Provisional text

JUDGMENT OF THE GENERAL COURT (Grand Chamber)

2 October 2024 (*)

(Common foreign and security policy – Restrictive measures adopted in view of Russia's actions destabilising the situation in Ukraine – Prohibition on the provision of legal advisory services to the Russian Government and entities established in Russia – Fundamental role of lawyers in a democratic society – Right of lawyers to provide legal advisory services – Right to be advised by a lawyer – Articles 7 and 47 and Article 52(2) of the Charter of Fundamental Rights – Independence of lawyers – Rule of law – Proportionality – Legal certainty)

In Case T-797/22,

Ordre néerlandais des avocats du barreau de Bruxelles, established in Brussels (Belgium), and the other applicants whose names appear in the annex, (1) represented by P. de Bandt, T. Ghysels, T. Bontinck and A. Guillerme, lawyers,

applicants,

supported by

Bundesrechtsanwaltskammer, established in Berlin (Germany), represented by J.-P. Buyle, D. Van Gerven and N. Azizollahoff, lawyers,

and by

Ordre des avocats de Genève, established in Geneva (Switzerland), represented by F. Zimeray, lawyer,

interveners,

v

Council of the European Union, represented by V. Piessevaux and S. Lejeune, acting as Agents,

defendant,

supported by

Republic of Estonia, represented by M. Kriisa, acting as Agent,

by

European Commission, represented by J.-F. Brakeland, C. Giolito, M. Carpus Carcea and C. Georgieva, acting as Agents,

and by

High Representative of the Union for Foreign Affairs and Security Policy, represented by F. Hoffmeister, L. Havas and M. Almeida Veiga, acting as Agents,

interveners,

THE GENERAL COURT (Grand Chamber),

composed of M. van der Woude, President, S. Papasavvas, R. da Silva Passos, A. Kornezov, L. Truchot, S. Gervasoni (Rapporteur), N. Półtorak, P. Nihoul, U. Öberg, C. Mac Eochaidh, T. Pynnä, J. Martín y Pérez de Nanclares, M. Brkan, P. Zilgalvis and I. Gâlea, Judges,

Registrar: V. Di Bucci,

having regard to the written part of the procedure, in particular:

– the application lodged at the Registry of the General Court on 26 December 2022,

– the statements in intervention lodged at the Registry of the General Court by the European Commission, the High Representative of the Union for Foreign Affairs and Security Policy, the Republic of Estonia, the Bundesrechtsanwaltskammer and the Ordre des avocats de Genève on 4 May, 12 May, 22 June, 25 July and 21 August 2023, respectively,

– the statement of modification of the application lodged at the Registry of the General Court on 5 May 2023,

– the written question put by the Court to the applicants, and their response to that question lodged at the Registry of the General Court on 27 February 2024,

further to the joint hearing on 12 March 2024,

gives the following

Judgment

1 By their action under Article 263 TFEU, the applicants, the Ordre néerlandais des avocats du barreau de Bruxelles and the other legal and natural persons whose names appear in the annex, seek annulment of (i) 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 (OJ 2022 L 259I, p. 3), to the extent that it replaces and amends Article 5n(2) and (4) to (12) of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ 2014 L 229, p. 1) in so far as concerns legal advisory services; (ii) Article 1(13) of Council Regulation (EU) 2022/2474 of 16 December 2022 amending Regulation No 833/2014 (OJ 2022 L 322I, p. 1), to the extent that it replaces and amends Article 5n(2) and (4) to (11) of Regulation No 833/2014 in so far as concerns legal advisory services; and (iii) Article 1(13) of Council Regulation (EU) 2023/427 of 25 February 2023 amending Regulation No 833/2014 (OJ 2023 L 59I, p. 6), to the extent that it inserts Article 12b(2a) into Regulation No 833/2014 in so far as concerns legal advisory services.

I. Background to the dispute

2 The applicants are Belgian Bar associations and lawyers.

3 In March 2014, the Russian Federation unlawfully annexed the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine) and it has, since that time, engaged in continued destabilisation actions in eastern Ukraine. In response to those actions, the European Union introduced restrictive measures in view of the actions of Russian Federation undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, together with restrictive measures in response to the illegal annexation of the Autonomous Republic of Crimea and the city of Sevastopol by the Russian Federation.

4 On 17 March 2014, the Council accordingly adopted Council Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 16), and Council Regulation (EU)

No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (OJ 2014 L 78, p. 6).

5 Subsequently, Council Decision 2014/512/CFSP of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ 2014 L 229, p. 13) was adopted in order to introduce targeted restrictive measures in the areas of access to capital markets, defence, dual-use goods and sensitive technologies, in particular in the energy sector. The Council of the European Union considered that the latter measures fell within the scope of the FEU Treaty and that their implementation required regulatory action at EU level, and therefore adopted Regulation No 833/2014, which contains more detailed provisions to give effect, both at EU level and in the Member States, to the requirements of Decision 2014/512.

6 On 15 February 2022, the Gosudarstvennaya Duma Federal'nogo Sobrania Rossiskoï Federatsii (State Duma of the Federal Assembly of the Russian Federation) voted in favour of asking the President of the Russian Federation to recognise as independent States the parts of eastern Ukraine claimed by separatists. On 21 February 2022, the President of the Russian Federation signed a decree recognising the independence and sovereignty of the self-proclaimed 'Donetsk People's Republic' and 'Luhansk People's Republic' and ordered that Russian military forces be deployed in those areas. On 24 February 2022, the President of the Russian Federation announced a military operation in Ukraine and, the same day, Russian armed forces attacked Ukraine at a number of places in the country.

7 On the same day, the High Representative of the Union for Foreign Affairs and Security Policy published a declaration on behalf of the European Union condemning the 'unprovoked invasion' of Ukraine by the armed forces of the Russian Federation and stated that the European Union's response would include both sectoral and individual restrictive measures. In its conclusions adopted at its special meeting on the same day, the European Council condemned that 'unprovoked and unjustified … aggression' in the strongest possible terms, being of the view that, by its illegal military actions, for which it should be held accountable, which the European Council had to react, the Russian Federation was grossly violating international law and the principles of the United Nations Charter and undermining European and global security and stability.

8 In its conclusions of 23 and 24 June 2022, the European Council declared that work would continue on sanctions, including to strengthen implementation and prevent circumvention.

9 On 21 September 2022, the Russian Federation further escalated its aggression against Ukraine by supporting the holding of illegal 'referendums' in the parts of the Donetsk, Kherson, Luhansk and Zaporizhzhia regions occupied by Russia, announcing a mobilisation in Russia and by again threatening to use weapons of mass destruction. Following those 'referendums' the President of the Russian Federation formalised the annexation, by Russia, of the Ukrainian regions of Donetsk, Luhansk, Zaporizhzhia and Kherson.

10 On 30 September 2022, the Members of the European Council issued a statement condemning the illegal annexation by Russia of the Ukrainian regions of Donetsk, Luhansk, Zaporizhzhia and Kherson and declaring that Russia was putting global security at risk. The Members of the European Council stated that they would strengthen their restrictive measures adopted in response to Russia's illegal actions and further increase pressure on Russia to end its war of aggression.

11 On 6 October 2022, the Council adopted Decision (CFSP) 2022/1909 amending Decision 2014/512 (OJ 2022 L 259I, p. 122). On the same day, under Article 215 TFEU, the Council adopted Regulation 2022/1904.

12 Recital 19 of Regulation 2022/1904 defines the legal advisory services prohibited by that regulation as follows:

'Decision (CFSP) 2022/1909 extends the existing prohibition on the provision of certain services to the Russian Federation by banning the provision of architectural and engineering services as well as of IT consultancy services and legal advisory services. … "Legal advisory services" covers: the provision of legal advice to customers in non-contentious matters, including commercial transactions, involving the application or interpretation of law; participation with or on behalf of clients in commercial

transactions, negotiations and other dealings with third parties; and preparation, execution and verification of legal documents. “Legal advisory services” does not include any representation, advice, preparation of documents or verification of documents in the context of legal representation services, namely in matters or proceedings before administrative agencies, courts or other duly constituted official tribunals, or in arbitral or mediation proceedings.’

13 Article 1(12) of Regulation 2022/1904 inserted a new Article 5n into Regulation No 833/2014, replacing the former Article 5n and establishing, in particular, a prohibition on providing legal advisory services (‘the prohibition at issue’) in the following terms:

‘2. It shall be prohibited to provide, directly or indirectly, architectural and engineering services, legal advisory services and IT consultancy services to:

(a) the Government of Russia; or

(b) legal persons, entities or bodies established in Russia.

…

4. Paragraph 2 shall not apply to the provision of services that are strictly necessary for the termination by 8 January 2023 of contracts which are not compliant with this Article concluded before 7 October 2022, or of ancillary contracts necessary for the execution of such contracts.

5. Paragraphs 1 and 2 shall not apply to the provision of services that are strictly necessary for the exercise of the right of defence in judicial proceedings and the right to an effective legal remedy.

6. Paragraphs 1 and 2 shall not apply to the provision of services which are strictly necessary to ensure access to judicial, administrative or arbitral proceedings in a Member State, or for the recognition or enforcement of a judgment or an arbitration award rendered in a Member State, provided that such provision of services is consistent with the objectives of this Regulation and of [Regulation No 269/2014].

7. Paragraphs 1 and 2 shall not apply to the provision of services intended for the exclusive use of legal persons, entities or bodies established in Russia that are owned by, or solely or jointly controlled by, a legal person, entity or body which is incorporated or constituted under the law of a Member State, a country member of the European Economic Area, Switzerland or a partner country as listed in Annex VIII.

8. Paragraph 2 shall not apply to the provision of services necessary for public health emergencies, the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment, or as a response to natural disasters.

9. Paragraph 2 shall not apply to the provision of services necessary for software updates for non-military use and for a non-military end user, permitted by Articles 2(3)(d) and 2a(3)(d) in relation to goods listed in Annex VII.

10. By way of derogation from paragraphs 1 and 2, the competent authorities may authorise the services referred to therein, under such conditions as they deem appropriate, after having determined that this is necessary for:

(a) humanitarian purposes such as delivering or facilitating the delivery of assistance, including medical supplies, food, or the transfer of humanitarian workers and related assistance, or for evacuations;

(b) civil society activities that directly promote democracy, human rights or the rule of law in Russia; or

(c) the functioning of diplomatic and consular representations of the Union and of the Member States or partner countries in Russia, including delegations, embassies and missions, or

international organisations in Russia enjoying immunities in accordance with international law.

11. By way of derogation from paragraphs 1 and 2, the competent authorities may authorise the services referred to therein, under such conditions as they deem appropriate, after having determined that this is necessary for:

(a) ensuring critical energy supply within the Union and the purchase, import or transport into the Union of titanium, aluminium, copper, nickel, palladium and iron ore;

(b) ensuring the continuous operation of infrastructures, hardware and software which are critical for human health and safety, or the safety of the environment;

(c) the establishment, operation, maintenance, fuel supply and retreatment and safety of civil nuclear capabilities, and the continuation of design, construction and commissioning required for the completion of civil nuclear facilities, the supply of precursor material for the production of medical radioisotopes and similar medical applications, or critical technology for environmental radiation monitoring, as well as for civil nuclear cooperation, in particular in the field of research and development; or

(d) the provision of electronic communication services by Union telecommunication operators necessary for the operation, maintenance and security, including cybersecurity, of electronic communication services, in Russia, in Ukraine, in the Union, between Russia and the Union, and between Ukraine and the Union, and for data centre services in the Union.

12. The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under paragraphs 10 and 11 within two weeks of the authorisation.'

14 On 16 December 2022, the Council adopted Decision (CFSP) 2022/2478 amending Decision 2014/512 (OJ 2022 L 322 I, p. 614) and, on the basis of Article 215 TFEU, Regulation 2022/2474.

15 In so far as concerns the prohibition on providing legal advisory services, Article 1(13) of Regulation 2022/2474 made a purely formal amendment to Article 5n of Regulation No 833/2014. Article 5n(10) of Regulation No 833/2014 accordingly merged the former paragraphs 10 and 11 of that regulation without changing their normative content.

16 On 25 February 2023, the Council adopted Decision (CFSP) 2023/434 amending Decision 2014/512 (OJ 2023 L 59 I, p. 593) and, on the basis of Article 215 TFEU, Regulation 2023/427.

17 Regulation 2023/427 did not amend the wording of Article 5n of Regulation No 833/2014. However, Article 1(13) of Regulation 2023/427 introduced a new derogation from the prohibition at issue, by means of a new paragraph 2a inserted into Article 12b of Regulation No 833/2014 and worded as follows:

'2a. By way of derogation from Article 5n [of Regulation No 833/2014], the competent authorities may authorise the continuation of the provision of services listed therein until 31 December 2023 where such provision of services is strictly necessary for the divestment from Russia or the wind-down of business activities in Russia, provided that the following conditions are fulfilled:

(a) such services are provided to and for the exclusive benefit of the legal persons, entities or bodies resulting from the divestment; and

(b) the competent authorities deciding on requests for authorisations have no reasonable grounds to believe that the services might be provided, directly or indirectly, to the Government of Russia or a military end-user or have a military end-use in Russia.'

II. Forms of order sought

18 The applicants, supported by the Bundesrechtsanwaltskammer and the Ordre des avocats de Genève, claim that the Court should:

– annul Article 1(12) of Regulation 2022/1904 to the extent that it replaces and amends Article 5n(2) and (4) to (12) of Regulation No 833/2014 in so far as concerns legal advisory services, Article 1(13) of Regulation 2022/2474 to the extent that it replaces and amends Article 5n(2) and (4) to (11) of Regulation No 833/2014 in so far as concerns legal advisory services, and Article 1(13) of Regulation 2023/427 to the extent that it inserts Article 12b(2a) into Regulation No 833/2014 in so far as concerns legal advisory services;

– order the Council to pay the costs.

19 The Council, supported by the Republic of Estonia, the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy, contends that the Court should:

– dismiss the action as inadmissible in so far as it seeks annulment of Article 5n(10) and Article 12b(2a) of Regulation No 833/2014 ('the exemption provisions');

– dismiss the action as unfounded;

– order the applicants to pay the costs.

20 The Republic of Estonia, the Commission and the High Representative of the Union for Foreign Affairs and Security Policy also contend that the Court should dismiss the action as inadmissible in its entirety.

III. Law

A. Admissibility

21 The Council takes the view that the action is admissible in so far as it relates to Article 5n(2), (4) to (9) and (11) of Regulation No 833/2014. By contrast, it disputes the admissibility of the action in so far as it seeks annulment of the exemption provisions. Only the Republic of Estonia, the Commission and the High Representative of the Union for Foreign Affairs and Security Policy submit that the action is inadmissible in its entirety.

22 The Council, supported by the Republic of Estonia, the Commission and the High Representative of the Union for Foreign Affairs and Security Policy, also claims that the statement of modification lodged by the applicants in order to dispute the lawfulness of Article 12b(2a) of Regulation No 833/2014, inserted by Regulation 2023/427, is inadmissible.

23 It should be recalled that the Courts of the European Union are entitled to assess whether, depending on the circumstances of each case, the proper administration of justice justifies the dismissal of the action on the merits without a prior ruling on its admissibility (see, to that effect, judgment of 26 February 2002, *Council* v *Boehringer*, C-23/00 P, EU:C:2002:118, paragraph 52).

24 In the circumstances of the present case and in the interests of procedural economy, it is necessary to examine the action on the merits without a prior ruling on its admissibility, since the action is, in any event and for the reasons set out below, unfounded.

B. Substance

25 In support of their action, the applicants rely on three pleas in law, alleging, in essence, first, infringement of Articles 7 and 47 and Article 52(1) of the Charter of Fundamental Rights of the European Union ('the Charter'); second, interference with the independence of lawyers and the values of the rule of law, and breach of the principle of proportionality; and, third, breach of the principle of legal certainty.

1. The first plea in law, alleging infringement of Articles 7 and 47 and Article 52(1) of the Charter

26 The first plea is divided into three parts relating to infringement of the Charter, which will be examined below.

27 By the first and second parts, the applicants, supported by the Bundesrechtsanwaltskammer and the Ordre des avocats de Genève, submit that the prohibition at issue gives rise, first, to a breach of the fundamental right of access to legal advice from a lawyer and, second, to interference with the professional secrecy of lawyers. The prohibition at issue therefore infringes Articles 7 and 47 of the Charter.

28 By the third part, the applicants, supported by the Bundesrechtsanwaltskammer and the Ordre des avocats de Genève, claim that the interference, brought about by the prohibition at issue, with the rights guaranteed by the Charter cannot be justified for the purposes of Article 52(1) of that Charter.

29 That third part will be examined as part of the answer that the Court will give to the first and second parts.

(a) The first part, alleging infringement of the right to consult a lawyer in order to obtain legal advice

30 The first part of the first plea in law is further divided into two complaints. The first complaint alleges infringement of Article 47 of the Charter. The second complaint alleges infringement of Article 7 of the Charter. According to the applicants, those two articles form the basis of a fundamental right of access to legal advice from a lawyer, which is guaranteed for everyone in both contentious and non-contentious matters.

31 The applicants, supported by the Bundesrechtsanwaltskammer and the Ordre des avocats de Genève, claim that the right to seek legal advice is inseparable from the right of access to a lawyer in the context of judicial or administrative proceedings. It is argued, moreover, that the right to consult a lawyer, including in order to obtain legal advice and an assessment of one's legal situation, is recognised in all the Member States and is an essential activity in a State governed by the rule of law. The applicants rely on the case-law of the Court of Justice and of the European Court of Human Rights in order to claim the existence of a right to consult a lawyer to obtain legal advice, even other than as part of the task of representing a client in legal proceedings.

32 The protection afforded by Article 7 of the Charter also applies, it is argued, outside the context of any contentious proceedings. Similarly, the distinction drawn by the Council, according to which the legal advisory services necessary to exercise the right to an effective remedy protected by Article 47 of the Charter are covered by the exceptions to the scope of the prohibition at issue, is, they submit, artificial and inappropriate. It is impossible, at the outset, to determine whether a piece of legal advice is linked to future litigation before that advice is given to the client. The right to seek legal advice may prove to be inseparable from the right of access to a lawyer.

33 The Ordre des avocats de Genève adds that, in reality, legal advice can be classified as relating to litigation or as being 'non-contentious' only after the event. The issue is more generally one of access to the law, which is restricted in the present case as a result of the ambiguous wording of the prohibition at issue, which leads in practice to self-censorship by lawyers.

34 The applicants also state that the fact that lawyers hold a monopoly on representing a client in proceedings is not such as to call into question the existence of a fundamental right to obtain legal advice from a lawyer, including in non-contentious matters. The right of access to a lawyer must therefore be regarded as an inseparable whole, encompassing both the lawyers' task of defending and representing clients and their task of providing advice.

35 The applicants further add that the prohibition at issue does not create a duty of discretion, but is instead a straightforward prohibition. In any event, the fact that lawyers are required to apply for authorisation prevents them from determining and assessing for themselves which situations fall within the scope of the exemption provisions.

36 The Council, supported by the Republic of Estonia, the Commission and the High Representative of the Union for Foreign Affairs and Security Policy, disputes the applicants' arguments.

37 In that regard, the Court notes that the question that the applicants raise by the first part of the first plea in law is, in essence, whether the combined application of Articles 7 and 47 of the Charter is such as to form the basis of a fundamental right of access to a lawyer, including in situations unconnected with any judicial proceedings. Since the prohibition at issue applies to legal advisory services provided, in particular, by lawyers, in non-contentious matters, they claim that it constitutes interference with the fundamental right of access to a lawyer.

38 In order to answer that question raised by the applicants, it is necessary to examine the case-law of the Court of Justice on Article 47 of the Charter, on the one hand, and on Article 7 of the Charter, on the other, and the case-law of the European Court of Human Rights.

39 In accordance with Article 52(3) of the Charter, which is intended to ensure the necessary consistency between the rights in the Charter and the corresponding rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950 ('ECHR'), without adversely affecting the autonomy of EU law, the General Court must take into account, in its interpretation of the rights guaranteed by Articles 7 and 47 of the Charter, the corresponding rights guaranteed by Article 8(1) and Article 6(1) ECHR, as interpreted by the European Court of Human Rights, as the minimum threshold of protection (see, to that effect, judgment of 8 December 2022, *Orde van Vlaamse Balies and Others*, C-694/20, EU:C:2022:963, paragraph 26 and the case-law cited).

40 The Court of Justice has held that the fundamental right provided for in Article 47 of the Charter is of cardinal importance as a guarantee that all the rights which individuals derive from EU law will be protected and that the values common to the Member States set out in Article 2 TEU, in particular the value of the rule of law, will be safeguarded (judgment of 20 April 2021, *Repubblika*, C-896/19, EU:C:2021:311, paragraph 51). The principle of the rule of law set out in Article 2 TEU requires free access to EU law for all natural or legal persons of the European Union, and that individuals must be able to ascertain unequivocally what their rights and obligations are (judgment of 5 March 2024, *Public.Resource.Org and Right to Know* v *Commission*, C-588/21 P, EU:C:2024:201, paragraph 81).

41 According to the second sentence of the second paragraph of Article 47 of the Charter, the right to a fair trial includes the possibility for everyone to be advised, defended and represented by a lawyer. That right consists of various elements. It includes, inter alia, the rights of the defence, the principle of equality of arms, the right of access to the courts and the right of access to a lawyer, both in civil and criminal proceedings (judgment of 8 December 2022, *Orde van Vlaamse Balies and Others*, C-694/20, EU:C:2022:963, paragraph 60).

42 It should be noted that Article 47 of the Charter is headed 'Right to an effective remedy and to a fair trial'. The third paragraph of that article provides for legal aid for proceedings intended to 'ensure effective access to justice'. In that context, a person must only be recognised as having the possibility of being advised, defended and represented, provided for in the second paragraph of that article, where there is a link with judicial proceedings (see, to that effect, judgment of 8 December 2022, *Orde van Vlaamse Balies and Others*, C-694/20, EU:C:2022:963, paragraph 61).

43 The Court of Justice has, accordingly, recognised the fundamental role of lawyers in a State governed by the rule of law only in so far as they contribute to the proper administration of justice and ensure that clients' interests are protected and defended. It has, in fact, observed that 'any person' – that is to say, any person wishing to be afforded and to exercise rights in judicial proceedings – had to be able, without constraint, to consult a lawyer, whose profession entailed the giving of independent legal advice to all those in need of it (see, to that effect, judgment of 18 May 1982, *AM & S Europe* v *Commission*, 155/79, EU:C:1982:157, paragraph 18). The Court of Justice has more generally recognised the role of lawyers, who were required to provide, in full independence and in the overriding interests of justice, such legal assistance as the client needed (judgment of 18 May 1982, *AM & S Europe* v *Commission*, 155/79, EU:C:1982:157, paragraph 24). It has also held that, while a lawyer's task of representation had to be carried out in the interests of the sound administration of justice, that task consisted, above all, in protecting and defending the principal's interests to the greatest possible extent, in order to enable exercise of the principal's right to an effective remedy (see, to that effect, judgment of 4 February 2020, *Uniwersytet Wrocławski and Poland* v *REA*, C-515/17 P and

C-561/17 P, EU:C:2020:73, paragraph 62). Lawyers therefore perform a fundamental role in a democratic society, that of defending litigants (judgment of 8 December 2022, *Orde van Vlaamse Balies and Others*, C-694/20, EU:C:2022:963, paragraph 28).

44 Article 7 of the Charter, unlike Article 47, seeks not to protect the right to an effective remedy but to protect everyone's private life, in particular the privacy of their communications, irrespective of any link with judicial proceedings. It is Article 7 which gives rise to the protection of the professional secrecy of lawyers, which is, in principle, guaranteed when lawyers perform their task of defending or representing the interests of their clients in legal proceedings or when they give legal advice to any person seeking it.

45 In that regard, the European Court of Human Rights has accordingly held that the protection of professional secrecy, flowing from Article 8 ECHR, to which Article 7 of the Charter corresponds, included the activities of legal advice in general, irrespective of the existence of litigation (see, to that effect, ECtHR, 9 April 2019, *Altay v. Turkey (No. 2)*, CE:ECHR:2019:0409JUD001123609, § 49).

46 Similarly, the Court of Justice has expressly ruled that, other than in exceptional situations, persons who consulted a lawyer had to 'have a legitimate expectation that their lawyer [would] not disclose to anyone, without their consent, that they [were] consulting him or her' (judgment of 8 December 2022, *Orde van Vlaamse Balies and Others*, C-694/20, EU:C:2022:963, paragraph 27).

47 The protection of professional secrecy, enshrined in Article 7 of the Charter, does indeed enable lawyers to carry out satisfactorily their task of advising, defending and representing their clients, in order to guarantee the right of their clients to a fair trial enshrined in Article 47 of the Charter (see, to that effect, judgment of 8 December 2022, *Orde van Vlaamse Balies and Others*, C-694/20, EU:C:2022:963, paragraph 60).

48 The fact remains, however, that the protection guaranteed in Article 47 of the Charter and that guaranteed in Article 7 of the Charter do not have the same scope. On the one hand, professional secrecy is afforded the protection enshrined in Article 7 of the Charter where there is no link with judicial proceedings (see, to that effect, judgment of 8 December 2022, *Orde van Vlaamse Balies and Others*, C-694/20, EU:C:2022:963, paragraphs 61 to 65). On the other hand, the Court of Justice has not ruled that that protection was intended to guarantee a fundamental right of access to a lawyer and to legal advice from a lawyer irrespective of any link with judicial proceedings, but rather that its sole purpose, in the light of the right to respect for private life, was to preserve the confidentiality of correspondence between a lawyer and his or her client.

49 Consequently, it cannot be inferred from the case-law of either the European Court of Human Rights or the Court of Justice that the protection guaranteed in Article 7 of the Charter and that guaranteed in Article 47, considered in isolation or together, are such as to form the basis of a fundamental right for all persons to have access to and be advised by a lawyer other than in the context of existing or probable litigation.

50 Moreover, it has not been established in the proceedings before the General Court that any such right arises from the constitutional traditions common to the Member States within the meaning of Article 6(3) TEU.

51 The fundamental right of access to a lawyer and to advice from him or her, enshrined in Article 47 of the Charter, must therefore be recognised solely if there is a link to judicial proceedings, whether such proceedings have already been commenced or can be pre-empted or anticipated, on the basis of tangible elements, at the stage at which the lawyer assesses his or her client's legal situation.

52 In the present case, the prohibition at issue set out in Article 5n(2) of Regulation No 833/2014 prohibits the direct or indirect provision of legal advisory services to the Russian Government or to legal persons, entities and bodies established in Russia.

53 According to recital 19 of Regulation 2022/1904, the prohibited legal advisory services do not include 'any representation, advice, preparation of documents or verification of documents in the context of legal representation services, namely in matters or proceedings before administrative agencies, courts

or other duly constituted official tribunals, or in arbitral or mediation proceedings'. By contrast, the prohibited legal advisory services encompass 'the provision of legal advice to customers in non-contentious matters, including commercial transactions, involving the application or interpretation of law', 'participation with or on behalf of clients in commercial transactions, negotiations and other dealings with third parties' and 'preparation, execution and verification of legal documents'.

54 Although the preamble to an EU act has no binding legal force and cannot be relied on as a ground for derogating from the actual provisions of the act in question (judgment of 19 November 1998, *Nilsson and Others*, C-162/97, EU:C:1998:554, paragraph 54), recital 19 of Regulation 2022/1904 serves to shed light on an initial outline of the prohibition at issue. It is clear from the wording of that recital that legal advisory services, provided in connection with judicial, administrative or arbitral proceedings, are not covered by that prohibition.

55 Article 5n(5) and (6) of Regulation No 833/2014 defines the scope of the prohibition at issue more precisely, in the light of recital 19 of Regulation 2022/1904. Article 5(n)(5) and (6) provide, respectively, that the prohibition at issue is not to apply to the provision of 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 the provision of services which 'are strictly necessary to ensure access to judicial, administrative or arbitral proceedings in a Member State, or for the recognition or enforcement of a judgment or an arbitration award rendered in a Member State, provided that such provision of services is consistent with the objectives of this Regulation and of Council Regulation … No 269/2014'.

56 It is therefore clear from the wording of Article 5n(6) of Regulation No 833/2014, in particular in so far as it refers to the legal advisory services 'strictly necessary to ensure access to judicial, administrative or arbitral proceedings', that the prohibition at issue does not apply to the legal advisory services provided as soon as the lawyer is called upon for assistance in defending a client or in representing a client before the courts, or for advice as to the manner of instituting or avoiding judicial proceedings (see, to that effect and by analogy, judgment of 26 June 2007, *Ordre des barreaux francophones et germanophone and Others*, C-305/05, EU:C:2007:383, paragraph 34). That provision therefore does not preclude the provision of legal advisory services which, at that preliminary stage, are intended only to assess the legal situation of the person concerned, with the sole aim of determining whether proceedings, including judicial proceedings, should be ruled out on the basis of that person's situation or whether, on the contrary, proceedings are probable or even inevitable. In the absence of such a preliminary assessment, it would in fact be impossible, as the applicants have noted, to ascertain the subject matter of the consultation and to determine whether or not the legal advice sought might have a link with judicial proceedings and, consequently, fall within the scope of the fundamental right of access to a lawyer, as has been recalled in paragraph 51 of the present judgment.

57 By contrast, the prohibition at issue applies, in particular, where, in non-contentious matters, a lawyer assists a client or acts for and on behalf of a client in the preparation or conclusion of certain essentially financial and commercial transactions. As a rule, the nature of such activities is such that they take place in a context without any link with judicial proceedings and, consequently, fall outside the scope of the right to an effective remedy and the right to a fair trial guaranteed by Article 47 of the Charter. In that regard, where a lawyer provides a legal service at such an early stage and is not acting as the defence counsel for his or her client in a dispute, the mere fact that the lawyer's advice or the subject matter on which he or she was consulted may give rise to litigation at a later stage does not mean that the lawyer acted in the context or for the purposes of the rights of defence of his or her client (see, to that effect, judgment of 8 December 2022, *Orde van Vlaamse Balies and Others*, C-694/20, EU:C:2022:963, paragraphs 63 and 64).

58 It should also be borne in mind that an EU act must be interpreted, as far as possible, in such a way as not to affect its validity and in conformity with primary law as a whole and, in particular, with the provisions of the Charter. If the wording of secondary EU legislation is open to more than one interpretation, preference should be given to the interpretation which renders the provision consistent with primary law rather than to the interpretation which leads to its being incompatible with primary law (see judgments of 26 June 2007, *Ordre des barreaux francophones et germanophone and Others*, C-305/05, EU:C:2007:383, paragraph 28 and the case-law cited, and of 21 June 2022, *Ligue des droits humains*, C-817/19, EU:C:2022:491, paragraph 86 and the case-law cited).

59 It is therefore necessary to examine whether the prohibition at issue can be interpreted in a manner which upholds the right to be advised, defended and represented by a lawyer, guaranteed in Article 47 of the Charter.

60 According to the clarifications provided by the Council in its written pleadings and at the hearing, the criterion that services must be strictly necessary, set out in Article 5n(5) and (6) of Regulation No 833/2014, is intended solely to avoid misuse of the exceptions provided for in those paragraphs, and cannot be relied upon in order to maintain that that prohibition undermines the right of access to a lawyer for the purposes of judicial proceedings.

61 As the Council rightly observes, it can be inferred from the wording of Article 5n(5) of Regulation No 833/2014 that legal advisory services relating to a pre-litigation procedure – that is to say, an administrative procedure – or to the initial stage of judicial proceedings which is a necessary step for the parties under the applicable national law, fall outside the scope of the prohibition at issue.

62 Similarly, the wording of Article 5n(6) of Regulation No 833/2014 does not preclude the making of a preliminary legal assessment which concludes that it is, or is not, necessary to bring judicial, administrative or arbitral proceedings, or the provision of advisory services enabling such proceedings to be avoided, in particular by means of a settlement. The Council rightly observes that the rationale of that interpretation is in keeping with the judgment of 26 June 2007, *Ordre des barreaux francophones et germanophone and Others* (C-305/05, EU:C:2007:383).

63 Article 5n(5) and (6) of Regulation No 833/2014 therefore permits a lawyer to carry out a prior assessment of the legal situation of legal persons, entities or bodies established in Russia that consult him or her, in order to determine whether the advice sought from him or her is strictly necessary in order to ensure access, in particular, to judicial proceedings, with a view to pre-empting or anticipating such proceedings or to ensuring that they are properly conducted if they have already been commenced.

64 First, it follows from the foregoing that the prohibition at issue does not infringe the right to be advised, defended and represented by a lawyer protected by Article 47 of the Charter. Second, since Article 7 of the Charter does not guarantee a right of access to a lawyer, be it in judicial proceedings or in a non-contentious context, the prohibition at issue cannot constitute interference with a right deriving from that article.

65 The first part of the first plea in law, alleging infringement of Articles 7 and 47 of the Charter, considered in isolation or together, must therefore be rejected.

66 Since the Court has not found there to be any interference, on account of the prohibition at issue, with the right to be advised, defended and represented by a lawyer in order to receive legal advice, guaranteed by Article 47 of the Charter, the third part of the first plea in law, in so far as it alleges that that prohibition constitutes such interference and cannot be justified for the purposes of Article 52(1) of the Charter, must be rejected.

(b) The second part, alleging interference with the professional secrecy of lawyers

67 The applicants, supported by the Bundesrechtsanwaltskammer and the Ordre des avocats de Genève, submit that the authorisation procedures laid down by the exemption provisions give rise to interference with the professional secrecy of lawyers enshrined in Article 7 of the Charter, Article 8 ECHR and the case-law.

68 A lawyer who wishes to apply for authorisation must, it is argued, disclose to the competent authority details relating to his or her potential client and the nature of the advice sought. The very existence of a consultation is disclosed. This constitutes direct interference with the right to respect for communications between lawyers and their clients. The applicants also state that only lawyers, as providers of legal advisory services covered by the prohibition at issue, can submit an application for exemption.

69 The Council, supported by the Republic of Estonia, the Commission and the High Representative of the Union for Foreign Affairs and Security Policy, disputes the applicants' arguments.

70 In that regard, it should be recalled that Article 7 of the Charter recognises everyone as having the right to respect for his or her private and family life, home and communications. In accordance with Article 52(3) of the Charter, when examining that right the General Court must take account of the interpretation of Article 8(1) ECHR by the European Court of Human Rights.

71 In common with that provision of the ECHR, Article 7 of the Charter necessarily guarantees the secrecy of legal consultation, with regard both to its content and to its existence. Therefore, other than in exceptional situations, any person must be able to be legitimately confident that his or her lawyer will not disclose to anyone, without that person's consent, that he or she is consulting that lawyer (judgment of 8 December 2022, *Orde van Vlaamse Balies and Others*, C-694/20, EU:C:2022:963, paragraph 27).

72 Nevertheless, neither Article 7 of the Charter nor Article 8 ECHR prohibits the imposition on lawyers of certain obligations likely to concern their relationships with their clients, in particular where there is credible evidence of the participation of a lawyer in an offence, or in connection with efforts to combat certain practices. It is, however, necessary to provide a strict framework for such measures and afford sufficient guarantees against arbitrariness (see, to that effect, ECtHR, 16 November 2021, *Särgava v. Estonia*, CE:ECHR:2021:1116JUD000069819, § 89 and the case-law cited).

73 The Court of Justice has previously held that a reporting obligation, requiring a lawyer to disclose to a third-party intermediary which was not the lawyer's client, the lawyer's identity, his or her assessment in relation to the reporting obligation at issue and the mere fact that he or she had been consulted, entailed interference with the right to respect for communications between lawyers and their clients guaranteed in Article 7 of the Charter (judgment of 8 December 2022, *Orde van Vlaamse Balies and Others*, C-694/20, EU:C:2022:963, paragraphs 29 and 30). Furthermore, that reporting obligation, in so far as it requires the third-party intermediary to notify the authorities of the identity of the lawyer concerned and the fact that he or she was consulted, leads to another interference with the right guaranteed in Article 7 of the Charter (judgment of 8 December 2022, *Orde van Vlaamse Balies and Others*, C-694/20, EU:C:2022:963, paragraph 31). It follows that the disclosure by a lawyer of, in particular, his or her identity or the fact that he or she has been consulted, where that disclosure is compulsory and takes place without the consent of the lawyer's client, constitutes interference with the right guaranteed in Article 7 of the Charter.

74 Article 5n(10) of Regulation No 833/2014 provides that the competent authorities 'may' authorise legal advisory services 'under such conditions as they deem appropriate, after having determined that this is necessary' for purposes listed exhaustively in that paragraph.

75 Article 12b(2a) of Regulation No 833/2014, for its part, provides that the competent authorities 'may' authorise the provision of services subject to the prohibition at issue, where those services are strictly necessary for the divestment from Russia or the wind-down of business activities in Russia, provided that two cumulative conditions are fulfilled. Those conditions are, in essence, that the provision of the advice in question is restricted solely to the entities resulting from the divestment and that there are no 'reasonable grounds to believe that the services might be provided, directly or indirectly, to the Government of Russia or a military end-user or have a military end-use in Russia'.

76 The exemption provisions in that way enable the competent authorities to lift the prohibition at issue in certain well-defined situations.

77 Those exemption provisions grant the competent authorities discretion as to the manner in which an application for exemption must be set out, lodged and processed. Accordingly, for example, the exemption provisions do not govern who may submit the application to the competent national authorities. The Member States are therefore free to provide that that application may be submitted by the lawyer or a third party, or even by the Russian Government or the relevant entity established in Russia, which, in the latter case, remain able to benefit from the assistance of a lawyer, even where it is informal, in accordance with Article 5n(6) of Regulation No 833/2014.

78 Similarly, the provisions at issue do not suggest, either explicitly or even by implication, that a lawyer is required to share with the competent authorities, without his or her client's consent, information that is covered by the professional secrecy guaranteed by Article 7 of the Charter.

79 Likewise, as regards the information necessary for processing applications for exemption, the exemption provisions do not mention the material which the competent authority must have available to it in order to carry out its examination. Admittedly, the general conditions under which the exemptions may be granted require that that authority, in the context of the application of Article 5n(10) of Regulation No 833/2014, carefully examine the situation put before it, since, in order to grant an authorisation, the competent authority must 'determine' that the authorisation is necessary for one of the purposes listed in the exemption provisions. The same is true of Article 12b(2a) of that regulation, since it provides that the competent authority must satisfy itself that the provision of services is strictly necessary for the activities specified and fulfils the conditions laid down for that purpose.

80 Nevertheless, it should be borne in mind that, in accordance with Article 51(1) of the Charter, the Member States must respect the rights enshrined in the Charter when they are implementing EU law. It is incumbent on them, therefore, when defining the arrangements for implementing the exemption procedures, to ensure respect for Article 7 of the Charter, in compliance with the conditions laid down in Article 52(1) thereof (see, to that effect, judgment of 6 October 2020, *Privacy International*, C-623/17, EU:C:2020:790, paragraphs 62 and 63).

81 Consequently, the exemption provisions do not, in themselves, entail interference with the right guaranteed in Article 7 of the Charter.

82 Moreover, the applicants submit that Article 5n(4) of Regulation No 883/2014, in so far as it requires lawyers to terminate all contracts between themselves and legal persons, entities and organisations established in Russia, even where such contracts were concluded before 7 October 2022, renders meaningless the lawyer's duty to act in good faith, which is protected by Article 7 of the Charter.

83 It is, however, clear that since they have not further substantiated their claims, the applicants have failed to demonstrate in what respect Article 5n(4) of Regulation No 883/2014 gives rise to interference with the lawyer's duty to act in good faith and with the right guaranteed in Article 7 of the Charter.

84 In conclusion, the second part of the first plea in law must be rejected.

85 In any event, even assuming that the exemption provisions do give rise to interference with the professional secrecy of lawyers guaranteed in Article 7 of the Charter, it must be recalled that Article 52(1) of the Charter allows limitations on the exercise of the rights enshrined by that Charter, provided that the limitations concerned are provided for by law. Those limitations must also respect the essence of the fundamental right at issue and, subject to the principle of proportionality, must be necessary and genuinely meet objectives of general interest recognised by the European Union (see, to that effect, judgments of 28 March 2017, *Rosneft*, C-72/15, EU:C:2017:236, paragraph 148; of 8 December 2022, *Orde van Vlaamse Balies and Others*, C-694/20, EU:C:2022:963, paragraph 34; and of 27 July 2022, *RT France* v *Council*, T-125/22, EU:T:2022:483, paragraphs 77 and 144).

86 In the first place, as regards the requirement that any limitation on the exercise of fundamental rights must be provided for by law, this implies that the act which permits the interference with those rights must itself define the scope of the limitation on the exercise of the right concerned, bearing in mind, on the one hand, that that requirement does not preclude the limitation in question from being formulated in terms which are sufficiently open to be able to adapt to different scenarios and keep pace with changing circumstances, and, on the other hand, that the Court may, where appropriate, specify, by means of interpretation, the actual scope of the limitation in the light of the very wording of the EU legislation in question as well as its general scheme and the objectives it pursues, as interpreted in view of the fundamental rights guaranteed by the Charter (see judgment of 8 December 2022, *Orde van Vlaamse Balies and Others*, C-694/20, EU:C:2022:963, paragraph 35 and the case-law cited).

87 In that regard, Article 5n(4) to (9) of Regulation No 833/2014 ('the exception provisions') and the exemption provisions define the boundaries of the prohibition on the provision of legal advisory services by lawyers to the Russian Government and to entities established in Russia, as laid down in Article 5n(2) of Regulation No 833/2014. Contrary to the assertions of the Ordre des avocats de Genève, it is clear from paragraphs 52 to 63 of the present judgment that the legal advisory services subject to the prohibition at issue are expressly identified.

88 In those circumstances, it must be held that the prohibition at issue is provided for by law within the meaning of Article 52(1) of the Charter.

89 In the second place, as regards compliance with the essence of the right to respect for communications between lawyers and their clients guaranteed in Article 7 of the Charter, it should be noted that the exemption provisions neither require nor authorise lawyers to share with the competent authority, without the consent of their client, information on the substance of their communications or on the precise content of the consultation sought. Furthermore, the exemption provisions may only be relied on in situations that have no link with judicial, administrative or arbitration proceedings, with the result that those provisions can in no way lead to the disclosure of information relating to such proceedings, whether existing or probable.

90 In those circumstances, it cannot be held that the exemption provisions undermine the essence of the right to respect for communications between lawyers and their clients enshrined in Article 7 of the Charter.

91 In the third place, as regards the appropriate nature of the exemption provisions, it is necessary to examine whether the restrictions on professional secrecy to which they may give rise are justified by objectives of general interest pursued by the European Union and whether they in fact correspond to those objectives of general interest.

92 The assessment of the proportionality of the exemption provisions is intrinsically linked to the examination of the proportionality of the prohibition at issue itself. The exemption provisions in fact merely restrict the prohibition at issue.

93 In that regard, the Court has ruled that the importance of the objectives pursued by Regulations 2022/1904, 2022/2474 and 2023/427, namely the protection of Ukraine's territorial integrity, sovereignty and independence and the promotion of a peaceful settlement of the crisis in that country, the achievement of which was part of the wider objective of maintaining peace and international security, in accordance with the objectives of the Union's external action set out in Article 21 TEU, was such as to justify the possibility that, for certain operators, which were in no way responsible for the situation which led to the adoption of the sanctions, the consequences may be negative, even significantly so (judgment of 13 September 2018, *Gazprom Neft* v *Council*, T-735/14 and T-799/14, EU:T:2018:548, paragraph 171; see also, to that effect, judgment of 7 July 2022, *RT France* v *Council*, T-125/22, EU:T:2022:483, paragraph 202).

94 It is clear from recital 2 of Decision 2022/1909 that 'the Union remains unwavering in its support for Ukraine's sovereignty and territorial integrity'. Recitals 3 to 8 of that decision set out the gravity of the situation in Ukraine and conclude, the 'Members of the European Council stated that they will strengthen the Union's restrictive measures countering Russia's illegal actions and further increase pressure on Russia to end its war of aggression'. Decision 2022/1909 also states, in recital 9, that 'in view of the gravity of the situation [in Ukraine] it is appropriate to introduce further restrictive measures', which include the prohibition at issue, in accordance with recitals 12 and 13 of that decision.

95 It is also apparent from recital 3 of Regulation 2022/1904 that the adoption of those new restrictive measures was a 'response to the Russian Federation's further aggression against Ukraine'. Recital 19 of that regulation, which reproduces recital 13 of Decision 2022/1909, next sets out the types of legal advisory services that are prohibited.

96 The Council submits that it is clear from the relevant recitals of Decision 2022/1909 and of Regulation 2022/1904 that the objective of the prohibition at issue is to further increase pressure on the Russian Federation to end its war of aggression against Ukraine. To that end, the prohibition at issue seeks to make it increasingly difficult for the Russian Government and entities established in Russia to obtain goods, services or capital in the European Union, by depriving them of the technical and legal assistance needed for such transactions.

97 It is, in fact, apparent from the aforementioned recitals that, in the light of the worsening of the situation in Ukraine, the members of the European Council and, subsequently, the Council, sought to

increase the pressure exerted on the Russian Federation, by means of additional restrictive measures, the objective of which was to contribute to bringing an end to the war of aggression being conducted by the Russian Federation against Ukraine. Since the legal advisory services provided by EU lawyers are an essential element in the conduct of economic activities in which the Russian Government or any entity established in Russia is engaged within the European Union, a prohibition on those services is appropriate in order to restrict such activities. That restriction can therefore serve to limit the economic and financial resources of the Russian regime and, as a result, increase the cost of the actions of the Russian Federation to undermine the territorial integrity, sovereignty and independence of Ukraine.

98 In that regard, it should be pointed out that the prohibition at issue is accompanied by the exception provisions and the exemption provisions, which serve to diminish the effects of that prohibition as regards both the substantive and the personal scope thereof.

99 First of all, the exception provisions limit the scope of the general prohibition on providing legal advisory services, by excluding from its substantive scope, in particular, legal advisory services provided in connection with judicial, administrative or arbitral proceedings. As a result, only legal advice in non-contentious matters remains subject to that prohibition.

100 Next, first, Article 5n(10) of Regulation No 833/2014 provides for the possibility of derogating from the prohibition at issue in respect of certain legal advisory services which, in the light of the areas listed in that paragraph, may, in particular, prove necessary or appropriate for the European Union and are consistent with the aims of the European Union's external action in so far as it refers to sectors not covered by sectoral restrictive measures.

101 Second, Article 12b(2a) of Regulation No 833/2014 also provides for the possibility of derogating from the prohibition at issue in respect of certain legal advisory services where they are strictly necessary for the divestment from Russia or the wind-down of business activities in Russia, provided that two conditions are fulfilled. In addition, it should be pointed out that although that exemption was limited in time (initially until 31 December 2023), it was extended until 31 March 2024, by Council Regulation (EU) 2023/1214 of 23 June 2023 amending Regulation No 833/2014 (OJ 2023 L 159I, p. 1), and then until 31 July 2024, by Council Regulation (EU) 2023/2878 of 18 December 2023 amending Regulation No 833/2014 (OJ L 2023/2878).

102 Finally, the personal scope of the prohibition at issue is, for its part, also limited. The prohibition relates only to legal services provided to the Russian Government and to legal persons, entities and bodies established in Russia. Accordingly, legal advice provided to natural persons, in particular, does not fall within the scope of that prohibition.

103 Consequently, the prohibition at issue corresponds in an appropriate and consistent manner to the objective of further increasing the pressure on the Russian Federation to end its war of aggression against Ukraine. The exemption provisions, in so far as they allow the prohibition at issue to be lifted in specifically identified situations, themselves pursue that objective of general interest.

104 In the fourth place, it is necessary to examine whether the interference with the fundamental right to respect for communications between lawyers and their clients to which the exemption provisions may give rise is confined to what is necessary to achieve the aims pursued by Regulations 2022/1904, 2022/2474 and 2023/427.

105 In that regard, it should be pointed out that the exemption provisions are intended to lift the prohibition at issue for political, humanitarian, strategic and economic reasons, particularly in situations that may be beneficial for the European Union, as explained, in particular, in paragraph 100 of the present judgment. In that respect, those exemption provisions restrict the scope of the prohibition at issue, as is clear from paragraphs 100 and 101 of the present judgment, and therefore make it possible to ensure that it is proportionate. It is true, moreover, that those provisions, in so far as they reduce the severity of the prohibition at issue, may affect the pursuit of the overall legitimate objective pursued by that prohibition, which consists in limiting the economic and financial resources of the Russian regime so that it ends its war of aggression against Ukraine. There is therefore justification for allowing the competent authorities to lift the prohibition at issue only once they have established that that lifting is necessary, and subject to compliance with the conditions set out in the exemption provisions.

106 It must therefore be held that the exemption provisions do not to go beyond what is necessary in order to achieve effectively the objectives of the prohibition at issue, whilst ensuring that it is proportionate.

107 The third part of the first plea in law, alleging that the prohibition at issue constitutes interference with Article 7 of the Charter, is therefore, in any event, unfounded. The first plea in law must therefore be rejected in its entirety.

2. The second plea in law, alleging interference with the independence of lawyers and with the values of the rule of law, and breach of the principle of proportionality

108 The second plea is divided into two parts.

(a) The first part of the second plea, alleging interference with the independence of lawyers and with the values of the rule of law

109 The first part of the second plea consists of two complaints. By those two complaints, the applicants ask the Court to examine whether the prohibition at issue is lawful in the light of Article 2 TEU.

110 The Council, supported by the Republic of Estonia, the Commission and the High Representative of the Union for Foreign Affairs and Security Policy, submits that the applicants' arguments based on the values of the European Union enshrined in Article 2 TEU are inadmissible because they are insufficiently substantiated.

111 It is accordingly necessary, first of all, to examine the plea of inadmissibility submitted by the Council, then to analyse the complaint alleging interference with the independence of lawyers and, finally, to analyse the complaint alleging interference with the values of the rule of law.

(1) The plea of inadmissibility under Article 76 of the Rules of Procedure

112 Under Article 76(d) of the Rules of Procedure of the General Court, the application must contain, inter alia, a summary of the pleas in law relied on. In addition, it is settled case-law that that summary must be sufficiently clear and precise to enable the defendant to prepare its defence and the Court to rule on the action, if necessary without having to seek further information. If an action is to be admissible, the essential points of fact and law on which it is based must be apparent from the text of the application itself, even if only stated briefly, provided the statement is coherent and comprehensible, in order to ensure legal certainty and the sound administration of justice. It is also settled case-law that any plea which is not adequately articulated in the application initiating the proceedings must be held to be inadmissible. Similar requirements apply where a submission is made in support of a plea in law (see judgment of 12 February 2020, *Kampete* v *Council*, T-164/18, not published, EU:T:2020:54, paragraph 112 and the case-law cited).

113 In the present case, the applicants submit, drawing on the case-law of the European Court of Human Rights and of the Court of Justice, that safeguarding the fundamental role of lawyers, that is to say, that of defending litigants, is necessary in order to promote, within the European Union, the fundamental values set out in Article 2 TEU, such as democracy, the rule of law and human rights, and to guarantee the fundamental rights enshrined in Articles 7 and 47 of the Charter.

114 Interference with the independence of lawyers arises specifically from the fact that the prohibition at issue, through the exemption provisions thereto, restricts lawyers' ability to accept and then perform their instructions. The prohibition at issue is thereby prejudicial to the fundamental role of lawyers and, consequently, to the fundamental values set out in Article 2 TEU.

115 The applicants accordingly claim that the prohibition at issue, to the extent that, as a matter of principle, it restricts the provision of legal advisory services by lawyers, is likely to contravene the fundamental values set out in Article 2 TEU.

116 It follows that the applicants have, even if only briefly, stated coherently and comprehensively, in the application, the essential points of fact and law on which they rely.

117 Consequently, the plea of inadmissibility based on Article 76(d) of the Rules of Procedure must be rejected.

(2) The first complaint, alleging interference with the independence of lawyers

118 The applicants, supported by the Bundesrechtsanwaltskammer and the Ordre des avocats de Genève, claim that the requirement to apply for authorisation in order to provide legal advisory services constitutes interference with the independence of lawyers, which is necessary in order to guarantee compliance with the values of the European Union, enshrined in Article 2 TEU, such as democracy, the rule of law and human rights. The independence of lawyers is therefore necessary in order to guarantee the rule of law.

119 It is argued that the provisions at issue undermine the independence of lawyers, both from the public authorities and from their clients, and prevent them from discharging their duty to act in good faith towards those clients. The exceptions laid down in those provisions are limited and cover only some legal advisory services. The applicants note that the Code of Conduct for European lawyers drawn up by the Council of Bars and Law Societies of Europe precludes a third party, and with all the more reason a public authority, from influencing the process by which a lawyer accepts and performs his or her instructions.

120 The applicants also state that the authorities have a duty not to adopt measures that would jeopardise the independence of lawyers. The fact that national or European authorities may limit the matters in which lawyers may act and the persons they may advise constitutes interference with the independence of lawyers, rather than solely with their freedom to provide certain services.

121 The Ordre des avocats de Genève adds that the independence of lawyers from the public authorities, third parties and their clients is protected by Article 47 of the Charter and Article 2 TEU. The prohibition at issue undermines that independence without justification, whereas lawyers must be free to choose whether or not to handle a matter, in such a way as not to restrict the ability of any and all persons to exercise their rights.

122 The Council, supported by the Republic of Estonia, the Commission and the High Representative of the Union for Foreign Affairs and Security Policy, refutes any interference with the independence of lawyers.

123 In that regard, the Court recalls that it follows from Article 2 TEU that the European Union is founded on values, such as the rule of law, which are common to the Member States in a society in which, inter alia, justice prevails (judgment of 20 April 2021, *Repubblika*, C-896/19, EU:C:2021:311, paragraph 62). Any person whose rights and freedoms guaranteed by EU law are violated has the right to an effective remedy before a tribunal, since an effective judicial review designed to ensure compliance with provisions of EU law is of the essence of the rule of law (see, to that effect, judgment of 28 March 2017, *Rosneft*, C-72/15, EU:C:2017:236, paragraph 73 and the case-law cited).

124 It is clear from the case-law of the Court of Justice that lawyers are officers of the court who provide, in full independence, such legal assistance as their clients need. The Court of Justice has indeed recognised the role of lawyers, who are required to provide, in full independence and in the overriding interests of justice, such legal assistance as the client needs (judgment of 18 May 1982, *AM & S Europe* v *Commission*, 155/79, EU:C:1982:157, paragraph 24). It has also pointed out that the fundamental task of lawyers entails, on the one hand, the requirement, the importance of which is recognised in all the Member States, that any person must be able, without constraint, to consult a lawyer whose profession encompasses, by its very nature, the giving of independent legal advice to all those in need of it and, on the other, the correlative duty of the lawyer to act in good faith towards his or her client (judgment of 8 December 2022, *Orde van Vlaamse Balies and Others*, C-694/20, EU:C:2022:963, paragraph 28).

125 In addition, the Court of Justice has held that the independence of lawyers is particularly important for the purpose of protecting their clients' right to an effective remedy, and requires, in order for actions brought by individuals to be admissible, that the applicant must be represented by an independent third party. The objective of representation by a lawyer, referred to in Article 19 of the Statute of the Court of Justice of the European Union, consists above all of ensuring the protection and defence of the interests

of the client, in line with the law and professional rules and codes of conduct. The requirement of the independence of lawyers is determined not only negatively, that is to say, by the absence of an employment relationship, but also positively, that is, by reference to professional ethical obligations. In that latter regard, independence must be understood not as the lack of any connection whatsoever between the lawyer and his or her client, but only of those connections which have a manifestly detrimental effect on his or her capacity to carry out the task of defending his or her client while acting in that client's interests to the greatest possible extent, in line with the law and professional rules and codes of conduct (see, to that effect, judgment of 24 March 2022, *PJ and PC* v *EUIPO*, C-529/18 P and C-531/18 P, EU:C:2022:218, paragraphs 65, 66 and 69 and the case-law cited). A person's right to legal advice given in full independence by a lawyer is therefore inherent in the right to an effective remedy.

126 Finally, in the case which gave rise to the judgment of 19 February 2002, *Wouters and Others* (C-309/99, EU:C:2002:98), the Court of Justice, having determined that there were no EU rules in the field of the independence of lawyers, referred to the applicable national legal framework, namely the Samenwerkingsverordening 1993 (Regulation on Joint Professional Activity, 1993), adopted by the Nederlandse Orde van Advocaten (the Netherlands Bar Association), in order to draw the boundaries of the independence of lawyers (see, to that effect, judgment of 19 February 2002, *Wouters and Others*, C-309/99, EU:C:2002:98, paragraphs 99 to 102).

127 It is clear from the foregoing that, notwithstanding the absence of a rule of primary law enshrining and defining the independence of lawyers, the Court of Justice has recognised the importance of such independence for the purposes of guaranteeing the right of all persons subject to the law to an effective remedy, in contexts where there is a link with judicial proceedings.

128 Admittedly, it is apparent from the provisions of the Code of Conduct for European lawyers to which the applicants refer, according to which the independence of lawyers 'is necessary in non-contentious matters as well as in litigation', that independence may also extend to legal advisory activities unconnected with judicial proceedings.

129 Nevertheless, the provisions of the Code of Conduct for European lawyers are not rules of EU law and cannot constitute a legal basis for the recognition of the independence of lawyers at EU level. Moreover, those provisions do not affect the freedom of each Member State to regulate the practice of the profession of lawyer in its territory. For that reason, the rules applicable to that profession may differ greatly from one Member State to another (judgment of 19 February 2002, *Wouters and Others*, C-309/99, EU:C:2002:98, paragraph 99). It is, moreover, common ground between the parties that the applicants have failed to indicate the specific conception of the independence of lawyers as understood in Belgium. In any event, it is apparent from the provisions of the Code of Conduct for European lawyers that the independence that they advocate in non-contentious matters is intended to ensure that lawyers advise their clients without fear or favour, unconnected with any personal interest and free of any external pressure. Those provisions therefore concern the way in which lawyers must perform their advisory activity. The provisions of the Code of Conduct for European lawyers are therefore not such as to justify the independence of lawyers, which the Court of Justice has recognised as being necessary in order to protect the right to an effective remedy, guaranteeing complete freedom for lawyers in the cases in which they decide to act in all fields of legal advice.

130 In the present case, it follows from the analysis of the first part of the first plea in law that the prohibition at issue does not apply to legal advisory services which are provided by a lawyer and have a link with judicial proceedings, and that it therefore does not entail any interference with the right to an effective remedy guaranteed by Article 47 of the Charter.

131 Accordingly, it has not been established that the prohibition at issue is capable of giving rise to interference with the independence of lawyers, as recognised by the case-law of the Court of Justice for the purpose of protecting that right.

132 Moreover, even if the independence of lawyers, in the same way as the protection of professional secrecy under Article 7 of the Charter, were also to be recognised outside a contentious context, and that there were found to be interference with that independence, it should be borne in mind that such independence does not mean that the profession of lawyer cannot be subject to limitations. That independence may be subject to restrictions justified by objectives of general interest pursued by the

European Union, provided that such restrictions do not constitute, in relation to the aim pursued, a disproportionate and intolerable interference, impairing the very essence of the independence of lawyers (see, to that effect, judgment of 28 March 2017, *Rosneft*, C-72/15, EU:C:2017:236, paragraph 148).

133 First, it is clear from paragraphs 94 to 103 of the present judgment that the prohibition at issue, as delimited in particular by the exemption provisions, pursues objectives of general interest.

134 Second, although the exemption provisions afford the competent authorities the possibility of lifting the prohibition at issue in relation to certain legal advisory services, those provisions do not enable the competent authorities 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. The same applies to the prohibition at issue itself. Where a lawyer has the benefit of an exemption, or even an exception, he or she remains free when performing the activity of advising his or her client. The prohibition at issue and, in particular, the exemption provisions therefore do not constitute disproportionate and intolerable interference which impairs the very essence of the independence of lawyers.

135 Accordingly, even if there were interference with the independence of lawyers, it would be justified and proportionate.

136 Consequently, the first complaint in the first part of the second plea in law must be rejected.

(3) The second complaint, alleging interference with the values of the rule of law

137 The applicants, supported by the Bundesrechtsanwaltskammer and the Ordre des avocats de Genève, claim that it is necessary to safeguard the role of lawyers in order to promote the fundamental values enshrined in Article 2 TEU. The prohibition at issue therefore undermines the rule of law, which encompasses several principles, including the principles of legal certainty, justice, access to justice and respect for human rights. Access to legal advice given by a lawyer, including in non-contentious matters, serves to ensure compliance with the rule of law, as numerous political and legal documents confirm. Such undermining of the rule of law is manifestly disproportionate and it is not possible to interpret the prohibition at issue in a manner consistent with higher-ranking rules.

138 The Council, supported by the Republic of Estonia, the Commission and the High Representative of the Union for Foreign Affairs and Security Policy, disputes the applicants' position. In particular, the Council takes the view that the matters added by the applicants at the stage of the reply go beyond mere amplification and are therefore inadmissible under Article 84 of the Rules of Procedure.

139 It is necessary to examine in turn the Council's plea of inadmissibility and the merits of the second complaint in the first part of the applicants' second plea in law.

(i) The plea of inadmissibility under Article 84 of the Rules of Procedure

140 In accordance with Article 84(1) of the Rules of Procedure, no new pleas in law may be introduced in the course of proceedings unless they are based on matters of law or fact which have come to light in the course of the procedure.

141 In the present case, as from the stage of the application, the applicants have maintained that the evaluation of a person's legal situation, which the provision of legal advice made possible, was an essential activity in a State governed by the rule of law. The provision of such advice by a lawyer is therefore guaranteed by Articles 7 and 47 of the Charter and also constitutes a value common to all the Member States.

142 The applicants then noted, in the reply, that the concept of the rule of law included, in particular, the principles of legal certainty, justice and access to justice, as the Council itself had observed in the defence. They also stated, following on from their application, that Article 2 TEU enshrined human rights.

143 Next, the applicants stated that access to legal advice from a lawyer, which is limited by the prohibition at issue, was necessary in order to ensure respect for each of the aforementioned rights and principles. Access to legal advice from a lawyer is, according to the applicants, therefore required in order to ensure compliance with the rule of law.

144 Accordingly, the arguments put forward by the applicants in the reply amplify the pleas and complaints contained in the application and are therefore admissible.

145 The plea of inadmissibility must therefore be rejected.

(ii) Interference with the values of the rule of law

146 The Court recalls that the principle that one of the European Union's founding values is the rule of law follows from both Article 2 TEU, which is included in the common provisions of the EU Treaty, and Article 21 TEU, concerning the European Union's external action, to which Article 23 TEU, relating to the common foreign and security policy (CFSP), refers (judgment of 22 June 2021, *Venezuela* v *Council (Whether a third State is affected)*, C-872/19 P, EU:C:2021:507, paragraph 49).

147 As has been recalled in paragraphs 40 and 41 of the present judgment, the fundamental right to an effective remedy and to a fair trial enshrined in Article 47 of the Charter is of cardinal importance as a guarantee of the value of the rule of law, which requires free access to EU law for all natural or legal persons of the European Union and that individuals must be able to ascertain unequivocally what their rights and obligations are.

148 The Court has also stated that there is a non-exhaustive list of principles and standards capable of falling within the concept of the rule of law. That list includes the principles of legality and legal certainty, the right to effective judicial review, extending to respect for fundamental rights, and the principle of equality before the law (see, to that effect, judgment of 15 September 2016, *Klyuyev* v *Council*, T-340/14, EU:T:2016:496, paragraph 88).

149 As a preliminary point, it should be noted that, by their arguments, the applicants are not claiming a breach of the rule of law as such, but rather of its constituent values which take the legal form of principles of EU law.

150 By their first argument, the applicants submit that the ability of any person freely to access legal advice from a lawyer, in both contentious and non-contentious matters, is guaranteed under the principle of legal certainty.

151 That fundamental principle of EU law requires, in particular, that rules should be clear and precise, so that individuals may ascertain unequivocally what their rights and obligations are and may take steps accordingly (judgment of 28 March 2017, *Rosneft*, C-72/15, EU:C:2017:236, paragraph 161).

152 The principle of legal certainty therefore concerns the characteristics which rules of law must inherently possess. As the Council correctly states, that principle does not, however, consist in guaranteeing that lawyers or other legal professionals can give advice as to how those rules must be understood.

153 The applicants' first argument must therefore be rejected.

154 By their second argument, the applicants submit that the ability of any person freely to access legal advice from a lawyer, in both contentious and non-contentious matters, serves to ensure access to justice.

155 As the Council notes, the right of access to justice is guaranteed by Article 47 of the Charter. As is clear from the response to the first part of the first plea in law, the right of access to a lawyer is recognised only where it involves a link with judicial proceedings, in order to safeguard the guarantees arising from Article 47 of the Charter. In the present case, according to the interpretation set out in paragraphs 51 and 60 to 63 of the present judgment, the prohibition at issue specifically does not apply to legal advisory services which have such a link.

156 Furthermore, as has been stated in response to the first plea in law, no rule of EU law, including Article 2 TEU, enshrines a fundamental right to consult a lawyer in non-contentious matters.

157 The applicants' second argument must, as a consequence, be rejected.

158 By their third argument, the applicants submit that the ability of any person freely to access legal advice from a lawyer, in both contentious and non-contentious matters, ensures respect within a society for human rights, in particular for the fundamental right to respect for private life enshrined in Article 7 of the Charter.

159 It is clear that, apart from the right to respect for communications between lawyers and their clients enshrined in Article 7 of the Charter, the applicants have failed to identify any other rights adversely affected by the prohibition at issue and by the exemption provisions. As has been stated in the analysis of the second part of the first plea in law, that prohibition, including the exemption provisions, does not entail any interference with the fundamental right guaranteed in Article 7 of the Charter.

160 The applicants' third argument is, therefore, unfounded.

161 By their fourth argument, the applicants submit that the provision of legal advisory services in non-contentious matters forms part of the essential activity of lawyers, which is protected by the values of the rule of law.

162 However, it cannot be inferred from the case-law of the European Court of Human Rights or of the Court of Justice that Articles 7 and 47 of the Charter, considered in isolation or together, grant a right, in non-contentious matters, to be advised by a lawyer, as is clear from paragraphs 52 to 63 of the present judgment. The right to be advised by a lawyer, guaranteed in Article 47 of the Charter, applies only on condition that there is a link with judicial proceedings.

163 Moreover, the provision of legal advisory services by a lawyer in non-contentious matters is guaranteed neither by Article 2 TEU nor, more broadly, by EU law.

164 The applicants' fourth argument is therefore unfounded.

165 By their fifth argument, the applicants claim that the prohibition at issue cannot be interpreted in such a way as to be compatible with the rule of law. It consists, they claim, of an outright prohibition on providing legal advisory services which is incompatible with the principles of legal certainty, justice, access to justice, and respect for human rights.

166 However, as the Council maintains, the prohibition at issue is restricted in scope. That prohibition has been limited by the exception provisions and the exemption provisions. Taking those provisions into account, the Court has found, in response to the first plea in law, that the prohibition at issue did not entail any interference with the rights guaranteed by Articles 7 and 47 of the Charter and that, even if that it were to do so in relation to Article 7 of the Charter, that interference would not infringe Article 52(1) of the Charter. Accordingly, for the same reasons, the prohibition at issue likewise does not infringe the principles of access to justice, justice and respect for fundamental rights as relied on by the applicants. It is, furthermore, recalled that the argument alleging breach of the principle of legal certainty is, in the context of the present plea, ineffective.

167 The applicants' fifth argument must, in consequence, be rejected.

168 By their sixth and final argument, the applicants submit that the alleged undermining of the values of the rule of law amounts to a measure which is manifestly inappropriate for the pursuit of the objectives set out by the Council.

169 It is nevertheless apparent from the foregoing that no undermining of the values of the rule of law has been established.

170 The applicants' sixth argument must therefore be rejected.

171 It follows from the foregoing that the second complaint in the first part of the second plea in law must be rejected.

(b) The second part of the second plea, alleging breach of the principle of proportionality

172 The applicants, supported by the Bundesrechtsanwaltskammer and the Ordre des avocats de Genève, claim, in the alternative, that Regulations 2022/1904, 2022/2474 and 2023/427 infringe the principle of proportionality, a general principle of EU law enshrined in Article 5 TEU. In their view, the introduction of a general prohibition on the provision of legal advisory services is not appropriate for achieving the legitimate objectives pursued and goes beyond what is strictly necessary to achieve those objectives.

173 The Council, supported by the Republic of Estonia, the Commission and the High Representative of the Union for Foreign Affairs and Security Policy, disputes the applicants' arguments.

174 In that regard, the Court recalls that the principle of proportionality, which is one of the general principles of EU law, requires that measures implemented through provisions of EU law be appropriate for attaining the legitimate objectives pursued by the legislation at issue and must not go beyond what is necessary to achieve them (judgment of 13 March 2012, *Melli Bank* v *Council*, C-380/09 P, EU:C:2012:137, paragraph 52).

175 It should also be noted that, with regard to judicial review of compliance with the principle of proportionality, the EU legislature must be allowed a broad discretion in areas which involve political, economic and social choices on its part, and in which it is called upon to undertake complex assessments. The legality of a measure adopted in those areas can be affected only if the measure is manifestly inappropriate having regard to the objective which the competent institution is seeking to pursue (judgments of 28 March 2017, *Rosneft*, C-72/15, EU:C:2017:236, paragraph 146, and of 15 February 2023, *Belaeronavigatsia* v *Council*, T-536/21, EU:T:2023:66, paragraph 68).

176 As has been stated in paragraphs 93 to 103 of the present judgment, the prohibition at issue meets, in an appropriate and consistent manner, the objective of further increasing the pressure exerted on the Russian Federation to end its war of aggression against Ukraine and cannot, in any event, be regarded as being manifestly inappropriate having regard to that objective. For that reason alone, it must be found that the prohibition at issue does not infringe Article 5 TEU.

177 In addition and in any event, even if, by the second part of the second plea in law, the applicants are claiming disproportionate undermining of the fundamental role of lawyers in ensuring compliance with and defending the rule of law, it should be noted that that role is not exempt from limitation and may be subject to restrictions justified by objectives of general interest pursued by the European Union, provided that such restrictions do not constitute, in relation to the aim pursued, a disproportionate and intolerable interference, impairing the very essence of the task entrusted to lawyers in a State governed by the rule of law (see, to that effect, judgment of 28 March 2017, *Rosneft*, C-72/15, EU:C:2017:236, paragraph 148).

178 Since the applicants have failed to demonstrate the existence of interference either with the independence of lawyers as recognised for the purposes of the right to an effective remedy or with the values of the rule of law, it is also not established that the prohibition at issue impairs the very essence of the task performed by lawyers in a State governed by the rule of law.

179 Consequently, the second part of the second plea in law is unfounded and must be rejected.

3. The third plea in law, alleging breach of the principle of legal certainty

180 The applicants, supported by the Bundesrechtsanwaltskammer and the Ordre des avocats de Genève, claim that the provisions establishing the prohibition at issue infringe the principle of legal certainty. They are neither clear nor precise and afford no foreseeability as to how they will be applied.

181 First, it is not possible to understand from a combined reading of recital 19 of Regulation 2022/1904 and the provisions of Article 5n(5) and (6) of Regulation No 833/2014, as amended, what services are

excluded from the prohibition at issue.

182 Second, the exception relating to consistency with the objectives of Regulations 2022/2474 and 2023/427 and of Regulation No 269/2014, provided for in Article 5n(6) of Regulation No 833/2014, is not sufficiently delimited, since those regulations do not define their objectives.

183 Third, the concept of sole or joint control by a legal person, entity or body which is incorporated or constituted under the law of a Member State, a country member of the European Economic Area, Switzerland or a partner country, used in Article 5n(7) of Regulation No 833/2014, is incomprehensible.

184 Fourth, it cannot be understood from the wording of the prohibition at issue whether activities such as legal representation services in pre-litigation procedures, services relating to the divestment from Russia or the wind-down of business activities by undertakings in Russia, the drafting of a share transfer document in relation to the acquisition by an EU entity of its own shares from Russian shareholders, follow-up to a consultation on the basis of an agreement concluded before 7 October 2022, speaking at a conference on legal matters, or organising such a conference where the participants are employees of an entity established in Russia are prohibited or not.

185 The applicants add that the Council has adapted and clarified the scope of the provisions establishing the prohibition at issue, without however remedying the breach of the principle of legal certainty. These are clarifications made after the adoption of the prohibition at issue, the majority of which have not been made public, while the concept of 'legal advisory services in non-contentious matters' – which are prohibited – has still not been clearly defined.

186 The Council, supported by the Republic of Estonia, the Commission and the High Representative of the Union for Foreign Affairs and Security Policy, disputes the applicants' arguments.

187 In that regard, the Court recalls that, according to settled case-law, the principle of legal certainty – which is a general principle of EU law – requires, particularly, that rules of law be clear, precise and predictable in their effects, in particular where they may have negative consequences on individuals and undertakings. A penalty, even of a non-criminal nature, cannot be imposed unless it rests on a clear and unambiguous legal basis. The principle of legal certainty implies, inter alia, that any EU legislation, in particular when it imposes or permits the imposition of penalties, must be clear and precise so that the persons concerned may know without ambiguity what rights and obligations flow from it and may take steps accordingly (see judgment of 16 July 2014, *National Iranian Oil Company* v *Council*, T-578/12, not published, EU:T:2014:678, paragraph 112 and the case-law cited).

188 It is also apparent from the case-law that the existence of vague terms in a provision does not necessarily entail an infringement of Article 7 ECHR and that the fact that a law confers a discretion is not in itself inconsistent with the requirement of foreseeability, provided that the scope of the discretion and the manner of its exercise are indicated with sufficient clarity, having regard to the legitimate aim in question, to give the individual adequate protection against arbitrary interference. In that connection, apart from the text of the law itself, the case-law takes account of whether the indeterminate notions used have been defined by consistent and published case-law (see judgment of 4 September 2015, *NIOC and Others* v *Council*, T-577/12, not published, EU:T:2015:596, paragraph 135 and the case-law cited).

189 Moreover, the requirement of foreseeability which accompanies the principle that penalties must have a proper legal basis – which requires that legislation must clearly define offences and penalties – does not preclude the law from conferring discretion the scope and manner of exercise of which are indicated with sufficient clarity. Those principles of case-law are also applicable with regard to restrictive measures which, although they are not aimed in principle at penalising infringements, but constitute preventive measures, have a considerable impact on the rights and freedoms of the persons concerned (see judgment of 4 September 2015, *NIOC and Others* v *Council*, T-577/12, not published, EU:T:2015:596, paragraph 136 and the case-law cited).

190 The applicants' arguments must be examined in the light of those principles.

191 By their first argument, the applicants submit that the wording of recital 19 of Regulation 2022/1904 and of the provisions relating to the prohibition at issue does not make it possible to identify the prohibited legal advisory services.

192 Although recital 19 of Regulation 2022/1904 merely identifies the broad categories of legal advisory services that are subject to the prohibition at issue and those that are not, Article 5n(5) and (6) of Regulation No 833/2014 delimits the prohibition at issue more precisely.

193 In any event, even assuming that some lawyers have been able to follow a strict interpretation of the provisions at issue, by refraining from providing legal advice necessary to pre-empt, anticipate or even prepare judicial or administrative proceedings, it is sufficient to recall that, in any event, as has been explained in response to the first plea in law, the wording of Article 5n of Regulation No 833/2014, and of Article 5n(5) and (6) in particular, enables the applicants to distinguish between those legal advisory services which fall outside the prohibition at issue and those which are subject to it.

194 Accordingly, the applicants' first argument cannot be upheld.

195 By their second argument, the applicants submit that the requirement laid down in Article 5n(6) of Regulation No 833/2014 that the provision of services must be consistent with the objectives pursued by Regulation No 833/2014 and Regulation No 269/2014 is imprecise.

196 Recital 2 of Regulation No 833/2014 states that the adoption of restrictive measures must make it possible to 'increas[e] the costs of Russia's actions to undermine Ukraine's territorial integrity, sovereignty and independence and to promot[e] a peaceful settlement of the crisis'.

197 In addition, recital 3 of Regulation No 269/2014 states that 'the solution to the crisis should be found through negotiations between the Governments of Ukraine and of the Russian Federation … and that in the absence of results within a limited timeframe the Union will decide on additional measures, such as travel bans, asset freezes and the cancellation of the EU-Russia summit'. Recital 6 recalls that that regulation 'respects the fundamental rights and observes the principles recognised in particular by the [Charter] and in particular the right to an effective remedy and to a fair trial and the right to the protection of personal data'.

198 The requirement of consistency with the objectives pursued by Regulation No 833/2014 and Regulation No 269/2014, as it is laid down in Article 5n(6) of Regulation No 833/2014, is therefore intended to ensure that the exception established by Article 5n(6) does not compromise the objective consisting in exerting pressure on the Russian Federation to end its war of aggression against Ukraine, in compliance with the principles guaranteed by the Charter. As the Council observes, that requirement seeks to prevent any misuse of the exception set out in the aforementioned Article 5n(6) and is therefore sufficiently explicit.

199 Accordingly, the applicants' second argument must be rejected.

200 By their third argument, the applicants submit that the concept of control contained in Article 5n(7) of Regulation No 833/2014, since it encompasses the concepts of sole control and of joint control and is not defined by that regulation, is incomprehensible.

201 However, in relation to restrictive measures, the Council correctly states that the Court of Justice has already held that 'a company may be classified as a "company owned or controlled by another entity" where the latter [was] in a situation in which it [was] able to influence the decisions of the company concerned, even in the absence of any legal tie between the two economic entities, or any link in terms of ownership or equity participation' (judgment of 10 September 2019, *HTTS* v *Council*, C-123/18 P, EU:C:2019:694, paragraph 75).

202 Consequently, the applicants' third argument must be rejected.

203 By their fourth argument, the applicants take the view that the prohibition at issue is vitiated by a lack of precision concerning its scope.

204 No aspect of the alleged lack of precision is however capable of giving rise to a breach of the principle of legal certainty.

205 First of all, as can be seen from paragraph 61 of the present judgment, the wording of Article 5n(5) of Regulation No 833/2014 permits the provision of legal advisory services in the context of pre-litigation procedures.

206 Next, in relation to the divestment from Russia or the wind-down of business activities by undertakings in Russia, it is clear from Article 5n(2) of Regulation No 833/2014 that the provision of legal advice relating to such transactions is prohibited where it is intended for the Russian Government or entities established in Russia. That prohibition may be lifted only under the conditions laid down, first, in Article 5n(7) of Regulation No 833/2014 and, second, in Article 12b(2a) of that regulation.

207 Furthermore, Article 5n(2) of Regulation No 833/2014 prohibits the provision of legal advice relating to a share transfer document for the purpose of and concerning the acquisition by an EU entity of its own shares from current Russian shareholders, to the extent that that advice is intended, directly or indirectly, for the Russian Government or for entities established in Russia. It is in that respect irrelevant that the transaction in question, carried out on the basis of that legal advice, might ultimately and indirectly benefit the Russian Government or entities established in Russia.

208 In addition, in accordance with Article 2 of Regulation 2022/1904, the prohibition at issue entered into force as from 7 October 2022. It follows that lawyers are in principle prohibited from providing legal advice to the Russian Government or to entities established in Russia in the context of follow-up to a consultation, on the basis of a letter of engagement or an agreement concluded before 7 October 2022. That prohibition may be lifted only under the conditions laid down by Article 5n(4) of Regulation No 833/2014, that is to say, for legal advice which has to be provided precisely in order to terminate contracts concluded before 7 October 2022 by the deadline set in that paragraph.

209 Finally, it should be observed that Article 5n(2) of Regulation No 833/2014 prohibits the provision of legal advisory services to the Russian Government or to entities established in Russia, even indirectly. However, that prohibition does not preclude speaking at a conference attended by an employee of the Russian Government or of an entity established in Russia, so long as that speech remains general in nature and does not amount to providing advice based on the interpretation and application of a rule of law to a specific situation or to being of such a nature as to facilitate decision-making by the Russian Government, a Russian entity or a specific category of Russian entities.

210 The third plea in law must therefore be rejected.

211 Since the three pleas in law relied upon by the applicants in support of their action have been rejected, that action must in any event be dismissed with no requirement to rule on its admissibility.

IV. Costs

212 Under Article 134(1) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.

213 Since the applicants have been unsuccessful, they must be ordered to bear their own costs and pay those of the Council, as applied for by the latter.

214 In accordance with Article 138(1) and (3) of the Rules of Procedure, the Bundesrechtsanwaltskammer, the Ordre des avocats de Genève, the Republic of Estonia, the Commission and the High Representative of the Union for Foreign Affairs and Security Policy are to bear their own costs.

On those grounds,

THE GENERAL COURT (Grand Chamber)

hereby:

1. **Dismisses the action;**

2. **Orders the Ordre néerlandais des avocats du barreau de Bruxelles and the other applicants whose names appear in the annex to bear their own costs and to pay those of the Council of the European Union;**

3. **Orders the Bundesrechtsanwaltskammer, the Ordre des avocats de Genève, the Republic of Estonia, the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy to bear their own costs.**

van der Woude	Papasavvas	da Silva Passos
Kornezov	Truchot	Gervasoni
Półtorak	Nihoul	Öberg
Mac Eochaidh	Pynnä	Martín y Pérez de Nanclares
Brkan	Zilgalvis	Gâlea

Delivered in open court in Luxembourg on 2 October 2024.

[Signatures]

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* Language of the case: French.

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1 The list of the other applicants is annexed only to the version sent to the parties.