

19TH SEPTEMBER 2024

SIDE NOTE

In cases where disputes have been brought before the courts and tribunals of the Member States, they may request a preliminary ruling from the Court of Justice regarding the interpretation of EU legislation or the legality of an EU act. The dispute is not resolved by the Court of Justice. The national court or tribunal has the authority to resolve the matter in line with the Court's ruling, which is likewise enforceable by other national courts or tribunals whereby a comparable matter is brought up.



A NOTARY DOES NOT BREACH THE SANCTIONS AGAINST RUSSIA WHEN HE OR SHE AUTHENTICATES THE SALE OF A PROPERTY OWNED BY AN UNLISTED RUSSIAN COMPANY

A notary public in Berlin refused to complete a contract for the sale of an apartment in Berlin that was owned by a Russian firm. The notary stated that he cannot complete the authentication as this violates the ban on offering legal advice services to legal persons established in Russia. Regarding this matter, the Berlin Regional Court directed questions to the Court of Justice.

The Court replied that the authentication by a notary of a contract for the sale of immovable property belonging to a legal person established in Russia is not covered by the prohibition on the provision of legal advisory services to such a person.

Furthermore, it does not seem that a German notary must provide legal advice in order to carry out the procedures necessary to execute an authenticated contract for the sale of real estate, including transferring the sum of the purchase price to the vendor, cancelling the debt associated with the property, and registering the ownership transfer in the Land Registry. It was also stated that an interpreter functioning within the framework of notarial authentication does not offer legal counsel, meaning that their services are not subject to the relevant limitation.

All subject persons, as per Article 17 (6) (a) (b) and (c) of the National Interest (Enabling Powers) Act, Cap 365 of the Laws of Malta are obliged to ensure strict observance to all applicable EU, UN and National sanctions at all times. Essentially,

all legal and natural persons who conduct relevant activity or relevant financial business must (i) regularly check lists of designations by the UN, EU and those issued by the SMB. Screening of clients against these lists periodically and immediately after any changes is also required; (ii) have in place and effectively implement internal controls and procedures in order to ensure compliance with pertinent sanctions and (iii) immediately notify the Board in the case of identification of targeted property or assets and the consequent action taken.