

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4551 of 08 March, 2019

LEGAL NOTICE NO.043 OF 2019.

UKRAINE SANCTIONS ORDER 2014

NOTICE OF AMENDMENT (NO.9) OF SCHEDULE

In exercise of the powers conferred upon me by paragraph 3(4) of the Ukraine (Sanctions) Order 2014, for the purposes of implementing Council Implementing Regulation (EU) 2019/352 of 4 March 2019 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation of Ukraine, I have issued the following Notice-

Amendment to the Schedule.

1. The Schedule to the Ukraine Sanctions Order 2014 is amended as follows-

- (a) by deleting the entries for “ Andrii Petrovych Kliuiev”; and
- (b) by inserting the following after the list of natural and legal persons, entities and bodies referred to in Article 2 of the Regulation-

“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*.

Vitali 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 of 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 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 and the right to effective judicial protection of 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 Stavytskyi

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Stavytskyi 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 Sviatoshynskiy 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*.”.

Dated 8th March, 2019.

F R PICARDO,
Minister with responsibility for finance.

EXPLANATORY MEMORANDUM

This Notice amends the Ukraine Sanctions Order 2014 for the purposes of implementing Council Implementing Regulation (EU) 2019/352 of 4 March 2019 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine.