International Management Group (*IMG*)

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Decisions of the EU Tribunal on cases T-509/21 and T-381/15 opened by IMG against the EU Commission

IMG denounces a blatant case of bad governance of the present Commission leadership who totally reversed on the 8/6/21 the decision taken 10 years before by its predecessors and their senior officers, accusing them implicitly to have committed serious financial irregularities, breached the EU Treaty, the Financial Regulation and International Law. A summary of the file evolution since IMG creation is provided in annex.

CASE T-509/21

On 4/9/24 the EU Tribunal has rejected the demand presented by IMG to cancel the EU Commission decision of 8/6/21 by which it refused to recognise that IMG legal status satisfies the definition of the EU Financial Regulation of an International Organisation and denied to IMG any eligibility to the indirect management system of projects.

The Tribunal ruling does not affect the legal status of IMG under international public Law or the fact that several Sovereign States have recognised the legal status of international organisation of IMG.

Amazingly the EU Tribunal remains silent about the fact that, from 2010 to 2014 , the EU Commission recognised, without any restriction, the legal status of international organisation of IMG and that its services signed with IMG nine FA (Financial Agreements) for a total of 50 million euros once the committing officers departments, the Legal Service, the General Secretariat and the Budget department had given their agreement and after the College of Commissioner had approved each of those FA.

Indeed, this type of financial agreement is exclusively reserved to International Organisations, recognised by the EU Commission after its services have checked that the organisations concerned satisfy all the prerequisites required by the provisions of the Financial Regulation, through specific financial audits and legal assessments, and, in particular, that they satisfy entirely the definition of International Organisations given by Article 156 of the FR : **«international public-sector organisations set-up by international agreements ».**

IMG Establishment Act and Statute entirely satisfy this definition, reason why, mid-2010, the EU Commission recognised without, any restriction, the legal status of international organisation of IMG.

The silence of the EU Tribunal is even more intriguing as its ruling confirms that IMG Act of Establishment is a real International Agreement and that the EU Commission has committed a legal error when it denied it in its decision of 8/6/24.

In spite of all those elements, the Tribunal validates the Commission interpretation of International Law and of the EU F.R. when it acknowledges that the Commission can both recognise the legal status of international organisation of a given entity during several years and then can - suddenly and by its own decision - deny this same entity this quality, without any legal or other specific reason, by a true « act of the Prince ».

And that, in spite of the fact that IMG Act of Establishment has never been changed since its adoption and that not any decision of dissolution of IMG has ever been taken under the provisions of its legal Statute, IMG still possessing the same legal powers and characteristics for 30 years and **being recognised as an international organisation by several Sovereign States.**

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The Tribunal also accepts that the Commission applies its decision of 8/6/24 retroactively to the entire period including its two decisions of June 2015 and December 2014, in spite of the fact that those two decisions were cancelled by an EU Court of Justice ruling of January 2019.
IMG does not see any public interest justifying this retroactivity but underlines that it rather satisfies the private interests of the different entities which have been granted since December 2014 important part of the portfolio of specialised projects in crisis countries that the Commission formerly attributed to IMG.
B**y denying since its decision of June 21 the quality of international organisation to IMG, the present Commission leadership, de facto, implies that, both the College of Commissioners and the senior officials in function between 2010 and 2014, have violated the Treaty, the provisions of the EU Financial Regulation and the International Law.**
Indeed, the reason why their predecessors approved and signed 9 Financing Agreements with IMG, between 2010 and 2014, for a total amount of over 50 million euros, was that they fully recognised IMG as an international organisation.
Therefore, the present Commission accuses explicitly those Commissioners and senior officials to have committed- whether intentionally or by mistake- serious financial irregularities as, under the FR provisions, IMG had to be recognised as a full international organisation to benefit from those 9 contracts.
How can be interpreted such a betrayal of its predecessors and senior officials, and such a lack of good governance committed, shamelessly and cynically, by the present EU Commission leadership?

And did the EU Tribunal, by approving the decision taken on June 21 by the present Commission leadership, agree on those dire consequences?

On the contrary, IMG considers that the Commissioners and senior officials who approved and signed those 9 Financing Agreements with IMG between 2010 and 2014 never committed any mistake or violation of the EU regulations and of the RF.

And IMG believes that it is the present Commission leadership who took the decision of June 2021 denying the quality of International Organisation to IMG and who refused stubbornly to talk to our representatives and to envisage to start new contractual relations with IMG under any system foreseen by the Financial Regulation, who is mistaken and infringe International Law and the EU Financial Regulation.

IMG underlines that, if the former joint management system was exclusively reserved to international organisations, the indirect management system which replaced it in 2014 allows other categories of entities to be eligible.

This possibility had already been mentioned by a Legal Service advice of beginning 2015 as an alternative solution to continue to grant contracts to IMG, even if the Commission wanted to clear its new doubts about the status of international organisation of IMG.

IMG regrets that the present Commission leadership has refused to explore those possibilities or any other alternative.

Indeed, it could be possible that the present Commission leadership agrees -as its predecessors did during the whole period of 15 years between 1994 to 2010 where it signed dozens of contracts with IMG - to sign new contracts with IMG under the specific provisions of the FR applicable to urgency and crisis situations which perfectly apply to the competences, experience and specialisation developed by IMG since its creation 30 years ago.

Unfortunately, the present Commission leadership has constantly refused to talk with IMG about any of those alternative solutions in spite of the fact that our representatives tried repetitively to organise meetings with its services.

And when several EU Parliament representatives also urged the Commission to hear at least IMG representatives' requests, the present Commission leadership never moved.

Then, IMG is obliged to conclude that the present Commission leadership acts in bad faith when it applies such an inequality of treatment to IMG by:
- denying to IMG our quality of international organisation and forbidding us to access to the indirect management system,
-refusing to examine the possibility to start again contractual relations under the system of urgency and crisis situation which was used regularly and successfully by its services during 15 years to entrust projects to IMG,
- refusing to study any other alternative solution existing in the Financial Regulation, whether under the indirect management system, or any other system,
- refusing to meet IMG representatives and to hold a normal and regular dialogue with our organisation,
- still refusing to pay all the legal fees and interests due to IMG following the condemnation and annulment of Commission decision of June 2015 by the Court of Justice in its ruling of February 2019.

IMG also regrets that the Tribunal:
- following the request of the present Commission leadership, refused to take into consideration the advice of the Legal Service of beginning 2015 which underlined the legal flaws and bias of the OLAF report of end 2014 against IMG, and underlined the different existing possibilities available to the Commission to keep going its contractual relations with IMG.
- found that it could not take this Commission Legal Service advice in consideration because its content was at our advantage!
- did not retain, without real justification, this Legal Service advice as it is an important contribution to research the truth in this file and to appreciate the validity of both Commission decisions of June 2015 and June 2021, especially as this advice has, in any case, become a public document when it was leaked to the international press in 2015 with the OLAF report by Member of European Parliament Ingeborg Graessle.
IMG also regrets that the Tribunal discarded or did not take into account, without further justification, all the testimonies of numerous diplomats and officials - including EU Commission officials - who:
- attended in person the meetings where, end of 1994, the Establishment Act and, beginning of 2015, the legal Statute of IMG were approved and signed,
- confirmed that the Commission official representatives also attended those meetings and approved and signed those acts,
-confirmed that the Commission entirely financed the administrative IMG Budget in 1994 and 1995 and then partially financed it until year 2000.

CASE T-381/15 RENVII
As it has validated the present Commission leadership decision of June 2021 under its judgement on case T-509/21 as explained hereabove, the Tribunal has also rejected the demand of financial compensation presented by IMG for the prejudice incurred following this decision.

NEW ACTIONS IMG WILL START FOLLOWING THE BAD GOVERNANCE OF THE PRESENT COMMISSION LEADERSHIP AND THE TWO PREVIOUS DECISIONS OF THE EU TRIBUNAL

1) **Taking into account all the elements hereabove exposed, IMG will present an appeal against those two EU Tribunal judgements in front of the EU Court of Justice.**

At this stage, IMG wishes to underline that **all** the cases it started against the Commission and OLAF, since end of 2015, are justified by the different attacks and campaigns organised against our organisation by the former Deputy and then President of the Budgetary Control Commission of the European Parliament Mrs. Ingeborg Graessle.
Indeed Mrs. Greassle based her huge defamation and disparagement campaign against IMG on the conclusions of the nonsense report established by OLAF end of 2014 which she got illegally from the Commission and OLAF services and which she immediately leaked to her correspondents of the German and British press, in order to support her malevolent actions aiming at destroying our organisation for the benefit of private interests unknown to us.

Mrs. Graessle pursued her vicious attacks and campaigns without interruption, from 2014 to 2019, accusing IMG, without any justification or proof, to claim fraudulently to be an international organisation, to have not any legal existence, and to have committed huge financial irregularities and frauds with the complicity of several senior officials of the Commission.
Therefore, it is the OLAF report of end 2014 on IMG legal status - the production of which was surely instigated by Mrs. Graessle herself through her own influential networks in Commission and OLAF services - which is the real basis of all our problems, as it:
- greatly harmed our reputation and image,
- led the Commission to stop any new contractual relation with our organisation,
- frightened the entire international donor community,
- and froze our relations with several of our own Member States, deeply worried by the potential repercussions that could have on their managing reputation, the possibility that OLAF claims on IMG financial irregularities and frauds might be true, especially in consideration of the important contracts that they had entrusted to us during the previous 20 years.

Even if we have been totally cleared of any kind of suspicion of financial fraud or irregularity, all those baseless rumors, originating from the OLAF report and amplified by its press leak, continue to harm us. Besides that, it is clear that the organisations which replaced us to manage part of the growing portfolio of development and cooperation projects realised in crisis or conflict countries, have no interest to see Commission services start new contractual relations with IMG.

2) IMG has brought a case against the OLAF enquiry and final report conclusions of end 2014 which is now pendent in front of the EU Court of Justice.

3) IMG will very soon introduce a penal claim in Belgium against the OLAF investigators which produced the report end of 2014 and their hierarchy who ordered, approved and signed it (OLAF Director General and Enquiries Director in charge at the time), for the following motives:
- Serious legal errors,
- Manipulation of proofs,
- Biased interpretation of testimonies,
- Voluntary omission of testimonies and proofs favorable to IMG,
- Illegal leak of the report outside of the Commission implying OLAF at the origin,
- obvious bias of OLAF investigators against IMG during the whole enquiry in breach of deontological principles and of OLAF Regulation,
- obvious bias of OLAF hierarchy against IMG in breach of deontological principles and of OLAF regulation, before, when opening the investigation, during, and after the investigation and during the exploitation of the report,
- huge financial prejudices and heavy damages inflicted to IMG image and reputation both towards the international community of donors and the usual partners of IMG, following the totally unfounded and proofless accusations of financial frauds and money laundering advanced by the investigators in the report, agreed by their hierarchy and aggravated by the organised leak of the report in the press,
- immediate notification - on purpose- to the Belgian and French legal authorities of the report as soon as it was achieved , without waiting for the opinion of the Legal Service and of the Commission , with the clear purpose to block any possibility of signature of any new contract between Commission services and IMG as long as those national legal authorities would have not taken position on the OLAF recommendations, knowing that it would, as an average , take 3 years before they take their decision to start or not a case against IMG ,
- hiding on purpose to IMG, during several years, the fact that these two Member States legal authorities notified by OLAF had decided not to pursue IMG,
-and last but not least, **having provoked - cynically and irresponsibly - the loss of the jobs and means of existence of hundreds of employes of IMG and of their families when their baseless accusations of frauds and irregularities, enounced without any proof or precaution in their report, was publicly leaked on purpose.**

Indeed, IMG portfolio of new projects diminished drastically after this leak and obliged IMG Direction to terminate hundreds of employment contracts.

Summary of the file evolution since IMG creation end of 1994, 30 years ago.

IMG is a European not–for-profit public international law body created under an International Agreement, whose Establishment Act was agreed in 1994 by several EU Member States and other Sovereign States as well as by the European Commission and the UNHCR, to entrust our organisation with the specific mission to organise the reconstruction of Bosnia-Herzegovina under a temporary mandate supposed to end when the national authorities of BH would be ready to substitute to IMG. However, during the following 20 years, IMG Member States seating in IMG Governing Board, have successively extended its duration, its mission and broadened its mandate to manage both big infrastructure projects and rule of law missions - first ,in the different countries of the Ex-Yugoslavia and then in the entire world - in order to exploit and fully benefit of the vast and rich experience progressively acquired by IMG when coordinating and implementing projects in Balkan countries deeply affected by numerous conflicts, crisis and urgencies.

Since 1994 and after more than 30 years of existence**,** IMG has therefore implemented more than 500 projects for a total amount of 700 million on behalf of its Member States and of the European Commission in more than 20 countries worldwide, most of those contracts being directly granted to IMG in situations of crisis, of war or urgency for which specific provisions of the EU Financial Regulation apply. IMG has thus, following those successive extensions, be transformed from a temporary entity to a permanent organisation, which was, in any case, endowed, since its creation, with international legal personality, a dedicated secretariat general and staff and specific international privileges.

IMG has its Operational Head Office in Belgrade, its Administrative Head Office in Sarajevo, and a Permanent Representative Office in Brussels and is **recognised as an international organisation** by several sovereign states, notably: Austria, Belgium, Bosnia-Herzegovina, North-Macedonia, Myanmar, Serbia. Moreover, it is important to notice that **during the 5 years from mid-2010 to beginning 2014, the European Commission itself fully recognised – after having conducted the compulsory audit verifications and legal assessments required by the provisions of the EU Financial Regulation – the legal status of IMG as an International Organisation** and signed 9 Financing Agreements with IMG to manage projects for a total amount of more than 50 millions in Haiti, Palestine, Libya and Myanmar under the joint management system exclusively reserved to international organisations (joint management has now been replaced by a broader system- the indirect management system- eligible to International Organisations but also to other public law bodies and specific categories of actors). However, since June 2015 to this day, following an absurd report of OLAF published end 2014 which denied any legal existence to IMG, claimed that the EU Commission should recuperate 134million euros of contracts granted to IMG since 1994 and asked the French and Belgian Authorities to start legal procedures against IMG Direction for financial frauds and money laundering, the EU Commission-even if it immediately discarded all the accusations of fraud sustained by OLAF – has totally suspended all new contractual relations with IMG whether under the indirect management system, under the urgency and crisis provisions of the FR, or under any other system. As what concerns the French and Belgian legal authorities, they never gave any follow-up to the OLAF report, probably in relation with its aberrant and unproved content. Finally, in a decision taken on the 08/06/2021, the present EU Commission leadership definitively denied IMG its legal statute of international organisation under the EU Financial Regulation provisions and decided to apply retroactively this decision up to December 2014.

And since 2015, **Commission services have systematically refused to talk with IMG representatives about the possibility to start again contractual relations** on whatever FR basis and never answered to several requests presented by EU Parliament members to do so.

In fact, **Commission services always refused to explain-in spite of several written or oral EU Parliament questions – why they applied such a specific ostracism and discrimination to IMG** as it had been cleared by the Commission itself of any irregularity or financial fraud and as its high specialisation and experience to work in difficult crisis countries, highly praised and used by Commission services during 20 years, remains the same. Confronted by such an unjustifiable ostracism, on the basis of International Law and of EU Financial Regulation provisions, IMG has started several cases in front of the EU Tribunal and of the EU Court of Justice against (i) this unjustified exclusion and discrimination of IMG pursued with acrimony and without any reason by the present Commission leadership and (ii) the shameful, biased and legally flawed OLAF report of end 2014 which motivates this inequality of treatment and partly explains this attitude.