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

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

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 entry for one person should be deleted and Annex I should be supplemented with information regarding the rights of defence and the right to effective judicial protection.

(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) 2019/352. (See end of Document for details)*

Done at Brussels, 4 March 2019.

For the Council

The President

A. ANTON

***Changes to legislation:** There are currently no known outstanding effects for the Council Implementing Regulation (EU) 2019/352. (See end of Document for details)*

ANNEX

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

(1) the section 'List of natural and legal persons, entities and bodies referred to in Article 2' is amended as follows:

(a) the heading is replaced by the following:
A.***List of natural and legal persons, entities and bodies referred to in Article 2;***

(b) the entry for the following person is deleted from the list:

5. Andrii Petrovych Kliuiev;

(2) the following section is added:

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. 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

1. 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*.

2. Vitalli Yuriyovych Zakharchenko