Council Implementing Regulation (EU) 2020/370 of 5 March 2020 implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine

COUNCIL IMPLEMENTING REGULATION (EU) 2020/370

of 5 March 2020

implementing Regulation (EU) No 208/2014 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 the Functioning of the European Union,

Having regard to 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[(1)], and in particular Article 14(1) 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 Regulation (EU) No 208/2014.

(2) On the basis of a review by the Council, the entries for two persons should be deleted and the information in Annex I regarding the rights of defence and the right to effective judicial protection should be updated.

(3) Annex I to Regulation (EU) No 208/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EU) No 208/2014 is amended as set out in the Annex to this Regulation.

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Changes to legislation: *There are currently no known outstanding effects for the Council Implementing Regulation (EU) 2020/370. (See end of Document for details)*

Done at Brussels, 5 March 2020.

For the Council

The President

T. ĆORIĆ

***Changes to legislation:** There are currently no known outstanding effects for the Council Implementing Regulation (EU) 2020/370. (See end of Document for details)*

ANNEX

Annex I to Regulation (EU) No 208/2014 is amended as follows:

(1) in the section ‘A. List of natural and legal persons, entities and bodies referred to in Article 2’, 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

Changes to legislation: *There are currently no known outstanding effects for the Council Implementing Regulation (EU) 2020/370. (See end of Document for details)*

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,