COURT OF JUSTICE
OF THE EUROPEAN UNION

Opinions of the Advocate General at the Court
Laila Medina
in Cases C-865/24 P | Ordre néerlandais des avocats du barreau de Bruxelles and Others v Council and C-866/24 P | Ordre des avocats à la cour de Paris and Others v Council

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Advocate General Medina proposes that the appeals against the General Court's judgments upholding the ban on providing legal advisory services to the Russian Government and to entities established in Russia be dismissed

As part of the restrictive measures adopted by the European Union in response to Russia's aggression against Ukraine, the Council of the European Union prohibited the indirect or direct provision of legal advisory services to the Russian Government and to legal persons, entities or bodies established in Russia. [1]

However, that prohibition does not apply to services which are strictly necessary for the exercise of the right of defence in judicial proceedings and the right to an effective legal remedy or to services which are strictly necessary to ensure access to judicial, administrative or arbitral proceedings in a Member State. The Council also laid down, as derogations from that prohibition, provisions allowing the competent authorities to authorise the provision of such services in certain specific cases, including for humanitarian purposes or to ensure a critical energy supply within the Union.

Several Belgian bar associations, including the Ordre néerlandais des avocats du barreau de Bruxelles, as well as Belgian lawyers, the Ordre des avocats à la cour de Paris and one of its members challenged that prohibition before the General Court of the European Union. In two judgments of 2 October 2024, the General Court dismissed their actions on the merits, without first ruling on the question of admissibility, which had been contested by the Council. [2]

They then lodged two appeals before the Court of Justice seeking to have the General Court's judgments set aside. In her Opinion, Advocate General Laila Medina proposes that the appeals be dismissed.

First of all, **regarding the admissibility of the actions brought before the General Court** – which is again contested in the context of the appeal by the Council, the European Commission and the High Representative for Foreign Affairs and Security Policy – the Advocate General distinguishes between the general prohibition and the provisions laying down derogations. She takes the view that the general prohibition is of direct concern to the lawyers and the professional bodies concerned, without requiring any intermediate measures. That prohibition not only prevents them from providing their usual professional services, but also imposes on them an obligation to carry out systematic prior checks before agreeing to provide legal advice to persons who may be covered by that prohibition. By contrast, the derogations require decisions on the part of the competent authorities of the Member States in order to implement them, which may be challenged before the national courts. Since those derogations are not of individual and direct concern to the interested parties, the Advocate General proposes that the Court declare **the actions inadmissible in so far as they relate to the derogations**.

As regards **the right to effective judicial protection**, [3] the Advocate General points out that the Charter of Fundamental Rights of the European Union guarantees the right of every person to be advised, defended and represented. However, she clarifies that that right is one **enjoyed by litigants and not by lawyers or professional bodies acting in their own name**.

In any event, according to the Advocate General, the Court of Justice has held that the right to effective judicial protection does not confer a general right to receive legal advice in situations having no link with judicial proceedings. The Advocate General considers that the General Court did not err in finding that the prohibition does not prevent lawyers from assessing a client's legal position in order to determine whether the advice sought is necessary to pre-empt or anticipate proceedings or to ensure they are properly conducted.

Furthermore, the Advocate General states that the protection of the **confidentiality of lawyer-client communications** extends to the provision of legal advice in general, irrespective of the existence of litigation. However, that protection does not confer a general right to provide or receive legal advice outside the context of judicial proceedings. That said, the derogations do not suggest, either explicitly or even by implication, that a lawyer is required to share with the competent authorities his or her identity or information that is covered by professional secrecy without his or her client's consent.

Lastly, the Advocate General takes the view that the wording of the prohibition at issue is sufficiently clear and precise to enable the persons concerned to ascertain which legal advisory services may not be provided to the Russian Government and to legal persons, entities or bodies established in Russia. She therefore concludes that the General Court did not infringe the principle of legal certainty or the values of the European Union enshrined in the Treaties, as claimed by the appellants.

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: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the decision of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

Unofficial document for media use, not binding on the Court of Justice. The presentation of the facts and the legal context refers to the relevant period and is based on the case files.

The full texts of the Opinions (C-865/24 P and C-866/24 P) are published on the CURIA website on the day of delivery.

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[1] The Council introduced that ban by means of Council Regulation (EU) 2022/1904 of 6 October 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, Council Regulation (EU) 2022/2474 of 16 December 2022 amending Regulation No 833/2014 and Council Regulation (EU) 2023/427 of 25 February 2023 amending Regulation No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

[2] Judgments of the General Court of 2 October 2024, *Ordre néerlandais des avocats du barreau de Bruxelles and Others* v *Council*, T-797/22, and *Ordre des avocats à la cour de Paris and Couturier* v *Council*, T-798/22 (also see press release No 155/24).

[3] Article 47 of the Charter of Fundamental Rights.