are at: Home > Application and Project Processing > Project Processing > Provisional Irregularity Processing System Logout

Application Ref.No.	000419	Organisation	Roisin Driscoll Organisation
Application Status	LOOAccepted	Project Title	Reconciling Communities
Date Submitted	01-Apr-2008	Risk Evaluation	Low
Currency	STG		
Project Start Date	01-May-2008		
Project End Date	31-Dec-2011		

[Show Additional Details](#)

**Irregularity Details** | Natural Person Details | Financial Details Back

Jurisdiction	(Please Select)	Community Provision Infringed	(Please Select...)
Date of First Suspicion	<input type="text"/>	National Provision Infringed	<input type="text"/>
Irregularity From Date	<input type="text"/>	Irregularity Description	<input type="text"/>
Irregularity To Date	<input type="text"/>	Body Establishing Irregularity	<input type="text"/>
Source of Information	(Please Select...)		
Irregularity Type	(Please Select...)		
Method of Detection	(Please Select...)		
Other Member State Involved	(Please Select...)		

All Actions Are Being Logged - IP: 79.171.152.73 - 3.9.2 / 3.9.2 (03/11/2009 17:00)

⚠ User Testing System ⚠

Done

start | Internet | 100%

Inbox - Microsoft O... | PCS60 | Drafts awaiting inter... | sr\_Status of Guidan... | Word [Compatibility ... | European Union Fun... | EN | 11:06

Not required  
to be  
completed

Provisional Irregularity Processing - Windows Internet Explorer

http://mis.eugrants.org/ProvisionalIrregularityProcessing.aspx?FunctionCode=278

You are at: Home > Application and Project Processing > Project Processing > Provisional Irregularity Processing

System Logout

Application Ref.No.	001922	Organisation	SEUPB
Application Status	LOOAccepted	Project Title	PEACE III Technical Assistance - STERLING
Date Submitted	03-Mar-2009	Risk Evaluation	Low
Currency	STG		
Project Start Date	01-Jan-2007		
Project End Date	31-Dec-2013		

Show Additional Details

Irregularity Details | **Natural Person Details** | Financial Details | Back

Natural Person Surname	<input type="text"/>	Natural Person Address City	<input type="text"/>
Natural Person FirstName	<input type="text"/>	Natural Person County	(Please Select...)
Natural Person Address Line 1	<input type="text"/>	Natural Person PostCode	<input type="text"/>
Natural Person Address Line 2	<input type="text"/>	Natural Person Position	<input type="text"/>

All Actions Are Being Logged - IP: 79.171.152.77 - 4.0.1 / 4.0.1 (08/12/2009 16:00)

start | PCS60 | Inbox - Microsoft O... | SEUPB | PIII Draft Guidance... | RMA database irre... | Provisional Irregula... | EN | 09:42

Enter amount for post payment irregularities only. For non-financial or pre-payment enter detail in Nature of Expenditure box

On completion, hit Submit button

Provisional Irregularity Processing - Windows Internet Explorer

http://mis.eugrants.org/ProvisionalIrregularityProcessing.aspx?FunctionCode=278

You are at: Home > Application and Project Processing > Project Processing > Provisional Irregularity Processing

System Logout

Application Ref.No.	001922	Organisation	SEUPB
Application Status	LOOAccepted	Project Title	PEACE III Technical Assistance - STERLING
Date Submitted	03-Mar-2009	Risk Evaluation	Low
Currency	STG		
Project Start Date	01-Jan-2007		
Project End Date	31-Dec-2013		

Show Additional Details

Irregularity Details | Natural Person Details | Financial Details | Back

Potential Amount at Risk

Nature of Expenditure

Grant Amount Paid

At Risk Grant Expenditure Amount Recorded

At Risk External Matched Expenditure Amount Recorded

All Actions Are Being Logged - IP: 79.171.152.77 - 4.0.1 / 4.0.1 (08/12/2009 16:00)



**PREPAYMENT IRREGULARITIES  
TEMPLATE (example of  
completed template)**

**ANNEX 6**

PROGRAM	SUB PRIORITY	PROJECT No	CURRENCY	CLAIM No	TRANS No	CLAIMED	VOUCHED	DISALLOWED	TYPE	REASON DISSALLOWED
P3	3.1	nnnn	euro	3	9	194.60	194.35	0.25	ineligible	bank statement showed lower value
P3	3.1	nnnn	euro	3	10	5.39	4.45	0.94	ineligible	50% of food supplies ineligible
P3	3.1	nnnn	euro	3	40	40.80	33.22	7.58	ineligible	50% of food supplies ineligible
P3	3.1	nnnn	euro	3	46	1000.00	750.00	250.00	ineligible	25% procurement penalty applied
P3	3.1	nnnn	euro	3	98	2.45	0.00	2.45	not yet vouched	incomplete documentation
P3	3.1	nnnn	euro	3	163	865.86	0.00	865.86	not yet vouched	no supporting documentation
P3	3.1	nnnn	euro	3	164	865.86	0.00	865.86	not yet vouched	no supporting documentation
P3	3.1	nnnn	euro	3	165	865.86	0.00	865.86	not yet vouched	no supporting documentation
<b>TOTAL AMOUNT DISALLOWED</b>								<b>2,858.80</b>		
INELIGIBLE AMOUNT								257.77		
AMOUNT NOT YET VOUCHED								2,601.03	may be resubmitted	

**AMOUNT CLAIMED**                      **€81,013.28**  
**AMOUNT DISALLOWED**                **€2,858.80**  
**AMOUNT VOUCHED**                    **€78,154.48**