

Form of order sought

The applicants claim that the Court should:

- annul Article 1(12) 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 and Article 1(13) of Council Regulation (EU) 2022/2474 of 16 December 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine in so far as they replace and amend, respectively, paragraph 2 and paragraphs 4 to 12, and paragraph 2 and paragraphs 4 to 11 of Article 5n of Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, as regards legal advisory services;
- order the Council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on three pleas in law.

1. First plea in law, alleging infringement of the fundamental rights to protection of privacy and access to justice, provided for in Articles 7 and 47 respectively of the Charter of Fundamental Rights of the European Union, in that the general prohibition on the provision of legal advisory services constitutes interference with the right of every litigant to seek legal advice from his or her lawyer, and with the principle of professional secrecy and the principle of the independence of the lawyer.
2. Second plea in law, alleging breach of the principle of proportionality, in that the introduction of a general prohibition on the provision of legal advisory services is not suitable for achieving the legitimate objectives pursued by the European Union in the context of the conflict between Russia and Ukraine, and goes beyond what is strictly necessary to achieve those objectives.
3. Third plea in law, alleging breach of the principle of legal certainty, in that the general prohibition on the provision of legal advisory services introduced is neither clear nor precise and does not allow any foreseeability as to its application.

Action brought on 28 December 2022 — Ordre des avocats à la cour de Paris and Couturier v Council

(Case T-798/22)

(2023/C 63/80)

Language of the case: French

Parties

Applicants: Ordre des avocats à la cour de Paris (Paris, France), Julie Couturier (Paris) (represented by: L. Donnedieu de Vabres, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicants claim that the Court should:

- declare that it has jurisdiction to rule on the present action for annulment in that its jurisdiction to exercise a full review of legality is in no way restricted in respect of a regulation, adopted on the basis of Article 215 TFEU, which gives effect to the positions adopted by the European Union in the context of the CFSP;
- declare their actions admissible under the fourth paragraph of Article 263 TFEU;

- annul Article 1(12) 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 and Article 1(13) of Council Regulation (EU) 2022/2474 of 16 December 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, in so far as they replace and amend, respectively, Article 5n(2) and (4) to (12), and subsequently Article 5n(2) and (4) to (11), of Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, as regards legal advisory services, in so far as the amended Article 5n:
 - infringes the obligation to state reasons under Article 296 TFEU,
 - infringes:
 - legal professional privilege protected by Article 7 of the Charter of Fundamental Rights of the European Union,
 - the right to be 'advised' by a lawyer protected by the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union,without respecting the essence of those rights and freedoms or the principle of proportionality as required under Article 52(1) of the Charter of Fundamental Rights;
- order the Council to pay the costs, in accordance with Article 134 of the Rules of Procedure of the General Court.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law.

1. First plea in law, alleging infringement of the obligation to state reasons laid down in Article 296 TFEU.

- The applicants claim, in that regard, that the Council provides no explanation as to the reason for the general prohibition on the provision of legal advisory services in non-contentious matters. The only recital relating to that general prohibition (recital 19 of Regulation 2022/1904) consists only of a mere definition of the services concerned and in no way consists of a 'clear and unequivocal' explanation of the 'reasoning followed by the institution which adopted the measure', as required by the Court of Justice and the General Court. In so far as that recital does not contain any explanation as to the reason for that prohibition and how it achieves the objective pursued, it does not enable the applicants to ascertain the reasons for the measure or enable the court having jurisdiction to exercise its power of review.

2. Second plea in law, alleging infringement of the legal professional privilege of the lawyer.

- According to the applicants, a lawyer who wishes to advise a legal person or entity established in Russia, considering that such legal advice would fall within the scope of the derogations of the amended Article 5n(10) of Regulation No 833/2014, would be required to seek prior authorisation from the competent national authority and, for that purpose, to disclose to it information concerning not only the content, but also the very existence of the consultation that the lawyer is to carry out and the potential client, even though that information is strictly confidential in nature. That interference with legal professional privilege is neither appropriate to attain the objective pursued nor strictly necessary for that objective.

3. Third plea in law, alleging infringement of the right to be 'advised' by a lawyer.

- According to the applicants, by depriving a person of his or her right to legal advice from a lawyer, the amended Article 5n of Regulation No 833/2014 prevents him or her from being informed of the scope of his or her rights and from being able to decide to bring a case before a court having jurisdiction. The right to be advised must be given due protection as part of the effective remedy enshrined in Article 47 of the Charter. That infringement of the right to be 'advised' by a lawyer is neither appropriate to obtain the objective pursued, nor strictly necessary for that objective.