

## КОММЕНТАРИЙ | COMMENTARY

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### Commentary on the EU General Court's case T-797/22 of 2 October 2024 concerning the annulment of restrictive measures prohibiting the provision of legal advisory services to the Government of Russia and Russian-based entities (*Ordre néerlandais des avocats du barreau de Bruxelles and Others v Council of the European Union*)

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#### Abstract

This commentary examines the key aspects and practical implications of the EU General Court's decision in Case T-797/22. It concerns the legality of EU restrictive measures prohibiting the provision of legal advisory services to the Russian Government and Russian-based entities. Although these measures are broad in scope, they include exceptions allowing legal services essential for exercising the right of defence in judicial and administrative proceedings. The prohibition primarily applies to non-contentious legal advice, such as business transactions and contract negotiations. The Court addressed the tension between the priorities of foreign policy (hereinafter — CFSP) and the protection of human rights under the Charter of Fundamental Rights (hereinafter — CFR). The Court sought to reconcile these competing interests by clarifying the scope of the measures, particularly distinguishing between legal advice on contentious and non-contentious matters. The applicants argued, among other points, that the restrictions infringed upon the right to seek legal advice, the independence of legal professionals, and the rule of law. However, the Court dismissed these claims, holding that EU law does not recognise a fundamental right to receive legal advice outside the context of imminent or ongoing litigation. Furthermore, it ruled that the “authorisation provisions” do not undermine professional secrecy or lawyers' independence, as they do not compel disclosure of privileged information to national oversight authorities. While acknowledging that such restrictions could impose certain limitations on protected rights, the Court found them consistent with Article 52(1) CFR, which permits limitations provided they are proportionate and necessary to achieve legitimate objectives. The Court's reasoning relied heavily on established case law from both the Court of Justice of the European Union (hereinafter — CJEU) and the European Court of Human Rights (hereinafter — ECtHR), underscoring that fair trial guarantees are the primary source of lawyers' autonomy. The decision could pose challenges for consulting firms and clients, including potential

overcompliance risks and difficulties in applying the Court's distinction between contentious and non-contentious matters, particularly regarding preliminary assessments of litigation probability. To address these issues, the Council may introduce additional amendments or guidelines to mitigate unintended adverse effects on the legal services market. While an appeal is pending before the Court of Justice, an outcome favourable for the applicants appears unlikely.

**Key words:** EU sanctions, legal services ban, human rights, fair trial guarantees, independence of lawyers, rule of law, proportionality, legal certainty

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## Комментарий к решению Европейского суда общей юрисдикции № T-797/22 от 2 октября 2024 года об оспаривании санкционных мер, запрещающих оказание юридических консультационных услуг Правительству России и зарегистрированным в России организациям (*Ordre néerlandais des avocats du barreau de Bruxelles and Others v Council of the European Union*)

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### Аннотация

В комментарии проанализированы ключевые аспекты и практические последствия решения Суда общей юрисдикции ЕС по делу № T-797/22. Данное дело касается законности ограничительных (санкционных) мер Европейского союза (далее — ЕС), запрещающих предоставление юридических консультационных услуг Правительству России и российским организациям. Несмотря на широкий охват этих мер, исключения из них позволяют оказывать юридические услуги, необходимые для осуществления права на защиту в судебных и административных разбирательствах. Данные меры запрещают оказание консультаций, которые не сопряжены с юридическими спорами (например, помощь в заключении коммерческого контракта). Суд рассмотрел противоречия между приоритетами внешней политики (далее — CFSP) и

защитой прав человека в соответствии с Хартией основных прав ЕС (далее — CFR). Суд предпринял попытку согласовать данные интересы, разъяснив содержание ограничительных мер. В частности, были выделены критерии разграничения консультаций, связанных и не связанных с судебными или административными разбирательствами. Заявители утверждали, среди прочего, что ограничения нарушают право на получение юридической помощи, независимость юристов и верховенство права. Однако Суд не считал данную позицию убедительной, отметив, что право ЕС не признает основного права на получение юридических консультаций вне контекста неизбежного или текущего судебного разбирательства. Кроме того, он постановил, что «разрешительные положения» не подрывают профессиональную тайну или независимость юристов, поскольку они не требуют раскрытия конфиденциальной информации национальным надзорным органам. Признавая, что такие ограничения могут налагать определенные ограничения на охраняемые законом права, Суд считал их соответствующими статье 52(1) CFR, которая допускает ограничения при условии их пропорциональности и необходимости для достижения законных целей. Эта позиция во многом основывалась на устоявшейся судебной практике как Суда ЕС, так и Европейского Суда по правам человека. Суд подчеркнул, что именно гарантии справедливого судебного разбирательства являются основным источником независимости юристов. Вынесенное решение может создать трудности для консалтинговых фирм и клиентов, включая риски чрезмерного соблюдения требований (англ.: *overcompliance*) и проблемы в проведении демаркационной линии между «спорными» и «неспорными» вопросами, особенно в отношении предварительной оценки вероятности судебного разбирательства. Для решения этих проблем Совет ЕС мог бы внести дополнительные поправки в Регламент или разработать руководящие принципы для смягчения непредвиденных негативных последствий для рынка юридических услуг. Хотя апелляция все еще рассматривается в Европейском суде, благоприятный исход для заявителей представляется маловероятным.

**Ключевые слова:** санкции ЕС, запрет на оказание юридических услуг, права человека, гарантии справедливого судебного разбирательства, независимость юристов, верховенство права, принцип пропорциональности, принцип правовой определенности

**Для цитирования:** Жилкин А. С. Комментарий к решению Европейского суда общей юрисдикции № T-797/22 от 2 октября 2024 года об оспаривании санкционных мер, запрещающих оказание юридических консультационных услуг Правительству России и зарегистрированным в России организациям (*Ordre néerlandais des avocats du barreau de Bruxelles and Others v Council of the European Union*). Журнал ВШЭ по международному праву / HSE University Journal of International Law. 2025. Том 3. № 1. С. 115–127.

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## Introduction

On 2 October 2024, the Grand Chamber of the EU General Court (hereinafter — the Court) rendered its judgment in Case T-797/22.<sup>1</sup> The Court ruled on an

<sup>1</sup> *Ordre néerlandais des avocats du barreau de Bruxelles and Others v Council of the European Union* [2024] Case T-797/22, ECLI:EU:T:2024:670.

action brought by the *Ordre néerlandais des avocats du barreau de Bruxelles* (Dutch Bar Association of Brussels) against the Council of the European Union. The case concerned the restrictive measures imposed by the European Union (hereinafter — EU) against Russia based on allegations of destabilising the situation in Ukraine. The heart of the dispute was the legality of restrictive measures prohibiting the provision of legal advisory services to the Russian Government and entities established in Russia. The applicants requested the Court to annul the amendments to Regulation No 833/2014, which introduced and subsequently modified these restrictions. According to the applicants, the restrictions at issue violated, *inter alia*, the right to seek legal advice from a lawyer, the independence of legal professionals, and the rule of law as protected by the EU Treaties, as the Treaty on the European Union (hereinafter — TEU), the Treaty on the Functioning of the European Union (hereinafter — TFEU) and the CFR.

This decision illustrates an intricate tension between two key domains of EU affairs: (i) restrictive measures adopted under the CFSP, and (ii) protection of human rights. While restrictive measures aim to correct the deviant behaviour of non-compliant states, their design must respect procedural guarantees and not jeopardise the core values of the EU. In its judgment, the Court sought to strike a balance between these two priorities by clarifying the scope of the EU's restrictive measures on legal advisory services. For instance, the Court drew a demarcation line between legal consulting on contentious and non-contentious matters, as this distinction is vital for determining the applicability of the restrictions. While the Court upheld the basic distinction set out in the Regulation, it left practical implementation questions unresolved. The Court also addressed whether a limitation on such services is consistent with the general principles of EU law, including proportionality and respect for fundamental rights.

The commentary first covers the factual background of the case, tracing the adoption of relevant restrictive measures. It then examines the Court's reasoning and interpretation in connection with admissibility and the applicants' pleas in law. This is followed by an analysis of practical concerns, such as the risk of overcompliance among EU law firms and legal professionals. Subsequently, this commentary assesses the potential outcome of the pending appeal before the Court of Justice. Finally, it concludes with several normative proposals relevant to restrictions on the matter.

## 1. Factual background

The European Union introduced several restrictive measures in 2014 in response to Russia's alleged actions in eastern Ukraine and Crimea. In particular, the Council adopted Decision 2014/512/CFSP on 31 July 2014 aiming to set restrictions on defence, dual-use goods, and sensitive technologies.<sup>2</sup> Regulation No 833/2014 was accordingly adopted to give legal effect to these restrictive measures within the EU legal system.<sup>3</sup>

Following the dramatic escalation of the situation in Ukraine in 2022, the Council introduced new restrictive measures. On 6 October 2022, it amended Decision 2014/512/CFSP and the corresponding Regulation No 833/2014 by implementing additional restrictions. The 2022 restrictive measures marked a paradigm shift in the CFSP as they targeted previously unaffected sectors, such as energy and financial services. This step was taken despite the high level of interdependency of the respective European and Russian sectors (Szép & Chawla, 2023, p. 198).

One of these new restrictions prohibits the direct or indirect provision of legal advisory services to the Government of Russia and Russian-based entities. Recital 19 of the amending Regulation 2022/1904 defines restricted legal advisory services as advice provided on non-contentious matters, including commercial transactions and drafting of the legal documents. Importantly, such services do not include representation in judicial, administrative, arbitral, or mediation proceedings.<sup>4</sup>

Additionally, the amending Regulation 2022/1904 introduced several derogations from the prohibition in question. These include services strictly needed for the termination of previous contracts, legal aid for Russian entities owned or controlled by EU/EEA legal persons, and services deemed necessary to prevent public health emergencies. Moreover, competent national authorities may authorise services if they serve humanitarian purposes, support Russian civil society, or are necessary for the functioning of diplomatic missions in Russia. Other exceptions include critical energy supply arrangements and electronic communication services.

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<sup>2</sup> Decision 2014/512/CFSP of the Council of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (2014). *Official Journal of the European Union* L 229. URL: <http://data.europa.eu/eli/dec/2014/512/oj>.

<sup>3</sup> Regulation (EU) No 833/2014 of the Council of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (2014). *Official Journal of the European Union* L 229. URL: <http://data.europa.eu/eli/reg/2014/833/oj>.

<sup>4</sup> Regulation (EU) 2022/1904 of the Council of 6 October 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (2022). *Official Journal of the European Union* L 259. URL: <http://data.europa.eu/eli/reg/2022/1904/oj>.

On 25 February 2023, the Council again amended Decision 2014/512/CFSP and Regulation No 833/2014. The amending Regulation 2023/427 created a new derogation from the restrictions at issue: competent national authorities may authorise the provision of legal services strictly needed for the divestment or closure of a business in Russia until 31 December 2023.<sup>5</sup>

## 2. Admissibility

Under EU procedural law, the General Court is entitled to dismiss an action on substantive grounds without first having to rule on questions of admissibility if doing so is in the interest of procedural economy.<sup>6</sup> In other words, if the Court concludes that the action clearly lacks merit, it may save time and resources by moving directly to the substance, rather than carrying out a separate analysis of whether the applicants have standing or whether the application meets the formal procedural rules.

In Case T-797/22, the Court expressly cited its power, derived from the case law (in particular, *Council v Boehringer*, C-23/00 P), to opt for this approach. Although the Council and some interveners had raised specific objections to admissibility (for instance, whether certain provisions were even open to challenge), the Court found it more efficient to examine and ultimately dismiss the case on the merits. Since the action was, “in any event”<sup>7</sup> unfounded, there was no practical need to render a separate detailed ruling on admissibility.

## 3. Merits

### 3.1. A right of access to legal advice from a lawyer

The first part of the first applicants' plea in law stipulates that the restrictions infringe Articles 47 (effective remedy and fair trial) and 7 (confidentiality of communications) of the CFR. In their view, these two Articles create a legal foundation for the fundamental right to receive professional consultation from a lawyer. According to them, this right is available to everyone in both contentious and non-contentious matters. The applicants argued that the Council's artificial distinction between legal assistance for contentious and non-contentious matters does not reflect the practical realities of professional consulting. For instance, it is impossible to identify whether a piece of advice is

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<sup>5</sup> Regulation (EU) 2023/427 of the Council of 25 February 2023 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (2023). *Official Journal of the European Union* L 59f. URL: <http://data.europa.eu/eli/reg/2023/427/oj>.

<sup>6</sup> *Ordre néerlandais des avocats du barreau de Bruxelles and Others v Council of the European Union* [2024] Case T-797/22, ECLI:EU:T:2024:670. Para 24.

<sup>7</sup> *Ibid.*

linked to future administrative or judicial proceedings before a consultation is provided to a client.

The Court rejected the first part of the first plea in law, as no fundamental right to receive legal advice from a lawyer exists under EU law outside the context of imminent or existing litigation or similar proceedings. A person must demonstrate a link to such proceedings before the right to receive legal aid is activated. This approach is derived from the Court of Justice's interpretation of Article 47 of the CFR (*Orde van Vlaamse Balies and Others v Vlaamse Regering*, C-694/20). The Court's reasoning is also based on the ECtHR doctrine, asserting that legal assistance rights under Article 6(1) of the European Convention of Human Rights (hereinafter — ECHR) arise when civil rights and obligations are affected, or criminal charges are ongoing.

With regard to Article 7 of the CFR, the Court underlines that while the confidentiality of the lawyer-client communication is protected, the Article does not itself establish a new standalone right to be advised by a lawyer in the absence of any judicial or administrative proceedings. Article 7, which protects the secrecy of correspondence, does not have the same scope as Article 47, which deals exclusively with the right to a fair trial. Thus, the need for professional consultation alone does not rise to the level of legally safeguarded representation in proceedings.

Moreover, the Court underlines that Articles 5n(5) and (6) of Regulation No 833/2014 explicitly preserve access to justice by textualising appropriate exceptions. As interpreted by the Court, the Regulation does not restrict giving legal advice that is intended only to assess “the legal situation with the aim of determining whether proceedings should be ruled out or whether proceedings are probable”.<sup>8</sup> Therefore, the prohibition on non-contentious legal advisory services does not interfere with any of the protected rights under Article 7 or 47 of the CFR.

The Court's approach to Articles 7 and 47 of the CFR is quite restrictive. It maintains that neither provision alone, nor the two combined, creates a stand-alone right to consult with a lawyer on purely non-contentious issues. This reasoning privileges a procedural notion of rights (the right to a fair trial) over a more substantive, preventive, or advisory notion of legal assistance. On the one hand, such an approach ensures that the fundamental fair-trial guarantees remain accessible where they are indeed most needed. On the other hand, there is a risk of undermining the broader role that lawyers can play in upholding the rule of law through preventive counselling, compliance advice, and settlement negotiations.

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<sup>8</sup> *Ordre néerlandais des avocats du barreau de Bruxelles and Others v Council of the European Union* [2024] Case T-797/22, ECLI:EU:T:2024:670. Para 56.

### 3.2. Interference with the professional secrecy of lawyers

The second part of the first plea outlines the applicants' view that the provisions requiring authorisation by the competent authorities jeopardise the professional secrecy of lawyers, as protected by Article 7 of the CFR and the corresponding Article 8 of the ECHR. They argue that such provisions may require law firms to disclose the existence of the lawyer-client relations and even the core elements of the provided consultation. According to their position, the "authorisation provisions" constitute an unjust intrusion into customary confidentiality, as they force legal professionals to justify their decisions and client relationships before public authorities.

The Court did not agree with the applicants' arguments in this regard due to the absence of a legal obligation, contained in the Regulation, to disclose any kind of information related to lawyer-client communication without the latter's consent. There are no provisions describing the type of information to be disclosed to the competent authorities. The Court also added that the Regulation does not impose a duty to seek authorisation exclusively on lawyers. In fact, a petition may be submitted by a Russian-based entity or by a third party. So, there is no inevitability of compromising the professional secrecy of lawyers.

The Court justified the legality of the "authorisation provisions" by citing the ECtHR's case *Sārgava v Estonia*. While Article 7 of the CFR and Article 8 of the ECHR guarantee the confidentiality of consultations, both regarding their existence and content, they "do not prohibit the imposition on lawyers of certain obligations likely to concern their relationships with their clients <...> in connection with efforts to combat certain practices".<sup>9</sup> Therefore, the Court did not find that the provisions constituted an interference with the right guaranteed by Article 7 of the CFR.

The Court added that even if the above-mentioned provisions could lead to limited disclosure about a client or a particular piece of advice, this would be in line with Article 52(1) of the CFR. This Article establishes three mandatory requirements for any restrictions on the exercise of the rights and freedoms recognised by the CFR to be considered lawful. The restrictions shall (i) be provided for by law, (ii) respect the essence of the fundamental right at issue, and (iii) be necessary and genuinely meet the objectives of general interest recognised by the EU, as subject to the principle of proportionality.

Firstly, since the Regulation clearly defines the boundaries of the limitation (if any), distinguishing between legal counselling on contentious and non-contentious matters and setting out specific exemptions, the Court

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<sup>9</sup> *Ordre néerlandais des avocats du barreau de Bruxelles and Others v Council of the European Union* [2024] Case T-797/22, ECLI:EU:T:2024:670. Para 72.



acknowledged that such a limitation met the requirement of being “provided for by law”.

Secondly, even if national authorities require factual information to grant authorisation, the Court found that lawyers remain free to preserve the core confidentiality of communications. As there is no general obligation to disclose the content of legal advice or truly privileged information, the “essence” of Article 7 of the CFR remains intact.

Thirdly, the Court ruled that the goals pursued by the Regulation (to safeguard Ukraine’s territorial integrity and independence) are based on a broader CFSP objective of maintaining peace and international security, as derived from Article 21 of the TEU. Within this context, the Court underlined, citing previous landmark cases on restrictive measures (*Gazprom Neft v Council*, T-735/14 and T-799/14; *RT France v Council*, T-125/22), that imposed restrictive measures, including the restrictions at issue, may also hamper economic operators that are not responsible for the crisis.

The Court’s approach towards the second part of the first plea in law is grounded in the jurisprudence of both the CJEU and the ECtHR, as some aspects of the lawyer-client communication may be moderately exposed in the name of high-priority foreign policy goals and objectives. Nevertheless, critics may note that the line between “no mandatory disclosure” and “necessary factual detail” under the Regulation remains blurred to some extent, leaving a measure of interpretative discretion to the Member States. The Court assumes that the national authorities will design authorisation mechanisms with a high regard for confidentiality. However, granting such a wide discretion to the Member States could compromise the uniformity of protection for the lawyer-client secrecy across the EU. This approach might be seen as too deferential, especially because the Regulation itself provides little guidance on how to shield confidential information in exemption applications.

### 3.3. Interference with the independence of lawyers

The applicants’ key complaint in the second plea in law raises the issue of interference by the “authorisation provisions” with the independence of lawyers. According to them, the independence of lawyers is strongly connected with the EU values, including the rule of law, as enshrined in Article 2 of the TEU. In their view, requiring lawyers to apply for authorisation from national oversight bodies prior to giving advice to Russian entities (or terminating “non-compliant” engagements) puts the former under the influence of the latter. The applicants referred to the provisions of the Code of Conduct for European Lawyers, which underline the importance of providing legal services without interference from third parties, including the national authorities. However, the obligation to obtain

authorisation gives oversight bodies the power to shape and decide which clients a lawyer may assist and in which matters.

The intrusion into lawyers' independence and the limitation of who and in what circumstances can receive legal aid prevent lawyers from assisting certain clients in fully understanding and protecting their rights. Such a situation compromises the broader role of lawyers in a democratic society, the applicants reiterated. Moreover, they argued that because the provision of legal consultations improves compliance with regulations and prevents infringements, contributing to the overall rule-of-law framework, such interference is unacceptable.

The Court rejected the applicants' complaint regarding the independence of lawyers based on several grounds. The first ground was the lack of impact on proceedings-related defence. The prohibition at issue does not cover activities related to lawyers' fundamental role in ensuring the right to an effective remedy under Article 47 of the CFR. Since the Regulation explicitly allows consultations on contentious matters, including pre- and post-litigation stages, the "authorisation provisions" do not jeopardise lawyers' autonomy in judicial and administrative proceedings.

The second point raised by the Court concerns the legal nature of the Code of Conduct for European Lawyers, to which the applicants refer. The Code contains a broader concept of lawyers' autonomy, extending it even to non-contentious matters. While the Court acknowledged the importance of ethical norms and their codification for professional societies, it also underlined that the Code was not a binding instrument of EU law. In practice, the Member States regulate the functioning of bar associations and specific rules on legal services in diverse ways. In this regard, the mere assertion that the prohibition conflicts with a "pan-European" standard of independence in non-contentious contexts cannot, in itself, establish a breach of EU law.

In its third point, the Court assumed that, even if the concept of lawyers' independence trespasses the boundaries of the litigation context, the limitations at issue remain narrow, proportionate, and serve a legitimate CFSP objective (to increase economic pressure on Russia). Under the Regulation, law firms remain free to consult sanctioned entities while meeting the established exemptions, or if the services are related to imminent or ongoing proceedings, the Court underlined. Similar to lawyers' secrecy, their independence is not absolute under EU law and may be subject to proportionate limitations fostering recognised policy goals.

Finally, the Court found that while the exemption provisions permit the competent authorities to lift the prohibition at issue regarding certain legal advisory services, the provisions do not allow them to "influence the actual

content of any advice that might be provided by the lawyer to the Russian Government or to a given entity established in Russia".<sup>10</sup> In this regard, any hypothetical interference does not amount to the kind of disproportionate and intolerable infringement on lawyers' autonomy that would violate EU law. The Court concluded that, as legal professionals remain able to conduct litigation-related (contentious) representation without disclosing confidential information and seeking prior approval, the essence of their independence remains intact.

Analogously to the complaint on the secrecy of lawyers, the Court bases its position on the *AM&S Europe v Commission* (155/79) and *Orde van Vlaamse Balies* (C-694/20) cases, which support the notion that lawyers' autonomy is derived from fair-trial guarantees. These pieces of the CJEU's jurisprudence emphasise that under EU law, a client shall have access to judicial remedies within a litigation context, including receiving a consultation from a lawyer who acts independently and without external pressure.

The consequences of the decision on the rule-of-law framework remain double-edged. On the one hand, it weakens lawyers' role in preventing breaches of law and avoiding disputes in the early stages. On the other hand, Russian entities may use the provided legal assistance to escape restrictive measures (e.g., through third parties in 'neutral' jurisdictions), eroding the overall CFSP objective.

Overall, the Court sets a narrow interpretation of EU primary law protecting lawyers' autonomy by linking it mainly to the right to a fair trial. While being compatible with prior CFSP-related jurisprudence, the Court leaves the door open for further discourse on the scope of lawyers' independence under EU law.

## 4. Wider consequences and outlook

### 4.1. Practical concerns

Large multinational consulting firms that provide legal assistance to Russian-based companies may face significant operational dilemmas as a result of the Court's decision. On the one hand, they must avoid providing legal services related to non-continuous matters, such as drafting contracts and tax optimisation, to Russian clients. On the other hand, they are free to offer their support in dispute-related issues (e.g., litigation and arbitration).

Despite the Court's permission to conduct a preliminary consultation assessing the probability of litigation, it is practically impossible for lawyers to guarantee that there will be no related dispute in the foreseeable future. It is

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<sup>10</sup> *Ordre néerlandais des avocats du barreau de Bruxelles and Others v Council of the European Union* [2024] Case T-797/22, ECLI:EU:T:2024:670. Para 134.

not clear from the judgment what degree of probability must be met to permit further advisory services to be provided. The Court creates a grey area that is not explicitly addressed in the original Regulation. This lack of a threshold may create a loophole in the restrictive measures' regime, as almost all commercial transactions may lead to a dispute at some point. Moreover, prohibited services may be masked as preliminary assessment consultations.

The opposite consequence of the issue described above is the risk of overcompliance. A law firm may decline to provide legitimate services because of the lack of clear regulatory boundaries between contentious and non-contentious matters. Another reason could be the fear of reputational and financial penalties (Verdier, 2023, pp. 486–488). Overcompliance may result in sanctioned entities failing to prevent potential disputes with their counterparts by negotiations or to ensure compliance with applicable restrictive measures.

#### 4.2. The prospects of the appeal before the Court of Justice

The applicants submitted an appeal, which is pending before the European Court of Justice (hereinafter — ECJ) as of the first quarter of 2025. Based on the previous CFSP-related jurisprudence of the ECJ, the result of the appeal is unlikely to be in favour of the applicants. Considering the *Rosneft* (C-72/15) and *Melli Bank v Council* (C-380/09 P) cases, the ECJ provides the Council with wide discretion in policy areas requiring complex political and economic assessments. The Court may recognise limitations at issue that are contradictory to primary EU law if applicants are able to prove that they are “manifestly inappropriate” (Lonardo, 2023, pp. 56–57). Considering the existing exemptions and the General Court's interpretation, such an argument seems unlikely to be accepted by the ECJ.

Furthermore, the General Court's reasoning on Articles 7 and 47 of the CFR seems to be in line with preceding cases such as *Orde van Vlaamse Balies* (C-694/20). The ECJ is likely to be reluctant to expand the rights derived from these Articles beyond the context of a fair trial and other related proceedings. While the applicant may raise some valid practical concerns, as discussed above, the ECJ is unlikely to override the General Court's judgment due to the latter's compliance with existing ECJ and ECtHR jurisprudence.

#### 4.3. Further clarification of the prohibition by the Council

The Council may issue additional amendments or guidelines on restricted legal services for better enforcement of restrictive measures. These measures may further clarify the boundary between contentious and non-contentious matters, set a required threshold for estimating potential litigation, as well as provide the Member States with additional and unified instructions on the authorisation

procedure. Such adjustments could reduce the legal uncertainty fuelling overcompliance and give a more uniform framework for multinational consulting firms operating across various jurisdictions. Any enhancements will likely seek to preserve the EU's ability to effectively sanction Russia while mitigating unintended adverse effects on the market of legal services, balancing between pursuing foreign and security policy objectives with the ongoing imperative to maintain fundamental rights, the uniform functioning of the single market, and the principle of the rule of law.

## Conclusion

The Court dismissed the action brought by the applicants on all pleas in law and upheld the legality of the restrictive measures prohibiting the provision of certain legal services. In particular, the Court ruled that the restrictions on the provision of such services in non-contentious matters were in conformity with primary EU law and proportionate to the CFSP objectives.

This decision highlights the EU's strong stance on restrictive measures against Russia in the context of the situation in Ukraine, including limiting the provision of legal consultations. The Court struck a balance in its judgment between foreign policy considerations and respect for fundamental rights, formally preserving trial-related rights while creating potential practical implementation challenges that may generate uncertainty for legal practitioners in advisory consultation scenarios.

The Court provides legal practitioners with new answers regarding services that are allowed under the scope of the Regulation, such as a preliminary consultation with a single purpose to assess the probability of a dispute. Yet, there is still space for further clarification from the legislators' side concerning, *inter alia*, the rules on obtaining authorisation from competent national authorities.

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