



**CORTE DEI CONTI**

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**Contact Committee Working Group on preventing and combating irregularities and fraud:  
public procurement related activities and results**

“Most common errors in Public Procurement”

**Public Procurement Audit Seminar 2018**

*Athens, 31 May-1 June 2018*

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On the occasion of the Contact Committee of 2014, during the LOs' technical meeting, the Corte dei conti proposed the establishment of an ad hoc Working Group for specific and concrete activities on fighting corruption.

The Corte dei conti underlined the importance and necessity to enhance a strong cooperation among SAIs in the field of corruption and fraud towards EU revenues.

By Resolution CC-R-2015-02 the Contact Committee decided to establish a Working Group for the enhancement of cooperation among SAIs regarding the prevention and fight against irregularities and fraud aimed at protecting EU revenues.

Protection of the financial interests of the European Union is a key element to strengthen and increase the confidence of citizens by ensuring that public money is properly spent.

On 18 -19 December 2017, the first meeting of the WG was held in Rome, where the representatives of Croatia, Malta, Portugal, Romania SAIs as well as of ECA shared their experiences and established future steps in order to enhance the cooperation in such a crucial issue.

The work of the CC Working Group has led to a re-assessment of the object of the WG, focussing it on the prevention of the irregularities rather than on the fraud.

Preventing irregularities also helps in assessing the benefits achieved from allocating funds.

During the meeting, some specific issues have been put forward to share and compare methodologies, analysis and results:

- focusing on the critical issues in the prevention and in the fight against fraud;
- promoting uniform monitoring actions in the different Member States and by formulating ameliorating proposals;
- implementing a comprehensive harmonization of the activities of prevention and fight against irregularities and fraud;
- implementing the enhancement of the controls chain;
- improving the procedures for the recovery of EU and national resources;
- formulating possible proposals to improve the current European regulations.

The Working Group has defined its specific mission to be pursued in the next years and will benefit from the existing fruitful cooperation on this issue with OLAF, especially in the use of the OLAF Database for the monitoring of irregularities and fraud.

The Working Group will carry out evaluations and comparisons on the extent and the quality of the phenomena in the different Member States.

## Questions related to the steps forward for the Contact Committee WG on Prevention and fight against irregularities and fraud

1. Which is the scheme of cooperation relationship among the administrations involved in fight against fraud and irregularities in your country?
  - How the cooperation with the national administrations is implemented in practice at the first level with agreements and at the second level with operational guidelines
    - with the national investigation bodies;
    - with the Anti- fraud coordination services;
    - with the European Commission and OLAF.
2. How the anti-fraud strategy has been developed in your Country?

For the European Court of Auditors, the same issues should be considered in the logic of experiences in their audit and reporting activities performed in order to build a possible benchmark for SAls analysis.

Thanks to the analysis of the experiences shared by the Participants and by the national and international Experts intervened at the Meeting (State General Accounting Department, European Anti-fraud Office OLAF, Agency for territorial cohesion, Department for Cohesion Policy and Italian Anti-fraud Committee – COLAF-Department for European Policies), we can be more aware of the causes of the most common errors detected by the audits.

To avoid therefore a mere theoretical approach, it could be very interesting in this context to highlight the different recurring circumstances which determine the errors themselves.

## The causes of the errors in public procurement detected by the audits....

- ✓ Complexity of the legislation and difficulty in the interpretation of Community and national legislation
- ✓ Difficulty in implementing the principles of transparency and publicity
- ✓ Excessive period of time between the designing phase, the funding and the actual implementation
- ✓ Inadequacy of the administrative organisation
- ✓ Lack of proper expertise (especially in the smaller Authorities)



## .....the most common causes of the errors (continued)

- ✓ Additional works or services without preconditions (legislative decree No.50/2017)
- ✓ Spending quickly entails the risk to have accelerated procurement procedures and it leads to errors
- ✓ Derogation from the publicity and competitiveness due to grounds of urgency
- ✓ Difficulty in implementing the in-house award
- ✓ Problems related to the use of variants of the project not justified by the urgency.

## **Improving the management and the audits on the procurement procedures leads to the following advantages:**

- ✓ Reduction in the costs of the public works
- ✓ Reduction in execution times
- ✓ Reduction in litigation in this area
- ✓ Promotion of the fight against corruption

The previous comments result from the comparison among the different national experiences emerged during the meeting.

It could be useful at this point, to show the Italian audit practice, with reference to the examination of most recurring errors on the basis of the COCOF Guidelines – (EC) Decision 19/12/2013, C(2013)9527 whose results are shown in the following figures:

- as concerns the work contracts the threshold is €5.548.000
- for the supply and service contracts the threshold is €221.000

As known, the COCOF Guidelines above threshold are from point 1 to 12, the COCOF Guidelines below threshold are from point 21 to 24.

## Errors above Community threshold

1. Not compliance with publicity procedures
2. Not compliance with publicity procedures because of not sufficient publicity
3. Awarding of contracts without competition in absence of particular urgency
4. Additional complementary works exceeding the limits set by the directives in the event of unforeseen circumstances
5. Absence of information regarding the selection and awarding criteria in the procurement documents
6. Illegitimate selection and assignment criteria
7. Illegitimate selection and / or criteria for the awarding of the procurement established in the documents or information regarding the procurement itself
8. Insufficient and / or discriminatory definition concerning the object of the contract
9. Negotiation during the awarding procedure
10. Reduction of the concrete contractual object
11. Object reduction and proportional reduction of the contract
12. Bad application of some auxiliary / accidental elements

## Errors below Community threshold

21. Not compliance with an appropriate level of publicity
22. Awarding of contracts without competition in absence of particular urgency
23. Illegitimate selection and awarding criteria
24. Violation of the principle of equal treatment

## The audit has underlined:

### For **national** administrations

1. For contracts above the Community threshold the most relevant error is the awarding of contracts without competition (COCOF No. 3)
2. For the contracts below threshold the most relevant error is the violation of the principle of equal treatment (COCOF n. 24)

### For **regional** administrations

1. For contracts above the Community threshold, relevant errors :  
Infringement of the publicity principle (COCOF No. 1)  
Infringement of the competition principle (COCOF No. 3)

### For contracts below threshold, relevant errors:

- Failure to comply with an appropriate level of publicity (COCOF No. 21)
- Failure to comply with an appropriate level of competition (COCOF No. 22)
- Infringement of the principle of equal treatment (COCOF No. 24).

## Consequences of procurement errors

The violation of the COCOF directives has produced the application of the adjustments expressly provided for each individual type (ranging from a minimum of 2% to a maximum of 100%).

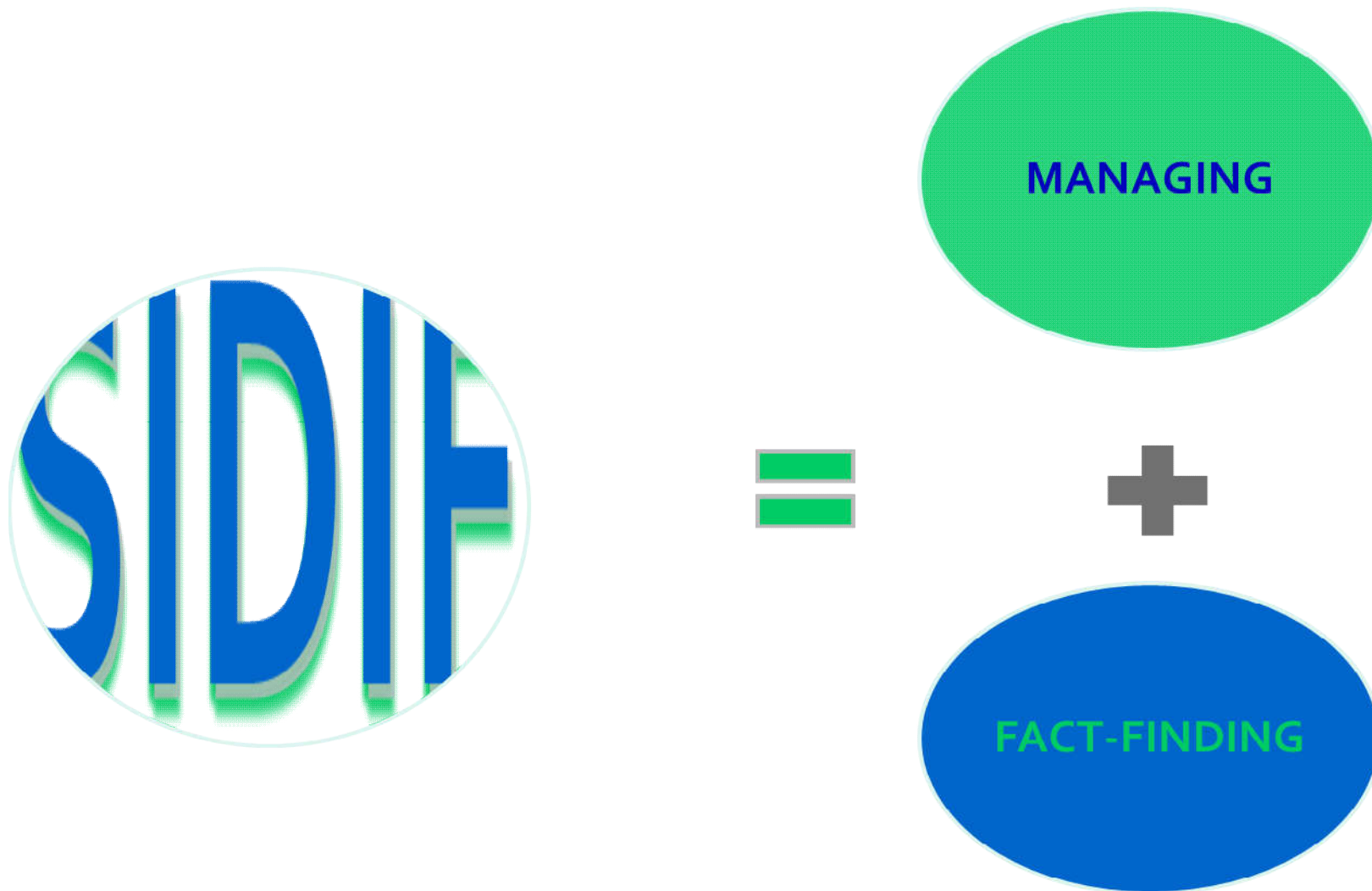
# SIDIF SYSTEM

The Central Audit Chamber for International and Community Affairs of the Corte dei conti has been managing the SIDIF-CONOSCO community irregularity and fraud information system for some time and has provided support to the Regional Audit Chambers on several occasions, in particular during the parification, for special investigations and in the audit visits of the European Court of Auditors. The database, which has a lot of potential, draws its knowledge base from the European Commission's IMS (Irregularities Management System) -OLAF system.





## SIDIF SYSTEM



## Managing – Data flow

- ✓ Data export from IMS
- ✓ Data upload in SIDIF-managing
- ✓ Checks and report anomalies found
- ✓ Corrections finalized to data congruence
- ✓ Case validation
- ✓ Recording on SIDIF-ConosCo

## Specific reporting

Informations in ConosCO data base related to every Fund, on which is possible create analytical and representative *reports*

### Individual personal data:

- Name – Surname – Fiscal code
- Registered name – VAT identification number

### Financial data

(EU and national part):

- Irregular spending ;
- amount paid;
- amount to recover;
- amount recovered.

### Descriptive data:

- qualification (Irregularity, alleged fraud, verified fraud, no irregularity)
- irregularity typologies;
- EU or national law violated;
- irregularities practices;
- actions for recoveries

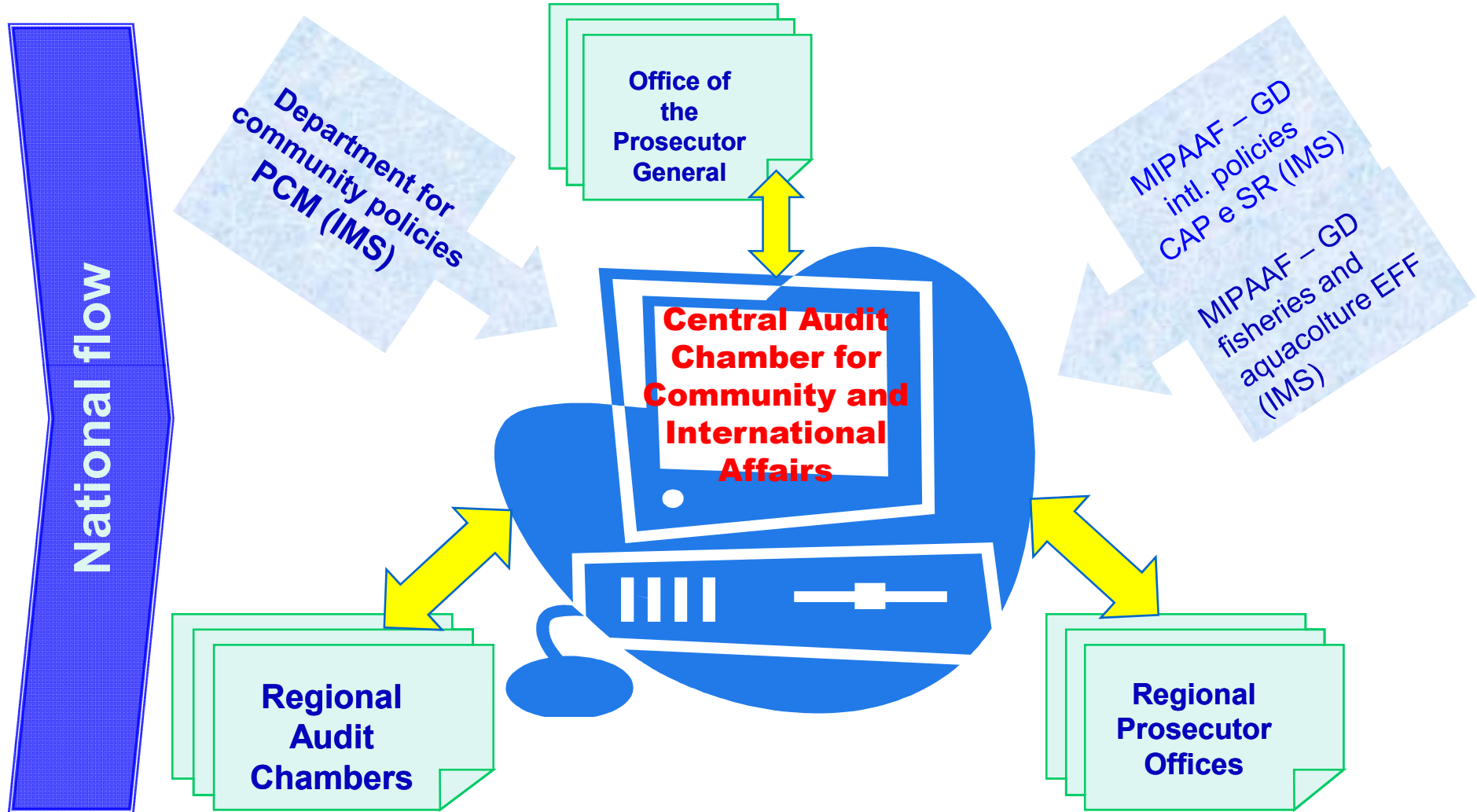
## Procedures

The system provides informations to monitoring controversies and recovering activities:

- Trials pending in Court of auditors
- Trials pending in penal Court
- Civil lawsuits
- Administrative lawsuits



# Flow of information



# The Italian Corte dei conti monitors errors through the SIDIF-CoNoSco database on irregularities- Exemple of Report drawn up according to the Database information

## Report for infringement of regulations on public procurement

Home ▾ Strumenti ▾ Dati ▾ Tabella Formato ▾ Ultimo aggiornamento: 10/9/2014 12:25:38 PM

Tutte le celle della tabella Valori Arial Dimensione **B** / *I* U %

RAGGRUPPAMENTO A PAGINE: Data ultimo caricamento: 05/10/2014 Sigla Fondo: FESR 02 - Tipo irregolarità: VIOLAZIONE DELLE NORME CONCERNENTI I PUBBLICI APPALTI Descrizione Autorità: SICILIA

Righe di dati: 7 | Colonne di dati: 1

01 - Anno di comunicazione OLAF (Reg. 1828)	02 - Numero caso OLAF (Reg. 1828)	01 - Qualificazione irregolarità	14 - Programma / Progetto (Reg. 1828)	10 - Prassi Adottate (Reg. 1828)	05 - Disposizione nazionale violata (Reg. 1828)	07) Spesa irregolare - Importo totale pubblico
2013	10105	irregolarità	LINEA 5.1.2.2.01 - CODICE 2007.IT.16.1.PO.011/5.1.2.2.01/O/R/29 - COMUNE DI CASTELVETRANO - CUP C37J09000030002	1) PERIZIA DI VARIANTE NON AMMISSIBILE - 2) ESCLUSIONE OFFERTA PERVENUTA CON RIBASSO DIVERSO DA TUTTE LE ALTRE E RITENUTA ANOMALA SENZA CHIEDERE LE GIUSTIFICAZIONI PREVISTE DALLA NORMATIVA	NORMATIVA SUGLI APPALTI PUBBLICI	90.844,06
	10106	irregolarità	LINEA 5.1.2.3.01 - CODICE 2007.IT.16.1.PO.011/5.1.2.3.01/O/R/395 - COMUNE DI CALATAFIMI SEGESTA - CUP E99D09000100006	L'IMPORTO DEI SERVIZI DI INGEGNERIA E' COMPLESSIVAMENTE SUPERIORE ALLA SOGLIA COMUNITARIA PER CUI IL BANDO PER AFFIDAMENTO DELLA DL AVREBBE DOVUTO ESSERE PUBBLICATO SULLA GUE.	NORMATIVA SUGLI APPALTI PUBBLICI	27.646,74
	10107	irregolarità	LINEA 5.1.2.2.01 - CODICE 2007.IT.16.1.PO.011/5.1.2.2.01/O/R/38 - COMUNE DI VITA - CUP D23F07000020001	PERIZIA DI VARIANTE APPROVATA CON DELIBERA DEL 20/03/2012 RITENUTA NON AMMISSIBILE	NORMATIVA SUGLI APPALTI PUBBLICI	35.804,32
	10109	irregolarità	LINEA 5.1.2.2.01 - CODICE 2007.IT.16.1.PO.011/5.1.2.2.01/O/R/34 - COMUNE DI CHIUSA SCLAFANI - CUP B17H08001020006	PERIZIA DI VARIANTE RITENUTA NON AMMISSIBILE	NORMATIVA SUGLI APPALTI PUBBLICI	32.492,81
	10111	irregolarità	LINEA 5.1.2.3.01 - CODICE 2007.IT.16.1.PO.011/5.1.2.3.01/O/R/386 - COMUNE DI ITALIA - CUP C17J09000010008	SPESE RELATIVE A COMPETENZE TECNICHE NON AMMISSIBILI IN QUANTO AFFIDATE SENZA IL RISPETTO DELL'EVIDENZA PUBBLICA. PERIZIA DI VARIANTE NON AMMISSIBILE.	NORMATIVA SUGLI APPALTI PUBBLICI	66.121,18
	10114	irregolarità	LINEA 5.1.2.3.01 - CODICE 2007.IT.16.1.PO.011/5.1.2.3.01/O/R/35 - COMUNE DI NISCEMI - CUP I97J08000000002	PERIZIA DI VARIANTE RITENUTA NON AMMISSIBILE.	NORMATIVA SUGLI APPALTI PUBBLICI	25.528,55
	10180	sospetto di frode	PO FESR 2007-2013- 2.4.1.01/O/R/4947/ CUP: E35F080000500006 Impianto di compostaggio in c.da Brucazzi a Gela (CL)	IL Commissario liquidatore dell'ATO CL2 di Gela, in data 04/04/2013, ha presentato denuncia scritta alla Guardia di Finanza di CL depositando una memoria in cui sono ricostruiti fatti salienti sull'iter di assegnazione dell'appalto e sulla sua realizzazione.	Norme sui Lavori Pubblici	3.654.886,00

## How to improve the system?

- ✓ By stabilizing the reference regulatory framework, also in order to define and standardize the interpretation of the rules as an aid to the Managing Authority
- ✓ By simplifying procedures
- ✓ By supporting the Managing Authority, beneficiaries and intermediate bodies with suitable information and training activities
- ✓ By analyzing the causes of delays in the execution of contracts in order to intervene on the most critical phases
- ✓ By periodically analyzing the most recurring errors by performing the risk analysis
- ✓ By improving the design activities of the works in order to reduce suspensions and delays, reducing the use of variants to exceptional cases
- ✓ By discouraging litigation also with penalties for vexatious litigation





*Thank you for your kind attention*