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EU-Sanctions: Providing of legal services

Maksim Vaskin
Associate

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Article 5n of Council Regulation 833/2014 – prohibition of the legal and auxiliary services

Item 1: It shall be prohibited to provide, directly or indirectly, accounting, auditing, including statutory audit, bookkeeping or tax consulting services, or business and management consulting or public relations services to ... **legal persons, entities or bodies established in Russia.**

Item 2: It shall be prohibited to provide, directly or indirectly, architectural and engineering services, **legal advisory services** and IT consultancy services to ... **legal persons, entities or bodies established in Russia.**

Remaining items of the article provide various exemptions and derogations.

Services from item 1 of article 5n (usually provided along with the legal services):

- ▲ Accounting, auditing, bookkeeping and tax consultancy services cover the recording of commercial transactions for businesses,
- ▲ examination services of accounting records and financial statements,
- ▲ business tax planning and consulting,
- ▲ preparation of tax documents.

- ▲ Business and management consulting and public relations services, which cover advisory, guidance and operational assistance services provided to businesses for business policy and strategy and the overall planning, structuring and control of an organization.

Provision of the legal services: main positions

Services **cannot be** provided to the companies incorporated in Russia or to its branches, since they are not separate legal entities.

Services **can be** provided to the:

- EU-subsiidiaries of the Russian companies,
- EU-incorporated Russian tax residents,
- Russian companies owned by, or solely or jointly controlled by a legal person from the EU or from some other countries (Switzerland, etc.); branches of the companies from the EU in Russia.

Services **can** be provided **neither** by the natural, **nor** by the legal persons from EU (including EU-subsiidiaries of the Russian parent companies).

If an EU-employee works in the Russian company, he **cannot** provide legal services to the Russian companies.

Services **can be** provided to the Russian natural persons. However, it is unclear, whether they can be provided to the Russian individual entrepreneurs or not.

Indirect services and violation of sanctions

When are legal advisory services indirectly provided?

When it is constituted that another operator than the recipient of services **is (also) benefitting** from them.

This could be the case when e.g. an EU-subsubsidiary is receiving legal consultation, which indirectly benefits its Russian parent company.

Intended violation of sanctions is prohibited:

“It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in the Regulation” (Article 12 of Council Regulation 833/2014).

Unclear positions of Regulation

Vague conditions of possible exemption

Regulation provides that services required for “civil society activities that directly promote democracy, human rights or the rule of law in Russia” can be authorized by the respective authorities and, therefore, provided to the Russian persons.

Unlike the rest of the article 5n, this provision is extremely vague and it is hard to say which conditions shall be fulfilled to receive the right to perform respective services.

Notarial services

Notarial services cannot be provided to the Russian **legal entities**, since they are covered by the prohibition under Article 5n(2) of Council Regulation 833/2014.

This includes authentication of contracts, certification of signatures, etc.

Such services still can be provided to the Russian natural persons, as well as any other legal services!



Maksim Vaskin
Associate
Mosgo & Partners

MOSGO & PARTNERS LAW FIRM

Malaya Dmitrovka street 16/12
127006 Moscow, Russia
Tel.: +7 495 228 48 78

maksim.vaskin@mosgolaw.com

www.mosgolaw.com

 <https://t.me/MosgoLaw>



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Malaya Dmitrovka street 16/12
127006 Moscow, Russia
Tel.: +7 495 228 48 78

info@mosgolaw.com

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