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Advocate General's Opinion in Case C-802/24 | Reibel

Advocate General Biondi: the prohibition on satisfying any claim of a Russian entity in respect of a contract the performance of which has been affected by restrictive measures does form part of the public policy of the Union

A national court is obliged to ensure – of its own motion, if necessary – that an arbitration award is in line with that prohibition and, where appropriate, to set it aside

In 2015, a Belgian company concluded a contract with a Russian company for the sale and supply of goods, for which the Russian buyer paid an advance. The Belgian authorities then refused to grant an export licence because of the restrictive measures¹ imposed by the European Union on Russia. As a result, the goods were never supplied, and the advance payment made by the Russian company was not refunded.

After the contract was terminated, the Russian company referred the dispute to an arbitration tribunal in Sweden. In 2021, the tribunal ordered the Belgian company to repay the advance payment received, together with interest.²

After the Belgian company brought an action before a Swedish Court in which it asked that the arbitration award be set aside, that court referred the matter to the Court of Justice. It notes that the regulation on restrictive measures against Russia³ prohibits, among other things, the satisfaction of any claim⁴ by a Russian person, entity or body relating to a contract the performance of which has been affected by those measures. It wishes to know whether that prohibition had the effect of ruling out the use of arbitration and whether an award satisfying such a claim was contrary to public policy in the European Union, which would cause it to be set aside.

In his Opinion, Advocate General Andrea Biondi takes the view that **there is no prohibition on submitting to arbitration claims that may not be satisfied within the meaning of the regulation in question**. Although claims of that type may be made or brought before an arbitration tribunal, a favourable response must not be given to them.

As the arbitration tribunal is bound by EU law, it is also required to comply with it and apply it correctly. With regard to restrictive measures, **it must be especially attentive to any attempt to circumvent the prohibitions they impose**. In that context, the Advocate General emphasises the preservation of the characteristics of EU law and the requirement that the arbitration award must always be subject to effective judicial review.

According to the Advocate General, the provisions of the regulation on restrictive measures against Russia are essential to the European Union's mission of contributing to peace, security and mutual respect among peoples. In that context, **the prohibition on satisfying the abovementioned claims, which follows from that regulation, is part of the public policy of the European Union**.

A national court must therefore ensure – of its own motion, if necessary – that the arbitration tribunal has acted in line with that prohibition. If it has not, the national court must draw all the appropriate conclusions provided for by national law and **set aside the arbitration award on the basis of a breach of EU public policy**.

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to

propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the Opinion is published on the CURIA website on the day of delivery.

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Images of the delivery of the Opinion are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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¹ [Council Regulation \(EU\) No 833/2014](#) of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, as amended by Council Regulation (EU) No 1290/2014 of 4 December 2014 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, and amending Regulation (EU) No 960/2014 amending Regulation (EU) No 833/2014.

² As to the remainder, the claim for compensation for breach of the agreement and other losses was rejected, as was the claim for interest.

³ Article 11(1) of Regulation No 833/2014 (known as the 'no claims clause').

⁴ Including claims for indemnity or any other claim of that type, such as a claim for compensation or a claim under a guarantee.