



Council of the
European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine

COUNCIL DECISION (CFSP) 2020/...

of ...

**amending Decision 2014/119/CFSP
concerning restrictive measures directed against certain persons,
entities and bodies in view of the situation in Ukraine**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 5 March 2014, the Council adopted Decision 2014/119/CFSP¹.
- (2) On the basis of a review of Decision 2014/119/CFSP, the application of restrictive measures directed against certain persons, entities and bodies should be extended until 6 March 2021, the entries for two persons should be deleted and the information in the Annex regarding the rights of defence and the right to effective judicial protection should be updated.
- (3) Decision 2014/119/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

¹ Council Decision 2014/119/CFSP of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ L 66, 6.3.2014, p. 26).

Article 1

Decision 2014/119/CFSP is amended as follows:

(1) in Article 5, the second paragraph is replaced by the following:

'This Decision shall apply until 6 March 2021.';

(2) the Annex is amended as set out in the Annex to this Decision.

Article 2

This Decision shall enter into force on the date of its publication in the *Official Journal of the European Union*.

Done at ...,

For the Council

The President

ANNEX

The Annex to Decision 2014/119/CFSP is amended as follows:

- (1) in the section 'A. List of persons, entities and bodies referred to in Article 1', the entries for the following persons are deleted:

11. Mykola Yanovych Azarov;

18. Edward Stavytskyi;

- (2) section 'B. Rights of defence and right to effective judicial protection' is replaced by the following:

'B. 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. Article 308 of the Code of Criminal Procedure provides that complaints regarding failure by the investigator or public prosecutor to respect reasonable time during the pre-trial investigation may be lodged with a superior public prosecutor and must be considered within three days of being lodged. 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 Articles 167 - 175, and measures of detention under Articles 176 – 178 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

1. Viktor Fedorovych Yanukovych

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

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 letters of 26 September 2014 and 8 October 2014 concerning the sending of the written notification of suspicion, information that permission for a special pre-trial investigation *in absentia* was granted on 27 July 2015, a number of Court decisions relating to the seizure of property and by the fact that the decision of 27 September 2017 to suspend the criminal proceedings was open to appeal. The Council also has evidence on its file that a recent motion of the defence was granted on 30 September 2019.

2. Vitalii Yuriyovych Zakharchenko

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

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. Moreover, the decision of 19 February 2019 on the suspension of the pre-trial investigation was open to appeal.

3. Viktor Pavlovych Pshonka

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

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 fact that a written notification of suspicion was delivered on 22 December 2014, by the fact that the decision of 16 June 2017 to suspend the criminal proceedings was open to appeal and by the decisions of the investigating judge of 12 March 2018, 13 August 2018 and 5 September 2019 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.

6. Viktor Ivanovych Ratushniak

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

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. Moreover, the decision of 19 February 2019 on the suspension of the pre-trial investigation was open to appeal.

7. Oleksandr Viktorovych Yanukovych

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

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 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.

9. Artem Viktorovych Pshonka

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

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 fact that a written notification of suspicion was delivered on 29 December 2014, by the fact that the decision of 16 June 2017 to suspend the criminal proceedings was open to appeal and by the decisions of the investigating judge of 12 March 2018, 13 August 2018 and 5 September 2019 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.

12. Serhiy Vitalyovych Kurchenko

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

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*. Moreover, the defence was notified about the completion of the pre-trial investigation on 28 March 2019 and was provided access to the materials for familiarisation.

13. Dmytro Volodymyrovych Tabachnyk

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

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 decision 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.

15. Serhiy Hennadiyovych Arbuzov

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

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 letter of 24 April 2017 concerning the sending of the written notification of suspicion, the decisions of the investigating judge of 19 December 2018, 18 March 2019 and 29 July 2019 granting the motion of the defence against inaction by the Prosecutor General's Office, the decision of the investigating judge of 10 August 2017 granting permission for a special investigation *in absentia* and by the decisions of the investigating judge of 4 November 2019 and 5 November 2019 refusing the motions of the defence to set a deadline for completing the pre-trial investigation.

17. Oleksandr Viktorovych Klymenko

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

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 decisions of the investigating judge of 1 March 2017 and 5 October 2018 granting permission for a special investigation *in absentia*, the decisions of the investigating judge of 8 February 2017 and 19 August 2019 granting a preventive measure in the form of detention in custody, and the ongoing process of familiarisation with the materials of the criminal proceedings by the defence.'.
