



Optimized Internal Control of EU Funds in Line Ministries

19-21 February 2019
Ljubljana



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- What's new in the period 2021 – 2027
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- Concept of irregularity, fraud and corruption
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- Country Experience
- Classification of Irregularities / Case Studies

IRREGULARITETS AND FRAUD

What is new in the period 2021 - 2027

EARLY-DETECTION AND EXCLUSION SYSTEM

- early detection of persons or entities referred, which pose a risk to the financial interests of the Union
- Exclusion
- Imposition of a financial penalty

EUROPEAN PUBLIC PROSECUTOR'S OFFICE

- investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union

ANTI-FRAUD PROGRAMME FOR 2021-2027

- continue current Hercule III programme
- AFIS, IMS

- €180 million budget

PIF DIRECTIVE of 2017 on the fight against fraud to the Union's financial interests by means of criminal law

- harmonising the definition of offences affecting these interests - offences of fraud, corruption, money laundering and misappropriation
- harmonising sanctions and time limitations for such cases
- cross-border VAT fraud cases involving a total damage of at least EUR 10 Million
- replace the PIF Convention and its protocols

IRREGULARITETS AND FRAUD

EC Financial Regulation - 2018

Article 36 - Internal control of budget implementation

...2. For the purposes of budget implementation, internal control shall be applied at all levels of management and shall be designed to provide reasonable assurance of achieving the following objectives:

...(d) **prevention, detection, correction and follow-up of fraud and irregularities.**

Article 154 – Indirect management

4. The Commission shall, in accordance with the principle of proportionality and with due consideration for the nature of the action and the financial risks involved, assess that persons and entities implementing Union funds ...

(a) set up and ensure the functioning of an effective and efficient **internal control system** based on international best practices and **allowing in particular to prevent, detect and correct irregularities and fraud**

...obligation for persons or entities implementing Union funds to notify the Commission without delay of cases of detected fraud and irregularities and their follow-up

Article 129

Cooperation for protection of the financial interests of the Union

1. Any person or **entity receiving Union funds shall fully cooperate** in the protection of the financial interests of the Union...

In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections.

....Any person or entity receiving Union funds under direct and indirect management shall agree in writing to grant the necessary rights as referred to in paragraph 1 and shall ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

IRREGULARITETS AND FRAUD

IPA III Regulation

The FINANCIAL INTERESTS OF THE UNION ARE TO BE PROTECTED through effective and proportionate measures, including the:

- prevention
- investigation of irregularities and fraud
- detection and correction
- recovery of funds lost, wrongly paid or incorrectly used
- where appropriate, the imposition of administrative sanctions.

OLAF

- administrative investigations
- on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any

other illegal activity affecting Union financial interests.

BENEFICIARIES LISTED IN ANNEX I SHALL:

report the irregularities including fraud which have been the subject of a primary administrative or judicial finding, **without delay**, to the Commission and keep the latter informed of the progress of administrative and legal proceeding. Reporting shall be done **by electronic means**, using the **Irregularity Management System**, established by the Commission.

IRREGULARITETS AND FRAUD

IPA III Regulation - Legislative financial statement

DG NEAR compliance framework is made up of the following significant components:

DG NEAR has developed and implemented its own ANTI-FRAUD STRATEGY - approved for the years 2016-2017.

The general objectives of this anti-fraud strategy are:

- Anti-fraud network, data collection and guidance: to establish a network of OLAF Focal Points within DG NEAR; data and statistics on the OLAF cases
- Management reporting and relations with EU stakeholders: regular reporting cycles on anti-fraud issues at senior management level
- Awareness raising, procedures and document management: guidance on reporting fraud and anti-fraud KPIs for the Management Plan.

PREVENTIVE MEASURES

- prevention, detection and correction controls Core training covering fraud issues for aid management staff
- Provision of guidance using the NEAR manual of procedures(MAP)
- Annual IMBC process including a verification of MCS, incl. appropriate anti-fraud measures

- Ex-ante screening of the anti-fraud mechanisms as part of assessment of eligibility criterion of public finance management for budget support
- Ex-ante controls of all nationally procured contracts; waived after national systems meet stringent management and control benchmarks
- Detective and corrective measures
- Ex-ante transaction checks by Commission staff
- Internal and external audits and verifications, including by the European Court of Auditors;
- Retrospective checks and recoveries

In addition where irregularity is suspected to be intentional (fraud) DG NEAR HAS OTHER MEASURES AS ITS DISPOSAL INCLUDING:

- Suspension of time-limit for payments and notification to the entity
- Specific audits (ad hoc/forensic audit)
- EDES (Early Detection Exclusion System)
- Suspension/termination of contract
- Exclusion procedure

EUROPEAN COURT OF AUDITORS OPINION 2017

- ECA 2017 qualified opinion on legality and regularity of the payments – second time since 1994 (ASA - EP)
- Qualified opinion – materially affected by error
- Overall level of error for EU spending in 2017 was estimated at 2.4% (reimbursement basis is 3,7 %, entitlement basis below 2%)
- Compared with 3.1% in 2016, 3.8% in 2015 and 4.4% in 2014 The estimated error rate (the level of irregularity in transactions) measures the level of irregularity
- Clean opinion on the 2016 EU accounts' reliability

ECA Annual Report 2017:
“We found 13 instances of suspected fraud in the 703 transactions we audited for our statement of assurance and for other performance and/or compliance audits.”

Policy Area: Global Europe (External relations, aid and enlargement - 7% of budget)

2016

Affected by material error? **Yes**

Estimated error rate: **2.1 %** (2.8 for 2015, 2.7% for 2014) Examined control systems: **Partially effective**

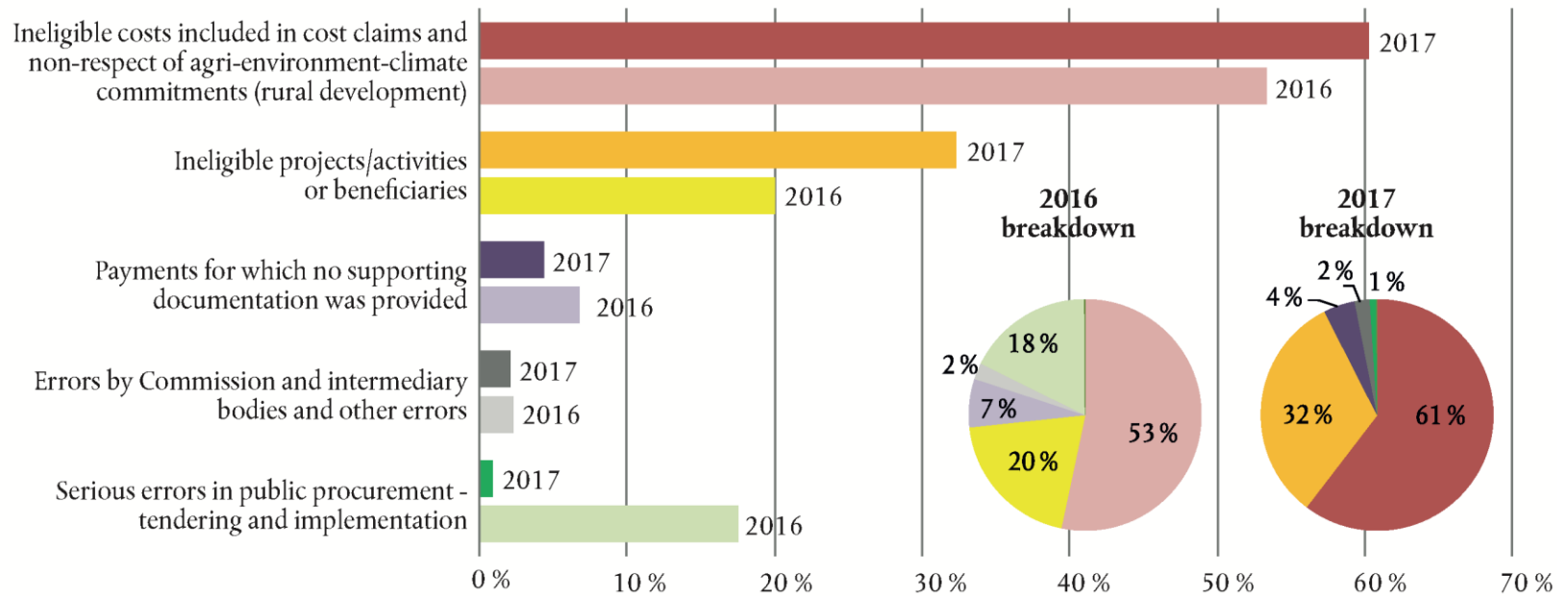
More errors in transactions relating to grants

32 non-quantifiable errors relating to non-compliance - legal or contractual obligations

DG NEAR's 2017 - 0,67%

IRREGULARITETS AND FRAUD

Error Rate for EU reimbursable-based expenditure 2017

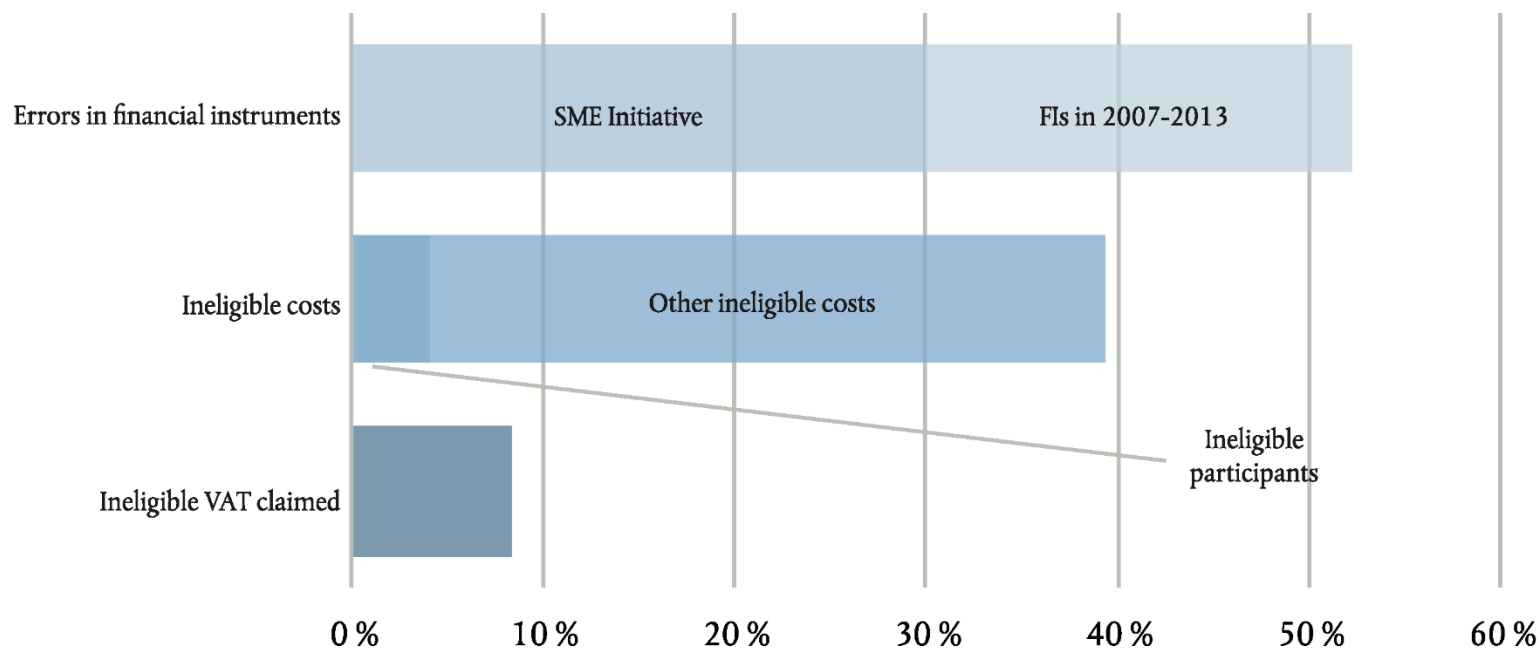


Source: ECA Annual Report 2017

IRREGULARITETS AND FRAUD

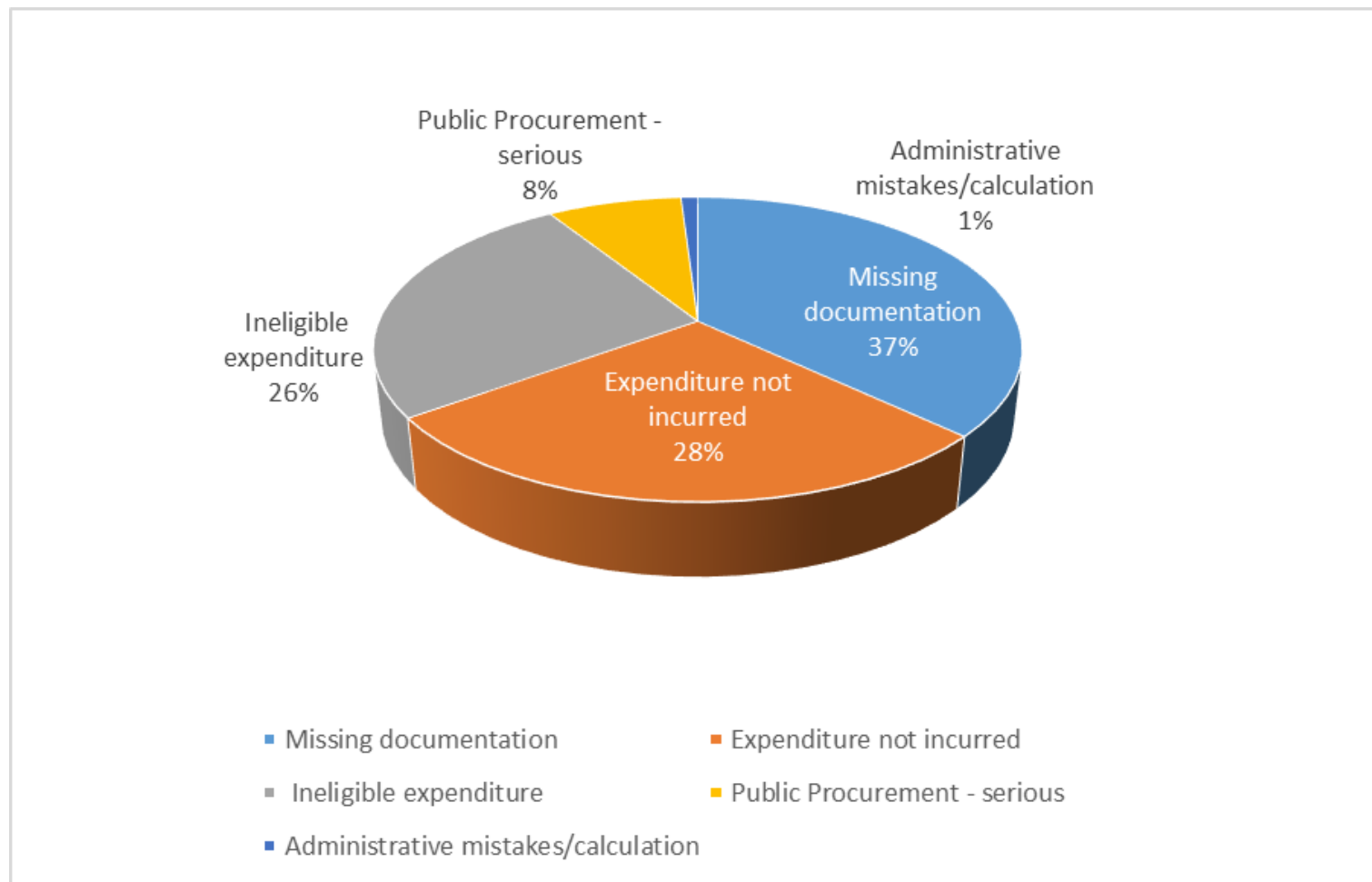
Breakdown of Errors - 2017

Economic, social and territorial cohesion - ESIF



IRREGULARITETS AND FRAUD

Types of Errors within the Heading “Global Europe” 2016



IRREGULARITETS AND FRAUD

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OLAF

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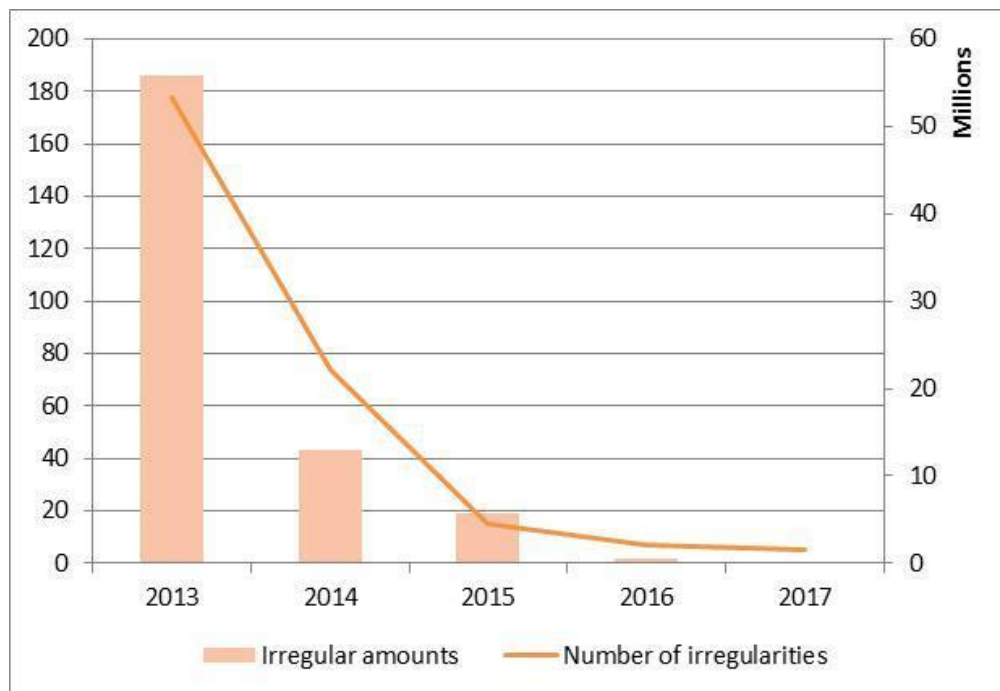
other illegal activity affecting Union financial interests.

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IRREGULARITETS AND FRAUD

Pre-Accession Assistance

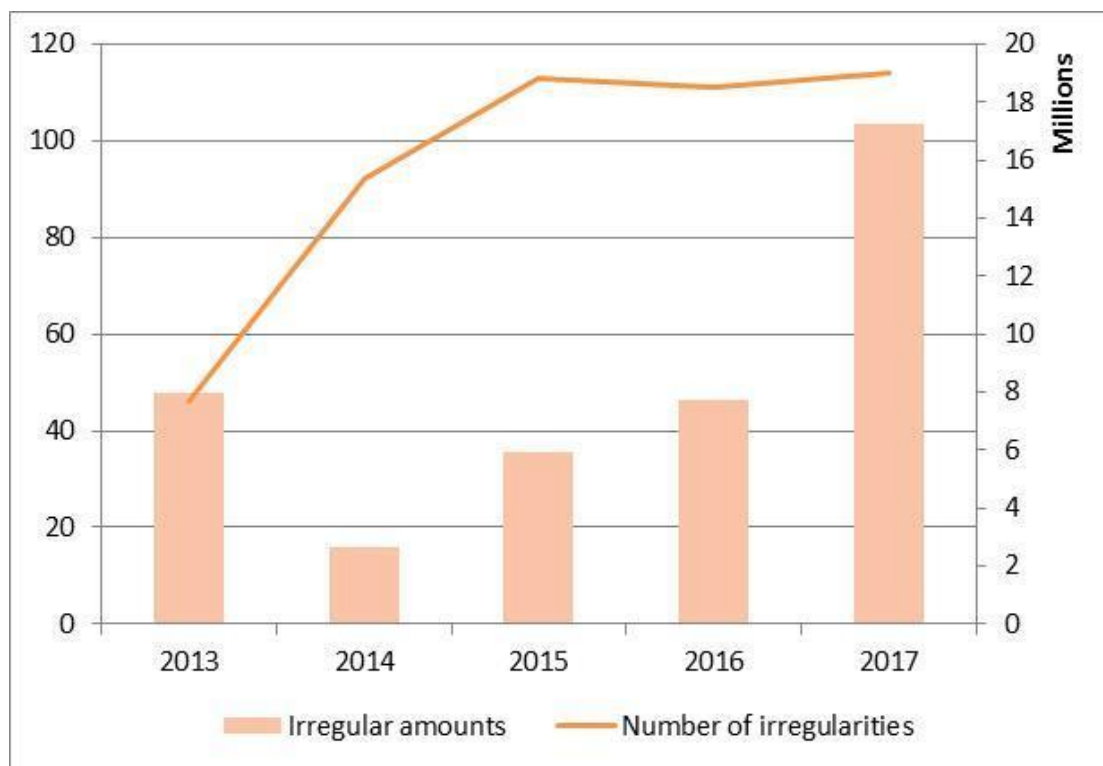


Irregular Amounts as % of total payments

	Irregularities - / payments	Fraud / payments	Total:
Neighborhood and Enlargement	0,40%	0,01%	0,41%
All EU Payments	0,49%	0,03%	0,52%

IRREGULARITETS AND FRAUD

Reported irregularities IPA, 2013-2017



Irregularities	Number	Amount (million Euro)
Non-fraudulent	404	35
Fraudulent	72	7
Total:	476	42

Numbers of irregularities:

CBC - 38%

IPARD - 33%

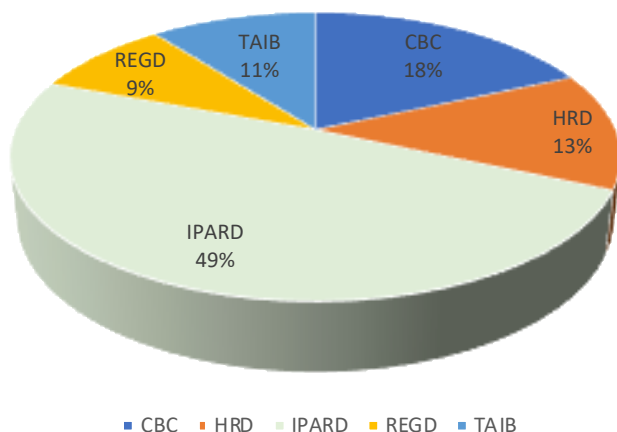
Amounts of irregularities:

IPARD - 55%

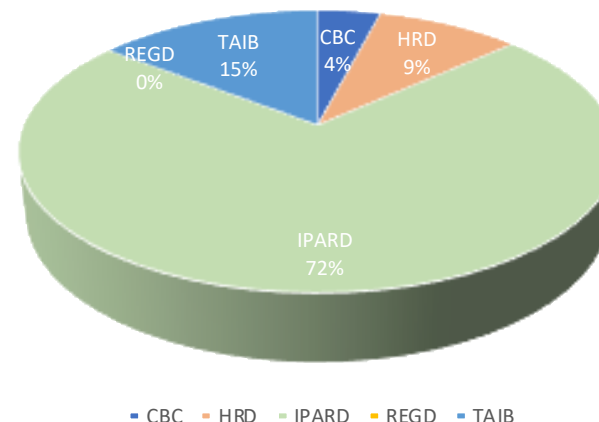
IRREGULARITETS AND FRAUD

Reported Irregularities – IPA during 2017

Number of IPA reported irregularities in 2017



IPA Amount of reported IPA irregularities 2017



Irregularities	Number	Amount (million Euro)
Non-fraudulent	97	14
Fraudulent	17	3
Total:	114	17

- Irregularities in 2017: most frequent category is *'public procurement'*
- Fraud in 2017: most frequent category is *'documentary proof: 'false and/or falsified documents'*

IRREGULARITETS AND FRAUD

IPA – Irregularity Legal Framework

IPA FRAMEWORK AGREEMENT between beneficiary country and the EC:

Annex H Reporting on suspected fraud and other irregularities

Annex B Internal control framework – Risk Management

Art. 50 Protection Supervision, control and audit by the EC and ECA

Art. 51 Protection of the financial interests of the Union

(1) ... shall prevent, detect and correct irregularities and fraud when executing those tasks...

(2) ... shall ensure investigation and effective treatment of suspected

cases of fraud, conflict of interest and irregularities ...

(3) ... prevent and counter any active or passive corruption practices

at any stage of the procurement procedure or grant award procedure ...

FIINANCING AGREEMENTS

NATIONAL LEGISLATION

IRREGULARITETS AND FRAUD

IPA – DEFINITION: IRREGULARITY



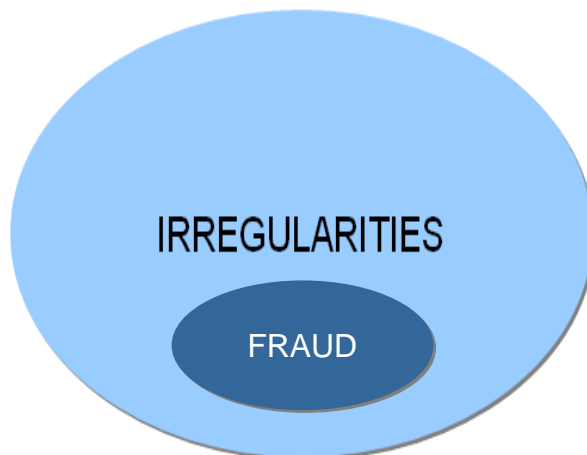
IRREGULARITY means any infringement of a provision of applicable rules and contracts resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the EU by charging an unjustified item of expenditure to the general budget

FRAUD means any intentional act or omission relating to:

The use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the EU

Non-disclosure of information in violation of a specific obligation, with the same effect

The misapplication of such funds for purposes other than those for which they were originally granted



IRREGULARITETS AND FRAUD

RED FLAGS

Red Flags:

OLAF “Red flags” - PP fraud or corruption risks:

BIDDERS - multiple undeclared connections between them or to evaluation team

PROCEDURES - very large tenders, too short timespan for the application process, changes in the project description after the award

- Offers – identical format, errors, pricing abnormalities
- General appearance of offers – simplicity
- Common address
- Same person manager of different companies

IRREGULARITETS AND FRAUD

RED FLAGSI

indicative warning signs that may indicate that a fraud is taking place at an institution:

- **Staff under stress without a high workload**
- **Always working late / Reluctance to take leave**
- **Unexplained wealth / Sudden change of lifestyle**
- **New staff resigning quickly**
- **Cosy relationship with the Recipients**
- **The employee refuses promotion to a non-authorisation position**

IRREGULARITETS AND FRAUD

CLASSIFICATION OF IRREGULARITIES

- 102 Incorrect accounts
- 103 Falsified accounts
- 104 Accounts not presented
- 201 Missing /incorrect / incomplete documents
- 213 Falsified supporting documents
- 299 Other cases of irregular documents
- 325 Non-eligible expenditure
- 402 Non-existing operator
- 405 Irregular termination, sale or reduction
- 408 Operator / beneficiary not having the required quality
- 601 Failure to respect deadlines
- 608 Refusal of control
- 609 Refusal of payment
- 610 Absence or incompatibility of contract
- 611 Several requests for the same object
- 612 Failure to respect other regulations/contract conditions
- 614 Infringement of rules concerning public procurement
- 741 Failure to fulfil commitments entered into
- 810 Action not implemented
- 812 Action not carried out in accordance with rules
- 822 Expenditure incurred outside the contracting period
- 832 Infringement with regard to the co-financing system
- 840 Undeclared revenue
- 850 Corruption
- 860 Conflict of interest
- 999 Other irregularities (to be specified)

IRREGULARITETS AND FRAUD

RESPONSIBILITIES - INSTITUTIONS

IPARD Agency/CFCU:

- Receiving and checking signals of irregularities
- Recording, Reporting and Recovery procedures
- Analyses and Corrective measures

The NAO:

- proper implementation of the irregularity procedure including:
- System for immediate communication of irregularity signals
- Performing control over the Irregularity Communications received
- Reporting Irregularities to EC - Irregularity management System (IMS) module of AFCOS
- Monitoring the work of the IPARD

AGENCY/CFCU regarding irregularities

- Proposing financial adjustments
- IPA Irregularly Panel/Network

AFCOS

- co-ordination between the relevant national services
- co-operation with OLAF
- (investigative powers)

OLAF

- battle the corruption, fraud and other irregularities
- administrative anti-fraud investigations having special independent status.
- from 2013 – Directorate General



IRREGULARITETS AND FRAUD RESPONSIBILITIES

The PERSONNEL of the IPA bodies,
including managers, employees
(contracted or civil servants):

- Understand the irregularity concept and reporting lines
- Confirm their understanding of concepts and procedures related to irregularities (by signing a Statement of Awareness)
- Reflect in the working documents findings/assessment based on actual facts with on existence of irregularities
- Report as signals of irregularities every case which they suspect to fall within the definition of irregularity.



IRREGULARITY OFFICERS/EXPERTS:

- Responsible to ensure proper implementation of the irregularities procedures
- Contact point re Whistle Blowing Procedures
- Performs checks of the received signals of irregularities

Irregularity Officers Panel/Network

IRREGULARITETS AND FRAUD

STAGES OF THE PROCEDURE

Main stages of Irregularity procedure:

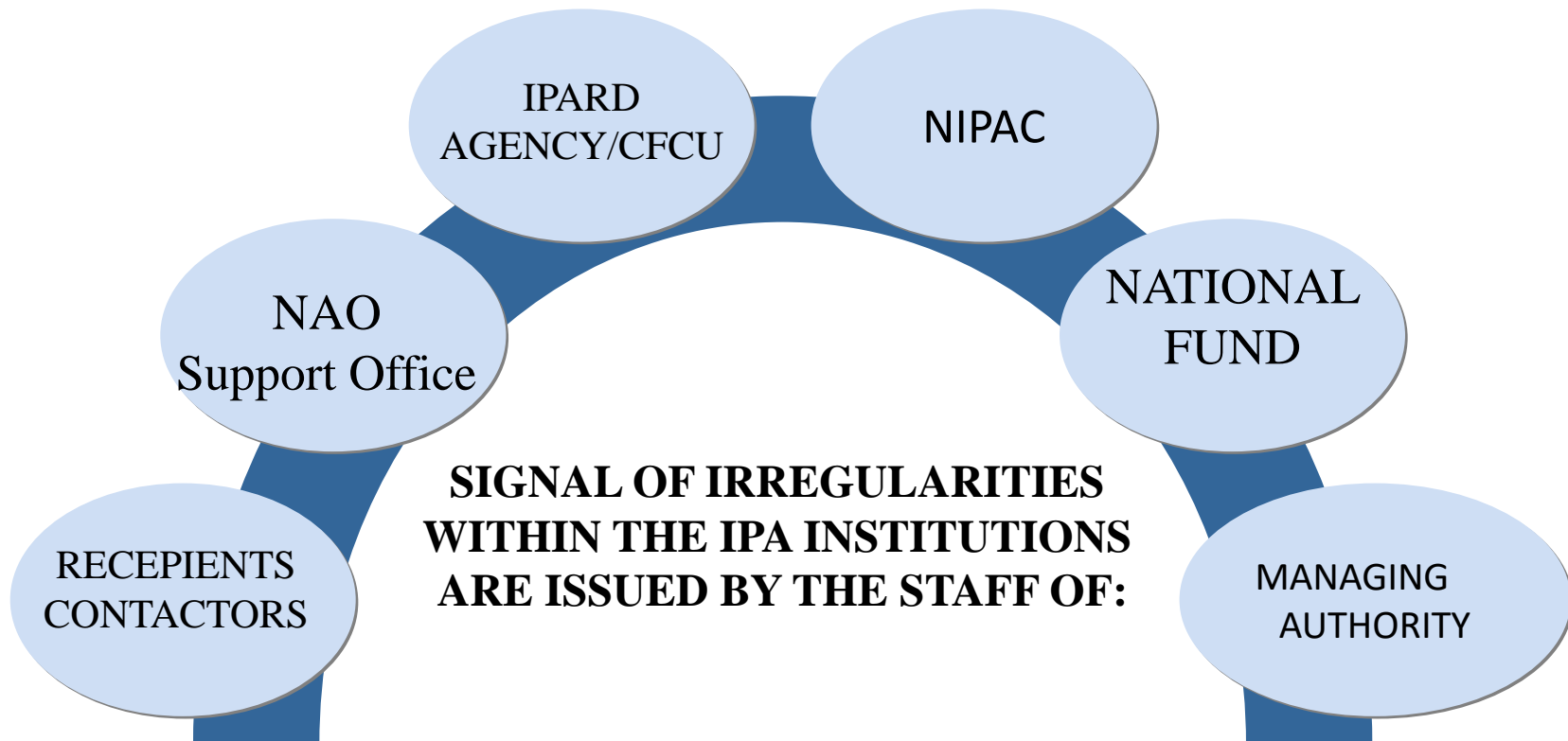


Irregularities DETECTION sources:



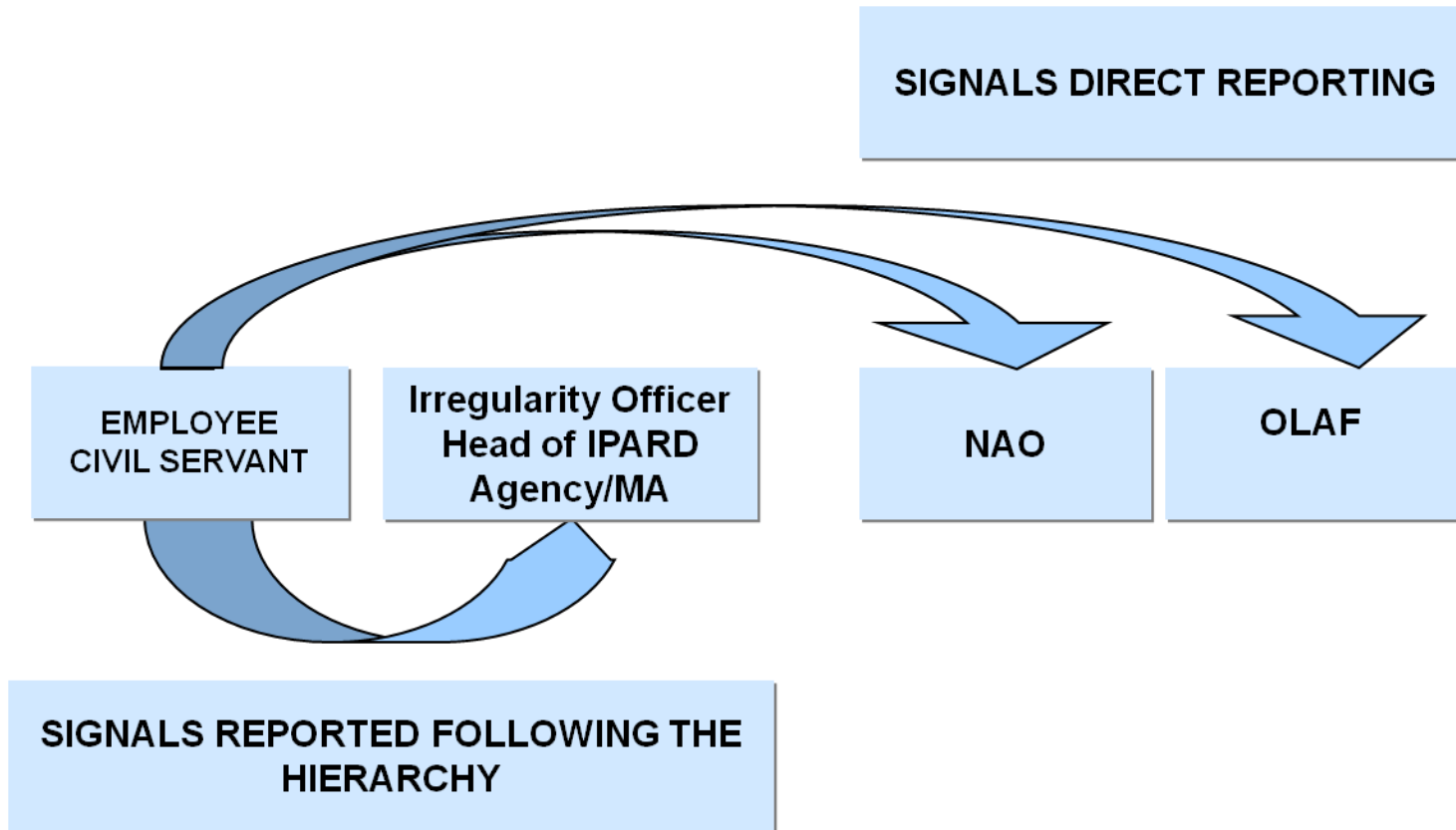
- Already established PACA - documents which already contain primary administrative or judicial finding of irregularity (as a result of the standard management verifications; Audit reports or Judiciary)
- Irregularity signals – information of discrepancy, inconsistency or infringement which may fall within the definition of irregularity or suspected fraud, which had not yet been subject to PACA

IRREGULARITETS AND FRAUD DETECTION



DETECTION OF IRREGULARITIES – RESPONSIBILITY OF ALL IPA PLAYERS

IRREGULARITETS AND FRAUD DETECTION



IRREGULARITETS AND FRAUD DETECTION

Whistle blowing is a mechanism set up to allow for receiving signals on irregularities and/or suspected fraud by any party – contractor, bidder, beneficiaries, general public, etc., as well as anonymously by the staff of the administration

FWA (Annex B (2) (c)):

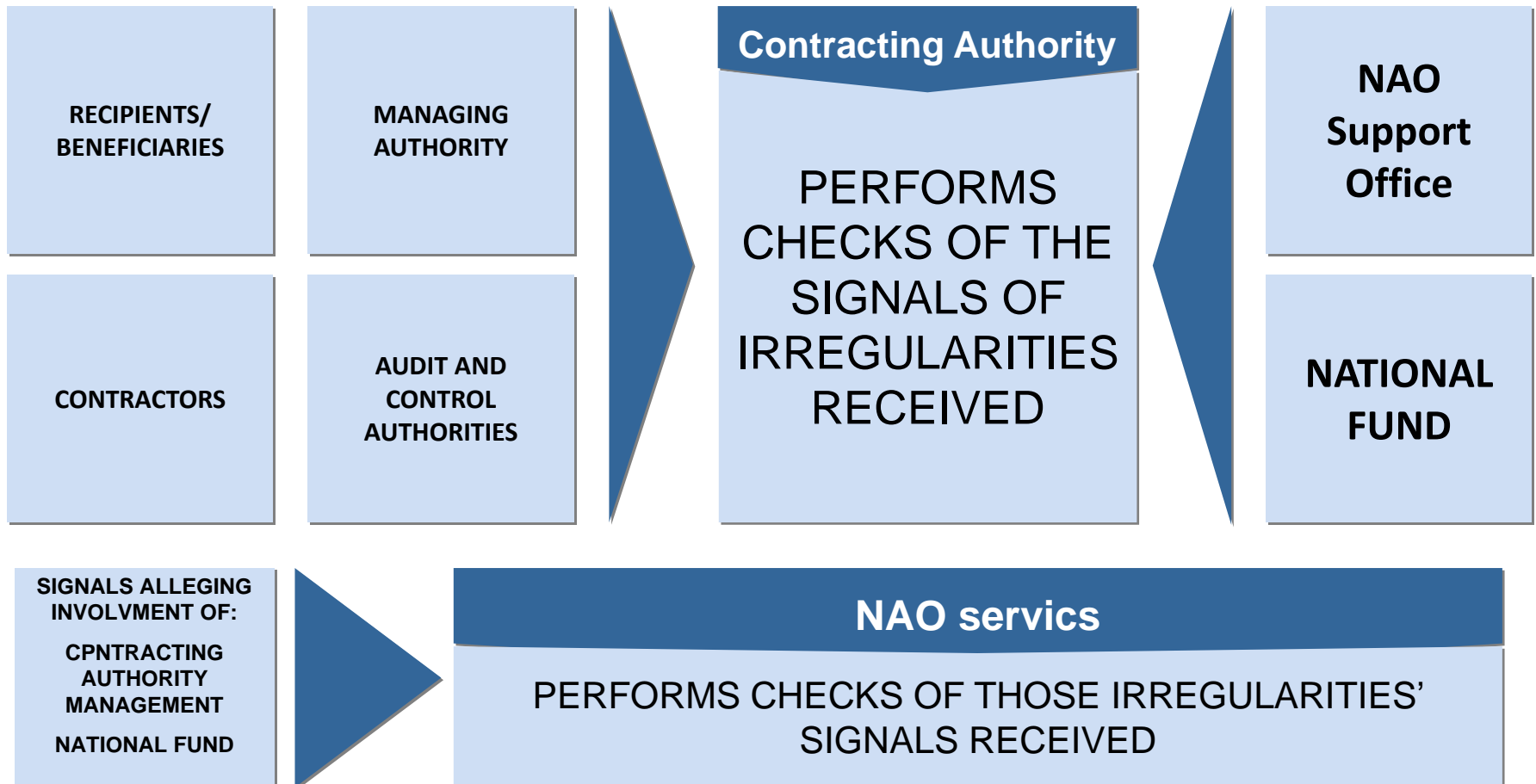
- ... ensuring that irregularities noted lower down in the organization are reported appropriately and followed-up, including protection for "whistle-blowers"

By means of:

- Internet-based notice-board
- Email address
- Fax or phone number



IRREGULARITETS AND FRAUD CONTROL



IRREGULARITETS AND FRAUD RECORDING

PURPOSE – to provide an adequate Audit Trail

PRINCIPLES

- Irregularity File
- Irregularity Register
- Irregularities Identification
- Debtors Ledger

Recording in the Accounting System

- IPARD Agency/CFCU
- National Fund

IRREGULARITIES AND FRAUD REPORTING



Article 16 of Regulation 447 of 2014:

“Reporting on suspected fraud and other irregularities The IPA II beneficiary shall report suspected fraud and other irregularities which have been the subject of a primary administrative or judicial finding, **without delay**, to the Commission and keep the latter informed of the progress of administrative and legal proceedings. Reporting shall be done by electronic means using the module provided by the Commission for this purpose.”

INITIAL COMMUNICATION

IMMEDIATE REPORTING:

Irregularities discovered or supposed to have occurred, where it is feared that they may very quickly have repercussions abroad

IRREGULARITY COMMUNICATION REPORT FOLLOW-UP

- Information which was not available in the initial reporting or needs to be modified
- 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
- If no new facts concerning an irregularity have occurred, there is no need to send an update!!!

INFORMING THE JUDICIARY

IRREGULARITETS AND FRAUD

CORRECTIVE ACTIONS / PREVENTION

Financial – suspending/interrupting payments to and/or recovering/offsetting funds from the contractor/grant beneficiary, establishment of debt - entering amounts in the debtors' ledger

Contractual – e.g. cancelation of contract, activation of guaranties, etc.

Disciplinary – administrative sanctions for the staff, which in the context of the irregularity has breached professional conduct rules, etc.

Related to suspected fraud – for those cases, the corrective actions include providing information to prosecutor office for further investigation of suspected fraud and Penal proceedings.

- **Written procedures (regularly improved)**
- **Separation of functions and responsibilities**
- **Controls, Job Description**
- **Simplified Costs**
- **Registration and filing documents**
- **Audit trail for all operations**
- **Training**
- **Sharing experience with other countries**

IPA II

Case Studies of Irregularities identified by the EC auditors

GROUP SESSION – Case studies

1. Duration: Up to 30 minutes
2. Please make **WORKING GROUPS**
You will receive print-out and task
3. Gather together and solve the task Time
for discussion: 15 minutes.
4. One (or more) representatives of each
group will present the outcome. Time for
presentation of the answers – overall - up
to 15 minutes

Country experience: Irregularities encountered in EU funds -lessons learned

Aleksandar Hinov & Larisa Vukoja

IRREGULARITETS AND FRAUD

IRREGULARITIES ENCOUNTERED IN THE EU FUNDED PROJECTS

Irregularities encountered in the EU funded projects:

- Infringement of the rules of public procurement
- Conflict of interest
- Unallocated spending of funds
- Not respecting the deadlines
- Non-eligibility of expenditure/project activities
- Accounts and records
- Lack of documentation, incomplete documentation, falsified documents
- Too many project partners