

LE MODALITÀ DI AFFIDAMENTO DEGLI IMPIANTI SPORTIVI COMUNALI ALLA LUCE DEL NUOVO CODICE DEI CONTRATTI PUBBLICI

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ABSTRACT: The community sports facilities are real estate and unavailable public property. They are used for the benefit of local collectivities.

The paper singles out two types of community sports facility: the ones with an economic importance for investors and those publicly owned without economic relevance. The study reviews the application of the public procurement procedure to the facilities with economic and financial relevance for carrying potential profits for investors as well as to the public community sports centres management with no-profit scope. The EU law public, transparent procedure is anyway applicable in either cases.

However, for the economic sports facilities the procurement format is a service concession while for the no-profit facilities the format is service contract.

In line with the EU CoJ case law, for the no-profit facilities it may be legal to make a service concession directly to the external contractor. This case is exempted from the public procurement procedure, because the service content, objectives and organisation are conform to specific requirements proper of a public administration.

In other words, whenever a sports facility provides exclusively public interest services for the benefit of the local community exercising sports, this activity fulfils a social scope and as such it is in line with those EU principles and its management externalization can be made directly through a service concession, lawfully skipping the public procurement procedure.

Keywords: Sports facilities – Public contracts - Public contracts proceedings – Service contract – Service concession – Award of services – Competitive procedure.

Sommario: 1. La nozione e la natura degli impianti sportivi ai fini della corretta applicazione della procedura di affidamento – 2. L'affidamento degli impianti sportivi a rilevanza economica: la concessione di servizi – 3. L'affidamento degli impianti privi di rilevanza economica: l'appalto di servizi – 4. L'affidamento diretto della gestione degli impianti sportivi: principi di sussidiarietà orizzontale e di tutela della concorrenza a confronto

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