

Subsidiary Legislation made under s. 3 and 7 of the Export Control Act 2005 and section 23(g)(i) of the Interpretation and General Clauses Act.

UKRAINE SANCTIONS ORDER 2014**(LN. 2014/027)***Commencement* **7.3.2014**

Amending enactments	Relevant current provisions	Commencement date
LN. 2014/072	Sch.	6.5.2014
2015/041	Sch.	16.3.2015
2015/120	Sch.	20.7.2015
2015/182	Sch.	8.10.2015
2016/050	Sch.	10.3.2016
2017/044	Sch.	16.3.2017
2018/067	Sch.	20.3.2018
2018/181	Sch.	20.8.2018
2019/043	Sch.	8.3.2019
2019/058	Sch.	21.3.2019
2019/075	<i>Notice of Corrigendum</i>	

Transposing:**EU Legislation/International Agreements involved:**

Regulation (EU) No 208/2014

Regulation (EU) 2015/357

Regulation (EU) 2017/374

Regulation (EU) 2018/326

Regulation (EU) 2019/352

**Subsidiary
2014/027**

In exercise of the powers conferred upon him by sections 3 and 7 of the Export Control Act 2005 and section 23(g)(i) of the Interpretation and General Clauses Act; and for the purpose of implementing Council Regulation (EU) No 208/2014 of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine, the Minister has made the following Order—

Title and commencement.

1. This Order may be cited as Ukraine Sanctions Order 2014 and comes into operation on the day of publication.

Interpretation.

2. In this Order—

“claim” means any claim, whether asserted by legal proceedings or not, made before or after 6 March 2014, under or in connection with a contract or transaction, and includes in particular—

- (a) a claim for performance of any obligation arising under or in connection with a contract or transaction;
- (b) a claim for extension or payment of a bond, financial guarantee or indemnity of whatever form;
- (c) a claim for compensation in respect of a contract or transaction;
- (d) a counterclaim;
- (e) a claim for the recognition or enforcement, including by the procedure of exequatur, of a judgment, an arbitration award or an equivalent decision, wherever made or given;

“competent authority” means the Minister with responsibility for finance;

“contract” or “transaction” means any transaction of whatever form and whatever the applicable law, whether comprising one or more contracts or similar obligations made between the same or different parties; for this purpose ‘contract’ includes a bond, guarantee or indemnity, particularly a financial guarantee or financial indemnity, and credit, whether legally independent or not, as well as any related provision arising under, or in connection with, the transaction;

UKRAINE SANCTIONS ORDER 2014

Subsidiary
2014/027

“economic resources” means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds, but may be used to obtain funds, goods or services;

“freezing of economic resources” means preventing the use of economic resources to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them;

“freezing of funds” means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management;

“funds” means financial assets and benefits of every kind, including, but not limited to—

- (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;
- (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
- (c) publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
- (d) interest, dividends or other income on or value accruing from or generated by assets;
- (e) credit, right of set-off, guarantees, performance bonds or other financial commitments;
- (f) letters of credit, bills of lading, bills of sale; and
- (g) documents showing evidence of an interest in funds or financial resources;

“person” means any natural or legal person, entity or body;

“the Regulation” means Council Regulation (EU) No 208/2014 of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine, as the same may be amended from time to time.

General.

**Subsidiary
2014/027**

3.(1) This Order makes provision for the implementation of restrictive measures set out in the Regulation.

(2) The persons who are subject to restrictive measures and are listed in Annex I of the Regulation are set out in Schedule.

(3) Where a person is no longer the subject of restrictive measures under the Regulation, the Minister shall amend the Schedule by Notice published in the Gazette.

(4) Where any of the particulars in Annex I of the Regulation are amended, whether by the inclusion of new persons or otherwise, Minister may amend the Schedule by Notice published in the Gazette.

Applications to the competent authority.

4. An application for the release of frozen funds or economic resources, or the making available of funds or economic resources pursuant to Articles 4, 5 or 6 of the Regulation shall be made to the competent authority.

Authorisations pursuant to Article 4.

5.(1) Where the competent authority receives an application for the release of frozen funds or economic resources, or the making available of funds or economic resources pursuant to Article 4 of the Regulation, the competent authority may authorise such sums and upon such conditions as it deems appropriate, after having satisfied itself that the conditions set out in paragraphs (a) to (d) of Article 4(1) apply.

(2) An authorisation granted under subparagraph (1) shall be in writing.

(3) Where competent authority is minded to grant an application in accordance with Article 4(1)(d) of the Regulation the competent authority shall ensure that the Commission and the competent authorities of the Member States are informed of the grounds on which it considers that a specific authorisation should be granted.

(4) The notification referred to in subparagraph (2) shall be a minimum of 2 weeks prior to the intended authorisation.

(5) The competent authority shall ensure that the Commission and Member States are informed of any authorisations granted under this paragraph.

Authorisations pursuant to Article 5.

6.(1) Where the competent authority receives an application for the release of frozen funds or economic resources pursuant to Article 5 of the Regulation, the competent authority may authorise their release if the conditions set out in Article 5(1)(a) to (d) are met.

(2) An authorisation granted under subparagraph (1) shall be in writing.

(3) The competent authority shall ensure that the Commission and Member States are informed of any authorisations granted under this paragraph.

Authorisations pursuant to Article 6.

7. Where a payment by person listed in Annex I to the Regulation is due under a contract or agreement that was concluded by, or under an obligation that arose for person concerned, before the date on which that person was included that Annex, the competent authority may authorise, under such conditions it deems appropriate, the release of frozen funds or economic resources, provided that the competent authority concerned has determined that the conditions in Article 6(1)(a) and (b) are satisfied.

Authorisations: renewal, revocation and amendment.

8.(1) The competent authority may at any time renew, revoke or amend an authorisation under paragraph 5, 6 or 7 and any renewal or amendment may add further conditions.

(2) A renewal, revocation or amendment shall be in writing.

Appeals.

9. A person who—

- (a) having made an application under paragraph 5, 6 or 7, is refused an authorisation;
- (b) is not satisfied with the terms of an authorisation granted under paragraph 5, 6 or 7; or
- (c) is not satisfied with the revocation or the amendment of an authorisation granted under paragraph 5, 6 or 7,

may appeal to the Supreme Court on a point of law.

Provision of information.

10.(1) Where a person is subject to an obligation to disclose information pursuant to Article 8 of the Regulation, the disclosure to the Commission shall be made through the competent authority.

(2) The competent authority may by a notice in writing require the person named therein to provide such information as may be required under Article 8 of the Regulation.

(3) A person who fails to make any or any sufficient disclosure when required to do so pursuant to a notice issued under subparagraph (2) commits an offence.

Verification.

11.(1) A person who pursuant to Article 8 of the Regulation has made a disclosure under paragraph 10 shall comply with any requests that the competent authority may make for the purposes of the verification of the information disclosed.

(2) A request under subparagraph (1) shall be in writing, addressed to the person who is required to provide the additional information and may state the time by which the request must be complied with.

(3) A person who without reasonable cause fails to comply with a request issued under this paragraph commits an offence.

Offences.

12.(1) A person who, without being authorised to do so, acts in breach of the provisions of Article 2 or 9 of the Regulation is guilty of an offence.

(2) A person who acts in breach of the terms of an authorisation issued under paragraph 5, 6 or 7 is guilty of an offence.

(3) In proceedings for an offence under this paragraph it shall be a defence for a person to show that that person did not know, and had no reasonable cause to suspect, that such actions would infringe the prohibitions set out in the Regulation or the terms of an authorisation issued under this Order.

(4) Where a person is required to provide information under the Regulation or pursuant to a provision of this Order it shall be an offence for that person to provide information which that person knows is false or misleading in any material particular.

(5) A person commits an offence if that person, with a view to obtaining an authorisation under paragraph 5, 6 or 7, provides information in support of an application which that person knows is false or misleading in a material particular.

Penalties.

- 13.(1) A person guilty of an offence under paragraph 12(1) or (2) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine up to level 5 on the standard scale or to both; or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years or to a fine or to both;
- (2) A person guilty of an offence under paragraph 12(4) and (5) is liable—
- (a) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine or to both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not level 5 on the standard scale or to both.
- (3) A person guilty of an offence under paragraph 10(3) or 11(3) is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale or to both.
- (4) If an offence under this Order committed by a body corporate is shown—
- (a) to have been committed with the consent or connivance of an officer of the body corporate; or
 - (b) to be attributable to any neglect on the part of an officer of the body corporate,

the officer as well as the body corporate commit an offence and are liable to be proceeded against and punished accordingly.

SCHEDULE

Paragraph 3

**List of natural and legal persons, entities and bodies referred to in
Article 2 of the Regulation**

Viktor Fedorovych Yanukovych (), Viktor Fedorovich Yanukovich ()	born on 9 July 1950 in Yenakiieve (Donetsk oblast), former President of Ukraine	Person subject to criminal proceedings by the Ukrainian authorities for the misappropriation of public funds or assets.	6.3.2014
Vitalii Yuriyovych Zakharchenko (i i i i), Vitaliy Yurievich Zakharchenko ()	Born on 20 January 1963 in Kostiantynivka (Donetsk oblast), former Minister of Internal Affairs.	Person subject to criminal proceedings by the Ukrainian authorities for the misappropriation of public funds or assets and in connection with the misuse of office by a public office- holder to procure an unjustified advantage for himself or a third party thereby causing a loss to the Ukrainian public budget or assets.	6.3.2014
Viktor Pavlovysh Pshonka ()	born on 6 February 1954 in Serhiyivka (Donetsk oblast), former Prosecutor General of Ukraine	Person subject to criminal proceedings by the Ukrainian authorities for the misappropriation of public funds or assets.	6.3.2014
Viktor Ivanovych Ratushniak ()	born on 16 October 1959, former Deputy Minister of Internal Affairs	Person subject to criminal proceedings by the Ukrainian authorities for the misappropriation of public funds or assets and for being an accomplice thereto.	6.3.2014
Oleksandr Viktorovych Yanukovych (i)	Born on 10 July 1973 in Yenakiieve (Donetsk oblast), son of former President, businessman	Person subject to criminal proceedings by the Ukrainian authorities for the misappropriation of public funds or assets and for being an accomplice thereto.	6.3.2014
Artem Viktorovych Pshonka ()	born on 19 March 1976 in Kramatorsk (Donetsk oblast), son of former Prosecutor General, Deputy Head of the faction of Party of Regions in the Verkhovna Rada	Person subject to criminal proceedings by the Ukrainian authorities for the misappropriation of public funds or assets and for being an accomplice thereto.	6.3.2014

UKRAINE SANCTIONS ORDER 2014

**Subsidiary
2014/027**

Mykola Yanovych Azarov () Nikolai Yanovich Azarov ()	of Ukraine Born on 17 December 1947 in Kaluga (Russia), Prime Minister of Ukraine until January 2014	Person subject to criminal proceedings by the Ukrainian authorities for the misappropriation of public funds or assets and for being an accomplice thereto.	6.3.2014
Serhiy Vitalyovych Kurchenko (i i)	Born on 21 September 1985 in Kharkiv, businessman	Person subject to criminal proceedings by the Ukrainian authorities for the misappropriation of public funds or assets and for the abuse of office in order to procure an unjustified advantage for himself or for a third party and thereby causing a loss to Ukrainian public funds or assets.	6.3.2014
Dmytro Volodymyrovych Tabachnyk ()	Born on 28 November 1963 in Kiev, former Minister of Education and Science.	Person subject to criminal proceedings by the Ukrainian authorities for involvement in the misappropriation of public funds or assets.	6.3.2014
Oleksandr Viktorovych Klymenko ()	born on 16 November 1980 in Makiiivka (Donetsk oblast), former Minister of Revenues and Charges	Person subject to criminal proceedings by the Ukrainian authorities for the misappropriation of public funds or assets and for the abuse of office by a public office-holder in order to procure an unjustified advantage for himself or for a third party and thereby causing a loss to Ukrainian public funds or assets.	15.4.2014
Serhiy Hennadiyovych Arbuzov () Sergei Gennadievich Arbuzov ()	born on 24 March 1976 in Donetsk, former Prime Minister of Ukraine	Person subject to criminal proceedings by the Ukrainian authorities for the misappropriation of public funds or assets.	15.4.2014
Edward Stavyskyi, Eduard Anatoliyovych Stavysky ()	born on 4 October 1972 in Lebedyn (Sumy oblast), former Minister of Fuel and Energy of Ukraine Reportedly residing in Israel. However, still in possession of his Ukrainian citizenship	Person subject to criminal proceedings by the Ukrainian authorities for the misappropriation of public funds or assets.	15.4.2014

Rights of defence and right to effective judicial protection

The rights of defence and the right to effective judicial protection under the Code of Criminal Procedure of Ukraine

Article 42 of the Code of Criminal Procedure of Ukraine (“Code of Criminal Procedure”) provides that every person who is suspected or accused in criminal proceedings enjoys rights of defence and the right to effective judicial protection. These include: the right to be informed of the criminal offence of which he has been suspected or accused; the right to be informed, expressly and promptly, of his rights under the Code of Criminal Procedure; the right to have, when first requested, access to a defence lawyer; the right to present petitions for procedural actions; and the right to challenge decisions, actions and omissions by the investigator, the public prosecutor and the investigating judge. Article 306 of the Code of Criminal Procedure provides that complaints against decisions, acts or omissions of the investigator or public prosecutor must be considered by an investigating judge of a local Court in the presence of the complainant or his defence lawyer or legal representative. In addition, Article 309 of the Code of Criminal Procedure specifies the decisions of investigating judges that may be challenged on appeal, and that other decisions may be subject to judicial review in the course of preparatory proceedings in Court. Moreover, a number of procedural investigating actions are only possible subject to a ruling by the investigating judge or a Court (e.g. seizure of property under Article 164, and measures of detention under Article 176 of the Code of Criminal Procedure).

Application of the rights of defence and the right to effective judicial protection of each of the listed persons

Viktor Fedorovych Yanukovych

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Yanukovych were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by a number of Court decisions relating to the seizure of property and by a Court decision of 1 November 2018 granting permission for the arrest and summoning and bringing of the suspected to the Court, as well as by a decision of the investigating judge of 8 October 2018 refusing the prosecutor's application for a special pre-trial investigation *in absentia*.

Vitalii Yuriyovych Zakharchenko

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Zakharchenko were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the

decisions of the investigating judge of 21 May 2018 and of 23 November 2018 granting permission to detain Mr Zakharchenko with the purpose of bringing him to the Court to participate in hearing the petition for the application of detention in custody.

Viktor Pavlovych Pshonka

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Pshonka were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the decisions of the investigating judge of 12 March 2018 and of 13 August 2018 granting permission to detain Mr Pshonka with the purpose of bringing him to the Court to participate in hearing the petition for the application of detention in custody.

Viktor Ivanovych Ratushniak

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Ratushniak were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the decisions of the investigating judge of 21 May 2018 and of 23 November 2018 granting permission to detain Mr Ratushniak with the purpose of bringing him to the Court to participate in hearing the petition for the application of detention in custody.

Oleksandr Viktorovych Yanukovych

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Yanukovych were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the decision of the investigating judge of 7 February 2018 refusing the prosecutor's application for a special pre-trial investigation *in absentia*, by a number Court decisions relating to the seizures of property and by the decision of the investigating judge of 27 June 2018 cancelling the resolution of the prosecution refusing to grant the motion of defence for closing the investigation.

Artem Viktorovych Pshonka

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Pshonka were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the decisions of the investigating judge of 12 March 2018 and of 13 August 2018

Subsidiary
2014/027

granting permission to detain Mr Pshonka with the purpose of bringing him to the Court to participate in hearing the petition for the application of detention in custody.

Mykola Yanovych Azarov

The information on the Council's file shows that the rights of defence of and the right to effective judicial protection Mr Azarov were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the decision of the investigating judge of 8 September 2018 granting permission for a special investigation in absentia as well as by the decision of the investigating judge of 16 August 2018 granting permission to detain Mr Azarov with the purpose of bringing him to the Court to participate in hearing the petition for the application of detention in custody, as well as by a number of Court decisions relating to the seizures of property.

Serhiy Vitalyovych Kurchenko

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Kurchenko were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the decision of the investigating judge of 7 March 2018 granting permission for a special investigation *in absentia*.

Dmytro Volodymyrovych Tabachnyk

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Tabachnyk were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the decisions of the investigating judge of 8 May 2018 granting permission to detain Mr Tabachnyk with the purpose of bringing him to the Court to participate in hearing the petition for the application of detention in custody.

Serhiy Hennadiyovych Arbuzov

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Arbuzov were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by a number of Court decisions relating to the seizures of property as well as annulment of the property seizures.

Oleksandr Viktorovych Klymenko

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Klymenko were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the decision of the investigating judge of 5 October 2018 granting permission in *absentia*.

Edward Stavyt'skyi

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Stavyt'skyi were respected in the criminal proceedings on which the Council relied. This is demonstrated by a number of Court decisions relating to the seizure of property, the decision of the investigating judge of 22 November 2017 granting permission for a special investigation *in absentia*, by the prosecutor's instructions of 2 January 2018 to the investigator to notify the suspects and their defence lawyers of the completion of the pre-trial investigation and by the fact that on 8 May 2018 the indictment was referred to the Sviatoshyn'skyi District Court of Kiev for consideration on the merits. The information also shows that there was no previous valid decision of the prosecution not to launch a criminal investigation, and that the relevant criminal proceedings therefore did not infringe the principle of *ne bis in idem*.