PROVISION OF BUSINESS SERVICES

RELATED PROVISION: ARTICLE 5n OF COUNCIL REGULATION 833/2014

1. The EU has prohibited the provision of certain business-relevant services to the Russian government, as well as to legal persons such as companies and other entities or bodies established in Russia. What kind of services are prohibited?

Last update: 24 June 2022

As of 4 June 2022, it is prohibited to provide, directly or indirectly, accounting, auditing, including statutory audit, bookkeeping and tax consulting services, as well as business and management consulting or public relations services (Article 5n of Council Regulation 833/2014) to the Russian government, as well as to legal persons such as companies and other entities or bodies established in Russia.


- Accounting, auditing, bookkeeping and tax consultancy services cover the recording of commercial transactions for businesses and others; examination services of accounting records and financial statements; business tax planning and consulting; and the preparation of tax documents.
- Business and management consulting and public relations services cover advisory, guidance and operational assistance services provided to businesses for business policy and strategy and the overall planning, structuring and control of an organisation. Management fees, management auditing; market management, human resources, production management and project management consulting; and advisory, guidance and operational services related to improving the image of the clients and their relations with the general public and other institutions are all included.

Furthermore, Article 5n excludes from the scope of the above-mentioned services:

(i) any service that is strictly necessary for the termination of contracts concluded before 4 June for the provision of the abovementioned services or of ancillary contracts. The termination of those contracts has to occur by 5 July 2022;
(ii) any service that is strictly necessary for the exercise of the right of defence in judicial proceedings and the right to an effective legal remedy;
(iii) any service provided to an entity established in Russia Federation that is 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.

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2. Do public relations services falling under the prohibition of Article 5n also include lobbying activities?

Last update: 24 June 2022

Yes, lobbying services could constitute public relations services and therefore fall under the prohibition laid down in Article 5n.

As stated in Article 3 of the interinstitutional agreement of 20 May 2021 on a mandatory transparency register, the activities covered by lobbying services include, inter alia:

- organising or participating in meetings, conferences and events, and engaging in any similar contacts with EU institutions;
- contributing to, or participating in, consultations, hearings or similar initiatives;
- organising communication campaigns, platforms, networks and grassroots initiatives; and
- preparing or commissioning policy and position papers, amendments, opinion polls, surveys, open letters, other communication or information material, or commissioning and carrying out research.

However,

- the provision of legal and other professional advice to clients in specific circumstances;
- activities by employers and trade unions acting as participants in social dialogue;
- activities carried out by individuals acting in a strictly personal capacity and not in association with others; and
- spontaneous, purely private or social meetings and meetings taking place in the context of an administrative procedure established by the treaties or legal acts of the EU are not covered by the definition of lobbying activities and therefore fall outside the scope of Article 5n.

3. Is the provision of legal services prohibited? Why does Article 5n(3) provide an exception for 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?

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Legal services are not covered by the scope of the prohibition on the provision of certain business-relevant services in Article 5n(1). That means the sanctions do not impede the standard legal services performed by service providers in the context of e.g. civil law, family law or company law, such as for transfers of immovable property.

Article 5n(3) allows the provision of any services prohibited by Article 5n(1) in so far as they are strictly necessary for the exercise of the right of defence in judicial proceedings and the right to an effective legal remedy. This is meant to ensure that the abovementioned judicial rights cannot be affected by restrictions on any type of service.
Article 12 prohibits conscious and intentional participation in activities the object or effect of which is to circumvent prohibitions in the Regulation.

4. **What do the terms “strictly“ and “exclusively“ refer to in the exceptions contained in Articles 5n (2), (3) and (4)?**
   
   *Last update: 24 June 2022*

These terms are used to make sure that the exceptions contained in Articles 5n (2), (3) and (4) are correctly interpreted by EU operators when assessing whether they can rely on these provisions. These exceptions are to be interpreted restrictively. The term strictly means that there is no other way to terminate contracts or to exercise the right of defense other than to rely on the provision of these otherwise prohibited services.

Article 12 prohibits conscious and intentional participation in activities the object or effect of which is to circumvent the prohibitions in the Regulation.

5. **Does the prohibition on providing services „indirectly“ in Article 5n prohibit an EU auditing services provider from providing auditing services to subsidiaries of an entity established in Russia?**
   
   *Last update: 24 June 2022*

No. It is not prohibited to provide services to non-Russian entities, that is entities not established in Russia, even if they are subsidiaries of entities established in Russia.

The use of the term “indirectly” in paragraph 1 of Article 5n means for example that it is prohibited for an EU auditing services provider to provide services to EU or other non-Russian entities that are subsidiaries of entities established in Russia **if those services would actually be for the benefit of the parent company established in Russia.**

Article 12 prohibits knowing and intentional participation in activities the object or effect of which is to circumvent prohibitions in the Regulation.

6. **Does the prohibition on providing services „indirectly“ in Article 5n prohibit an EU auditing services provider from providing outsourced auditing services to Russian legal entities?**
   
   *Last update: 24 June 2022*

Yes. EU entities cannot provide services to entities established in Russia, so they cannot use outsourced auditing services to provide prohibited services as this indeed could be considered an indirect provision of these services.

Article 12 prohibits EU entities to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in this Regulation.
7. **Does the prohibition on providing services in Article 5n prohibit entities established in the EU which are subsidiaries of Russian companies from providing business-related services to their mother companies established in Russia?**

*Last update: 24 June 2022*

Yes. Entities established in the EU, including those that are subsidiaries of companies established in Russia, are bound by EU sanctions. Hence, they are prohibited from providing, directly or indirectly, accounting, auditing, including statutory audit, bookkeeping or tax consulting services, or business and management consulting or public relations services to the Government of Russia or persons established in Russia.

8. **Does the prohibition on providing services prohibit nationals of EU Member States or persons located in the EU from working as employees of entities established in Russia?**

*Last update: 24 June 2022*

Not necessarily, it depends on the service provided. Under Article 5n, EU persons, including nationals of EU Member States or persons located in the Union, are prohibited from providing, directly or indirectly, accounting, auditing, including statutory audit, bookkeeping or tax consulting services, or business and management consulting or public relations services to the Government of Russia or persons established in Russia. Hence, EU persons are prohibited from providing these services to companies established in Russia in their capacity as employees. However, EU persons can still provide all services that are not prohibited in their capacity as employees.