

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PAO TATNEFT,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 1:17-cv-00582-CKK
)	
UKRAINE,)	
)	
Respondent.)	

SECOND DECLARATION OF AMBASSADOR MARKAROVA

I, Oksana Markarova, declare as follows:

Introduction

1. I am Ambassador Extraordinary and Plenipotentiary of Ukraine to the United States of America. I have served in this capacity since my Credentials were formally accepted by President Joseph R. Biden, Jr. on July 7, 2021.
2. Before being appointed as Ambassador of Ukraine to the U.S., I served in Ukraine's Ministry of Finance in 2015-18 as First Deputy Minister and Government Commissioner on Investments, and then from 2018 to 2020 as Minister of Finance of Ukraine. Prior to my career in public service, I spent 17 years working in private equity and financial sector, held leadership roles in ITT Investment Group, Western NIS Enterprise Fund, Chemonics, and the World Bank.
3. This declaration, which is my second declaration in connection with Tatneft's third-party subpoenas, is based on my personal knowledge, experience, and expertise, including as the Ambassador Extraordinary and Plenipotentiary of Ukraine to the United States.
4. Nothing in my declaration should be taken as a waiver of any privilege or right on the part of Ukraine. For the avoidance of doubt, nothing in my declaration should be taken as amounting to acceptance of jurisdiction or a waiver of the sovereign immunity of Ukraine, including the immunity of its officials and its property under the Foreign Sovereign Immunities Act and

international law. Nothing in my declaration should be taken as a waiver of diplomatic and consular immunity under the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, and international law. All rights, privileges, and immunities are expressly reserved.

Tatneft's discovery

5. I understand from the Ministry of Justice of Ukraine that Tatneft has served discovery requests on Ukraine in D.C. District Court case 1:17-cv-00582. Upon considering Tatneft's requests, it is clear to me that they are so broadly worded as to include within their scope important national security information the disclosure of which would significantly undermine the national defense of Ukraine. For example, a full response would include detailed information about the nature and extent of Ukraine's military, defense, and intelligence resources and expenditures. This would reveal substantial non-public information about Ukraine's military, defense, and intelligence capabilities and vulnerabilities, about bank accounts belonging not only to Ukraine but also to the United States and other allies who have provided funding or sold equipment to Ukraine, and about the identities of Ukraine's military and intelligence personnel, and suppliers of military and intelligence equipment and technology.

6. I also understand from the Ministry of Justice of Ukraine that Tatneft has served subpoenas on a number of financial institutions in Southern District of New York case 1:21-mc-00376. Upon considering Tatneft's subpoenas, it is clear to me that they have a similar scope to the requests served on Ukraine in the D.C. District Court, raising the same concerns about the disclosure of sensitive, non-public national security information that would undermine the national defense of Ukraine.

7. Moreover, I have been informed by the Ministry of Justice of Ukraine that the discovery requests served by Tatneft in both proceedings define "Ukraine" to include 19 specifically

identified third parties (such as SC Ukroboronprom, which oversees Ukraine’s defense industry, and SE Ukrkosmos, which maintains satellite communications in Ukraine that are necessary to gather intelligence and to coordinate movements of military personnel and supplies) and innumerable other third parties (including but not limited to the Ministry of Defense) in a catch-all provision for all “agencies, instrumentalities, ministries, political subdivisions, representatives, State Controlled Entities, alter-egos, and assigns, and all other Persons acting or purporting to act for or on Ukraine’s behalf, whether or not authorized to do so.” This brings additional important national security information within the scope of discovery, although disclosure of this information would significantly undermine the national defense of Ukraine. A full response to Tatneft’s discovery requests would include documents that identify business counterparts and cash flows on which SC Ukroboronprom and SE Ukrkosmos depend to fulfill their vital roles in maintaining Ukraine’s defense industry and Ukraine’s satellite communications. It would also include documents that shed light on the assets, financial health, and economic vulnerabilities of SC Ukroboronprom, SE Ukrkosmos, and their business counterparts.

8. I have said before and repeat again with utmost conviction that disclosure of this information will be extremely harmful to Ukraine’s national security interests and defense—especially given Russia’s ongoing invasion of Ukraine. For example, this information can be used to evaluate Ukraine’s defense capabilities, to plan offensive measures that account for Ukraine’s defense capabilities and exploit its weaknesses, and to interfere with Ukraine’s efforts to sustain its national defense efforts, including by identifying, intimidating, and harming companies and individuals, including soldiers, and intelligence agents, with important roles in Ukraine’s national defense. The threats to Ukraine’s national security posed by Tatneft’s discovery very real before the war. These threats are even more vital now that Ukraine is resisting an ongoing Russian invasion.

Deterioration of the geopolitical situation: Russian invasion of Ukraine

9. My first declaration discussed the significant deterioration of geopolitical circumstances and the marked increase in Russian aggression against Ukraine during late 2021 and the first few weeks of 2022.

10. Since my first declaration, the geopolitical situation has dramatically deteriorated.

11. Preparatory steps for the Russian invasion of Ukraine and threat of a full-scale war.

12. On February 9, 2022, Press Secretary of the White House Jen Psaki reiterated the advice for American citizens residing in Ukraine to leave its territory.¹

13. On February 10, 2022, the Russian Federation began joint military exercises with Belarus, moving around 30,000 troops to Belarus, which, according to NATO, is the biggest Russian deployment there since the Cold War.² That made for, in total, about 130,000 troops positioned by Russia close to Ukraine's border.³

14. On February 10, 2022, the Ministry of Foreign Affairs of Ukraine issued a formal protest against the actions of the Russian Federation in parts of the Black Sea, the Sea of Azov and the Kerch Strait.⁴ Under the pretext of holding regular naval exercises, the Russian Federation

¹ White House, "Press Briefing by Press Secretary Jen Psaki" (February 9, 2022) (available at: <https://www.whitehouse.gov/briefing-room/press-briefings/2022/02/09/press-briefing-by-press-secretary-jen-psaki-february-9-2022/>).

² Holly Ellyatt, "Russia Begins Massive Military Drills with Belarus; U.S. Slams 'Escalatory' Action", CNBC (February 10, 2022) (available at: <https://www.cnbc.com/2022/02/10/russia-set-to-begin-massive-military-drills-with-belarus.html>); see DW, "Ukraine Crisis: Russia Begins Military Drills in Belarus" (February 10, 2022) (available at: <https://www.dw.com/en/ukraine-crisis-russia-begins-military-drills-in-belarus/a-60722862>).

³ David Brown, "Ukraine: How Prepared is Russia for Attack?", BBC News (February 14, 2022) (available at: <https://www.bbc.com/news/world-europe-60158694>).

⁴ Ministry of Foreign Affairs of Ukraine, "Statement by the Ministry of Foreign Affairs of Ukraine on the Decision of the Russian Federation to Block Parts of the Black Sea and the Sea of Azov and the Kerch Strait" (February 10, 2022) (available at: <https://mfa.gov.ua/en/news/statement-ministry-foreign-affairs-ukraine-decision-russian-federation-block-parts-black-sea-and-sea-azov-and-kerch-strait>).

actually caused a naval blockade of Ukraine, making any navigation in these areas virtually impossible.⁵

15. On February 11, 2022, Jake Sullivan, U.S. National Security Advisor, confirmed continuing “signs of Russian escalation, including new forces arriving at the Ukrainian border”. He also stated that “we are in the window when an invasion could begin at any time should Vladimir Putin decide to order it” and advised that any American in Ukraine should leave as soon as possible.⁶

16. On February 12, 2022, the U.S. Department of State stated that the situation in Ukraine is apparently headed to “some kind of active conflict”, leading it to suspend consular services in the U.S. Embassy in Ukraine, leaving only limited capacity to provide emergency consular services in Lviv.⁷

17. On February 12, 2022, Dutch airline KLM decided to suspend the flight to Ukraine due to rising fears of Russian invasion and the call from the Government of the Netherlands urging its citizens to leave Ukraine. Other airlines, namely Lufthansa, Swiss Airlines and Austrian Airlines had also decided to limit exposure to Ukraine.⁸

⁵ Amy Mackinnon, “Russian Black Sea Exercises Raise Specter of Naval Blockade”, *Foreign Policy* (February 10, 2022) (available at: <https://foreignpolicy.com/2022/02/10/russia-ukraine-naval-black-sea-exercises-military-threat-invasion/>).

⁶ White House, “Press Briefing by Press Secretary Jen Psaki and National Security Advisor Jake Sullivan” (February 11, 2022) (available at: <https://www.whitehouse.gov/briefing-room/press-briefings/2022/02/11/press-briefing-by-press-secretary-jen-psaki-and-national-security-advisor-jake-sullivan-february-11-2022/>); *see also* The Guardian, “US Warns of ‘Distinct Possibility’ Russia Will Invade Ukraine Within Days” (February 11, 2022) (available at: <https://www.theguardian.com/world/2022/feb/11/biden-ukraine-us-russian-invasion-winter-olympics>).

⁷ U.S. Department of State, Special Briefing, “A Senior State Department Official on Our Diplomatic Presence in Ukraine” (February 12, 2022) (available at: <https://www.state.gov/a-senior-state-department-official-on-our-diplomatic-presence-in-ukraine/>); *see* Kylie Atwood, Oren Liebermann, “US Moves Some Forces out of Ukraine and Orders Evacuation of Most Embassy Staff as Fears of a Russian Invasion Grow”, *CNN* (February 12, 2022) (available at: <https://edition.cnn.com/2022/02/12/politics/us-embassy-ukraine-evacuation/index.html>).

⁸ Lisa Kim, “Dutch Airline KLM Suspends Flights to Ukraine Amid Rising Fears of Russian Invasion”, *Forbes* (February 12, 2022) (available at: <https://www.forbes.com/sites/lisakim/2022/02/12/dutch-airline-klm-suspends-flights-to-ukraine-amid-rising-fears-of-russian-invasion/?sh=6ffb723014e6>).

18. On February 14, 2022, Liz Truss, the UK Foreign Secretary, said that the UK government was “very clear there could be an imminent invasion of Ukraine” and urged British citizens to leave Ukraine while commercial routes were still available.⁹

19. On February 15, 2022, Ukraine was a victim of the largest cyber-attack in its history, which blocked access to the websites of Ukrainian defense agencies and banks.¹⁰ According to the State Security Service of Ukraine (SBU), the only country interested in such move was Russia.¹¹ The Deputy Prime Minister Mykhailo Fedorov said that the attacks came namely from IP addresses located in the Russian Federation.¹²

20. On February 15, 2022, the State Duma, the Russian parliament’s lowest chamber, voted in favor of recognizing the independence of the self-proclaimed so-called Donetsk and Luhansk “People’s Republics.”¹³

21. On February 18, 2022, Russian-backed separatist leaders of the self-proclaimed so-called Donetsk and Luhansk “People’s Republics” published videos calling for evacuation of inhabitants of these territories to Russia.¹⁴ Reportedly, these videos were pre-recorded two days

⁹ BBC News, “Ukraine: There Could be a Russian Invasion Almost Immediately – Truss” (February 14, 2022) (available at: <https://www.bbc.com/news/av/world-europe-60381478>).

¹⁰ Sean Lyngaas, Anastasia Graham-Yooll, Tim Lister and Matthew Chance, “Ukraine Cyberattack is Largest of its Kind in Country’s History, Says Official”, CNN (February 16, 2022) (available at: <https://edition.cnn.com/2022/02/16/europe/ukraine-cyber-attack-denial-service-intl/index.html>).

¹¹ Natalia Zinets, “Ukraine Points Finger of Suspicion at Russia Over Massive Cyberattack”, Reuters (February 16, 2022) (available at: <https://www.reuters.com/world/europe/ukrainian-security-official-suspects-russia-behind-cyber-attacks-military-banks-2022-02-16/>).

¹² Natalia Zinets, “Ukraine Points Finger of Suspicion at Russia Over Massive Cyberattack”, Reuters (February 16, 2022) (available at: <https://www.reuters.com/world/europe/ukrainian-security-official-suspects-russia-behind-cyber-attacks-military-banks-2022-02-16/>).

¹³ Victor Jack, “Russia’s Parliament Urges Putin to Recognize Separatist Republics in Ukraine”, Politico (February 15, 2022) (available at: <https://www.politico.eu/article/russia-state-duma-parliament-donetsk-luhansk-moscow-putin-kremlin-ukraine-conflict/>).

¹⁴ Maria Kiselyova, Tom Balmforth, Mark Heinrich, “Separatists In Eastern Ukraine Begin Mass Evacuation -Interfax”, Reuters (February 18, 2022) (available at: <https://www.reuters.com/world/europe/separatists-eastern-ukraine-begin-mass-evacuation-interfax-2022-02-18/>); see also RFE/RL’s Russian Service, “Videos by Russia-Backed Separatists in Eastern Ukraine Calling for ‘Emergency’ Evacuation Were Filmed Two Days Earlier”, Radio Free Europe Radio Liberty (February 19, 2022) (available at: <https://www.rferl.org/a/ukraine-separatists-evacuation-video-metadata/31711344.html>).

earlier on February 16, 2022, meaning that this sudden call was staged.¹⁵ According to the information of the Russian News Agency, over 80 buses with civilians, including children, arrived from Donbass to the Rostov region across the border with Russia.¹⁶ President Putin ordered the Russian government to offer 10,000 rubles (about USD 130) to each evacuee.¹⁷

22. On February 19, 2022, the separatist leaders ordered full mobilization of men aged 18 to 55, spreading the fear of further escalation of the conflict.¹⁸ The opinion emerged in the West that Russia was trying to stage a crisis to justify the invasion.¹⁹ At the same time, the NATO Secretary-General warned that Russia was planning a full-scale attack on Ukraine, which could be launched at any time.²⁰

23. On February 21, 2022, President Putin, recognized the independence of the separatist-lead self-proclaimed so-called Donetsk and Luhansk “People’s Republics” and issued the relevant orders.²¹ The situation was compared to the similar scenario orchestrated by Russia in 2008 in Georgia, where the military intervention was followed by recognition of the so-called republics

¹⁵ RFE/RL’s Russian Service, “Videos by Russia-Backed Separatists in Eastern Ukraine Calling for ‘Emergency’ Evacuation Were Filmed Two Days Earlier”, Radio Free Europe Radio Liberty (February 19, 2022) (available at: <https://www.rferl.org/a/ukraine-separatists-evacuation-video-metadata/31711344.html>); see also The Economic Times, “Shelling in East Ukraine, Russia Nuclear Drill Raise Tension” (February 21, 2022) (available at: <https://economictimes.indiatimes.com/news/defence/shelling-in-east-ukraine-russia-nuclear-drill-raise-tension/articleshow/89703470.cms>).

¹⁶ TASS Russian News Energy, “Over 80 Buses with People Evacuated from Donbass Reach Russia’s Rostov Region” (February 18, 2022) (available at: <https://tass.com/russia/1406269>).

¹⁷ The Economic Times, “Shelling in East Ukraine, Russia Nuclear Drill Raise Tension” (February 21, 2022) (available at: <https://economictimes.indiatimes.com/news/defence/shelling-in-east-ukraine-russia-nuclear-drill-raise-tension/articleshow/89703470.cms>).

¹⁸ Aljazeera, “Separatists in Ukraine Order ‘General Mobilization’ Amid Shelling” (February 19, 2022) (available at: <https://www.aljazeera.com/news/2022/2/19/separatists-in-ukraine-order-general-mobilisation>).

¹⁹ Euronews, “Ukraine Separatists Mobilise Troops as Clashes Intensify Amid Russia Invasion Fears” (February 20, 2022) (available at: <https://www.euronews.com/2022/02/19/ukraine-rebels-mobilise-troops-amid-fears-russia-seeking-pretext-to-invade>).

²⁰ DW, “Ukraine Latest: NATO Chief Says Russia Planning ‘Full-Scale Attack’” (February 20, 2022) (available at: <https://www.dw.com/en/ukraine-latest-nato-chief-says-russia-planning-full-scale-attack/a-60839276>).

²¹ DW, “Russia Recognizes Independence of Ukraine Separatist Regions”, (February 21, 2022) (available at: <https://www.dw.com/en/russia-recognizes-independence-of-ukraine-separatist-regions/a-60861963>).

of Abkhazia and South Ossetia.²² The same day, President Putin signed the bilateral treaties of friendship, cooperation and mutual assistance with the separatist leaders of the self-proclaimed republics.²³

24. On February 22, 2022, the State Duma ratified these treaties, which provided the Russian Federation with the right to give military assistance to the self-proclaimed republics and construct military bases on their territory.²⁴ Under the guise of “peacemaking activities” on the territories of the so-called “republics,” President Putin ordered the intervention of Russian troops, which was qualified by U.S. officials as “creating a pretext for war.”²⁵

25. On February 22, 2022, the U.S. Department of the Treasury reacted to the decision made by Russia by imposing new sanctions on Russian state banks, Corporation Bank for Development and Foreign Economic Affairs Vnesheconombank (VEB) and Promsvyazbank Public Joint Stock Company (PSB), along with 42 of their subsidiaries, as well as on several members of President Putin’s close circle.²⁶

²² Joshua Kucera, “Putin’s Donbas Recognition Reverberates in Caucasus”, Eurasianet (February 22, 2022) (available at: <https://eurasianet.org/putins-donbas-recognition-reverberates-in-caucasus>).

²³ President of Russia, “Signing of Documents Recognising Donetsk and Luhansk People’s Republics” (February 21, 2022) (available at: <http://en.kremlin.ru/events/president/news/67829>).

²⁴ Ukrinform, “Russia’s State Duma Ratifies Friendship Agreements with Pseudo-Republics ‘DPR’, ‘LPR’” (February 22, 2022) (available at: <https://www.ukrinform.net/rubric-politics/3409406-russias-state-duma-ratifies-friendship-agreements-with-pseudorepublics-dpr-lpr.html>); *see also* Tom Balmforth, Maria Kiselyova, Anton Kolodyazhnyy and Mark Trevelyan, “Russian Lawmakers to Ratify Treaties Claiming Right to Military Bases in East Ukraine”, U.S. News/Reuters (February 22, 2022) (available at: <https://www.usnews.com/news/world/articles/2022-02-22/russian-lawmakers-to-ratify-treaties-claiming-right-to-military-bases-in-east-ukraine>).

²⁵ BBC, “Ukraine Crisis: Russia Orders Troops into Rebel-Held Regions” (February 22, 2022) (available at: <https://www.bbc.com/news/world-europe-60468237>).

²⁶ U.S. Department of the Treasury, “U.S. Treasury Imposes Immediate Economic Costs in Response to Actions in the Donetsk and Luhansk Regions” (February 22, 2022) (available at: <https://home.treasury.gov/news/press-releases/jy0602>).

26. On February 22, 2022, Russia announced that it will start evacuation of its diplomats from Ukraine.²⁷ The United States also announced the evacuation of American diplomats from Ukraine to Poland for security reasons.²⁸

27. On February 22, 2022, President Zelensky issued a decree on the mobilization of operational military reservists aged 18-60 for service of up to one year.²⁹

28. At the same time, President Joe Biden's administration warned that a full-scale Russian invasion of Ukraine could highly likely start within 48 hours.³⁰

29. As of midnight on February 24, 2022, the nationwide state of emergency was introduced by Order of the President of Ukraine and Law of Verkhovna Rada (Parliament) for a period of 30 days, which can be extended for another 30 days.³¹ The state of emergency was rapidly transformed into martial law starting at 5:30 a.m. on February 24, 2022.³²

30. Start of Russia's war in Ukraine. On February 24, 2022, just before 5:00 am Eastern European Time, President Putin broadcast a televised announcement to his citizens to inform that he had decided to carry out a "special military operation" to protect Russians in eastern Ukraine and

²⁷ Rachel Scully, "Russia Evacuating Diplomats from Ukraine", The Hill (February 22, 2022) (available at: <https://thehill.com/policy/international/europe/595347-russia-evacuating-diplomats-from-ukraine>).

²⁸ Rachel Scully, "Russia Evacuating Diplomats from Ukraine", The Hill (February 22, 2022) (available at: <https://thehill.com/policy/international/europe/595347-russia-evacuating-diplomats-from-ukraine>).

²⁹ VOA News, "Ukrainian President Drafts Reservists, Rules Out General Mobilization for Now", Reuters / VOA News (February 22, 2022) (available at: <https://www.voanews.com/a/ukrainian-president-drafts-reservists-rules-out-general-mobilization-for-now-/6454514.html>).

³⁰ Naveed Jamali, Tom O'Connor and David Brennan, "Exclusive: U.S. Warns Ukraine of Full-Scale Russian Invasion Within 48 Hours", Newsweek (February 23, 2020) (available at: <https://www.newsweek.com/exclusive-us-warns-ukraine-full-scale-russian-invasion-within-48-hours-1681798>).

³¹ Order of the President of Ukraine No. 63/2022, "On Introduction of the State of Emergency in Separate Regions of Ukraine" (February 24, 2022) (available at: <https://www.president.gov.ua/documents/632022-41393>); *The Law "On Approval of the Order of the President of Ukraine "On Introduction of the State of Emergency in Separate Regions of Ukraine" Was Adopted*, INFORMATION DEPARTMENT OF THE VERKHOVNA RADA OF UKRAINE (February 23, 2022) (available at: <https://www.rada.gov.ua/news/Novyny/219975.html>).

³² Order of the President of Ukraine No. 64/2022, "On the Introduction of Martial Law in Ukraine" (February 24, 2022) (available at: <https://www.president.gov.ua/documents/642022-41397>); *The Law "On Approval of the Order of the President of Ukraine "On Introduction of Martial Law in Ukraine" Was Adopted*, INFORMATION DEPARTMENT OF THE VERKHOVNA RADA OF UKRAINE (February 23, 2022) (available at: <https://www.rada.gov.ua/news/Novyny/219987.html>).

to “demilitarize” and “de-Nazify” Ukraine.³³ President Putin warned that any country attempting to interfere would see “consequences you have never seen in history.”³⁴

31. Immediately after this announcement, the Russian Federation launched a wide-scale attack along the full length of the Russian–Ukrainian border and parts of the Belarusian–Ukrainian border, with intense shelling, missile and bombing raids of military and other important defense facilities, border units in different cities throughout the entire territory of Ukraine.³⁵ The largest Boryspil airport in Kyiv in particular was attacked and civil aviation was suspended. The governmental IT systems began experiencing escalating cyber-attacks.³⁶

³³ The New York Times, “Putin Announces Invasion of Ukraine” (February 24, 2022) (available at: <https://www.nytimes.com/video/world/europe/100000008225243/putin-ukraine-invasion.html>); The Kyiv Independent, “Putin Declares War on Ukraine” (February 24, 2022, 04:57 am) (available at: <https://kyivindependent.com/national/putin-declares-war-on-ukraine/>); Euronews, Here's how Russia's invasion of Ukraine unfolded on day one (25 February 2022, 11:51) (available at: <https://www.euronews.com/2022/02/24/russia-launches-special-military-operations-in-east-ukraine>).

³⁴ The New York Times, “Putin Announces Invasion of Ukraine” (February 24, 2022) (available at: <https://www.nytimes.com/video/world/europe/100000008225243/putin-ukraine-invasion.html>); The Kyiv Independent, “Putin Declares War on Ukraine” (February 24, 2022, 04:57 am) (available at: <https://kyivindependent.com/national/putin-declares-war-on-ukraine/>); Euronews, Here's how Russia's invasion of Ukraine unfolded on day one (February 25, 2022, 11:51) (available at: <https://www.euronews.com/2022/02/24/russia-launches-special-military-operations-in-east-ukraine>).

³⁵ BBC, “Ukraine conflict: Russian forces attack from three sides” (February 24, 2022) (available at: <https://www.bbc.com/news/world-europe-60503037>); The Washington Post, “Russia unleashes military assault on Ukraine that Biden calls ‘premeditated war’” (February 24, 2022) (available at: <https://www.washingtonpost.com/national-security/2022/02/23/russia-attack-ukraine/>); DW, “Russia launches massive invasion of Ukraine — as it happened” (available at: <https://www.dw.com/en/russia-launches-massive-invasion-of-ukraine-as-it-happened/a-60893588>); Press-release from the official website of the Ministry of Defence of Ukraine (February 24, 2022) (available at: <https://www.mil.gov.ua/en/news/2022/02/24/russia-has-launched-a-new-military-operation-against-our-state-martial-law-is-being-imposed-throughout-ukraine/>); Announcement of the General Staff of the Armed Forces of Ukraine, published at the official website of the Ministry of Defence of Ukraine (February 24, 2022) (available at: <https://www.mil.gov.ua/en/news/2022/02/24/the-general-staff-of-the-armed-forces-of-ukraine-announcements/>); Twitter post of Ukraine’s Minister for Foreign Affairs, Dmytro Kuleba (February 24, 2022) (available at: https://twitter.com/DmytroKuleba/status/1496695889401896964?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembe%7Ctwterm%5E1496695889401896964%7Ctwgr%5E%7Ctwcon%5Es1_%26ref_url=https%3A%2F%2Fua.gov.ua%2Fukraine%2Fpolitics%2Fputin-obyavil-voynu-24-fevralya-sobytiya-v-kieve-harkove-i-na-donbasse-novosti-ukrainy-50219414.html).

³⁶ The Guardian, “Airstrikes at dawn as Russia begins ‘war of aggression’ with Ukraine” (February 24, 2022) (available at: <https://www.theguardian.com/world/2022/feb/24/airstrikes-dawn-russia-begins-war-aggression-with-ukraine-vladimir-putin>); Security alert of the US Embassy in Ukraine (February 24, 2022) (available at: <https://ua.usembassy.gov/security-alert-attack-on-ukraine-022422/>); BBC, “Ukraine crisis: ‘Wiper’ discovered in latest cyber-attacks” (February 24, 2022) (available at: <https://www.bbc.com/news/technology-60500618>).

32. The Russian military attacked several large Ukrainian cities, including Kyiv, Kharkiv, Sumy, Chernihiv, Vinnytsia, Mariupol and Herson, from air and launched missile strikes, which intensified at night. The Russian military then moved its tanks into Ukraine in an attempt to seize territories and cities across the Ukrainian border.³⁷

33. Martial law in Ukraine. The events of February 24, 2022, resulted in a state of war in Ukraine and introduction of martial law.³⁸ Martial law under Ukrainian legislation is a special legal regime which is introduced by the President of Ukraine and approved by the Ukrainian Parliament in case of armed aggression or threat to independence of Ukraine and its territorial integrity. In the modern 30-year history of Ukraine, this is only the second time when martial law was introduced (the first time being in November 2018 in respect of 10 regions of Ukraine when Russia seized three Ukrainian warships in the Black Sea) and the first time when martial law extends to the entire territory of Ukraine.³⁹

34. Martial law shall be effective for a period of thirty days starting from February 24, 2022, with a possibility of further extension. During this period, control over Ukraine's affairs passes to the Military Command, comprising, among others, the President of Ukraine, the General Staff of the Armed Forces of Ukraine, the National Guard of Ukraine and the Security Service of Ukraine.⁴⁰ The government, including all ministries, are bound to assist the Military Command in

³⁷ BBC, "Ukraine conflict: Russian forces attack from three sides" (February 24, 2022) (available at: <https://www.bbc.com/news/world-europe-60503037>).

³⁸ President Volodymyr Zelenskyy signed Decree No. 64/2022 "On the imposition of martial law in Ukraine" (in Ukrainian) (available at: <https://www.president.gov.ua/documents/642022-41397>). The Ukrainian Verkhovna Rada approved the document by 300 votes. See Law of Ukraine "On Approval of Decree of the President of Ukraine "On the imposition of martial law in Ukraine" (in Ukrainian) (available at: <https://zakon.rada.gov.ua/laws/show/2102-IX#Text>). Press-release from the official website of the Ministry of Defence of Ukraine (February 24, 2022, 08:58 am Kyiv time) (Available at: <https://www.mil.gov.ua/en/news/2022/02/24/president-signed-a-decree-on-the-imposition-of-martial-law-in-ukraine-the-verkhovna-rada-approved-it/>).

³⁹ BBC Ukraine, Martial law in Ukraine. How it works (February 24, 2022) (available at: <https://www.bbc.com/ukrainian/features-60503455>).

⁴⁰ Article 3(1) of Law of Ukraine "On the Legal Regime of the Martial Law" No. 389-VIII dated May 12, 2015 (available at: <https://zakon.rada.gov.ua/laws/show/389-19#Text>).

implementing the measures of martial law.⁴¹ This includes the Ministry of Justice, which as I understand, gives instructions on Ukraine's representation in this case.

35. The President of Ukraine has defined a list of constitutional rights which may be restricted for the duration of martial law, including freedom of movement, right to privacy of correspondence, right to work, etc.⁴² To this date, the following measures have been introduced, and continue to be introduced, as part of martial law in Ukraine: (i) curfew from 10 pm to 7 am every day across Ukraine and the latest week-end curfew from Saturday at 5 p.m. until Monday at 8 a.m.; (ii) civil defense system, involving shelters in the underground facilities from regular Russian air-raids; (iii) call to active duty for all men aged from 18 to 60 listed in the reserve of the Armed Forces of Ukraine; (iv) prohibition for all men aged from 18 to 60 who are mobilizable to leave the country.⁴³

36. Severance of diplomatic relations of Ukraine with Russia and international response. Against this background, Ukraine severed diplomatic relations with the Russian Federation on February 24, 2022.⁴⁴

37. On the same day, the international community gave a clear response to Russia's war against Ukraine, as 48 states and 5 international organizations expressed their support for Ukraine in this war.⁴⁵

⁴¹ Article 8(1) of Law of Ukraine "On the Legal Regime of the Martial Law" No. 389-VIII dated May 12, 2015 (available at: <https://zakon.rada.gov.ua/laws/show/389-19#Text>).

⁴² Decree No. 64/2022 dated 24 February 2022 "On the imposition of martial law in Ukraine" (available at: <https://www.president.gov.ua/documents/642022-41397>).

⁴³ Decree No.69/2022 dated 24 February 2022 "On general call-duty" (available at: <https://www.president.gov.ua/documents/692022-41413>).

⁴⁴ Press-release from the official website of the President of Ukraine (February 24, 2022, 02:13 pm) (available at: <https://www.president.gov.ua/en/news/ukrayina-rozirvala-diplomaticchni-vidnosini-z-rosiyeyu-yaka-p-73133>).

⁴⁵ SlovoiDilo, "Invasion of Russia in Ukraine: how worlds leaders react" (February 24, 2022) (available at: <https://www.slovoidilo.ua/2022/02/24/infografika/polityka/vtorhennnya-rosiyi-ukrayinu-yak-reahuyut-svitovi-lidery>).

- In the words of President Biden, “The Russian military has begun a brutal assault on the people of Ukraine without provocation, without justification, without necessity. This is a premeditated attack. Vladimir Putin has been planning this for months, as I’ve been — as we’ve been saying all along. He moved more than 175,000 troops, military equipment into positions along the Ukrainian border.”⁴⁶ Further, “We saw a flagrant violation of international law in attempting to unilaterally create two new so-called republics on sovereign Ukrainian territory. And at the very moment that the United Nations Security Council was meeting to stand up for Ukraine’s sovereignty to stave off invasion, Putin declared his war. Within moments — moments, missile strikes began to fall on historic cities across Ukraine. Then came in the air raids, followed by tanks and troops rolling in.”⁴⁷ President Biden “authoriz[ed] additional strong sanctions and new limitations on what can be exported to Russia.”⁴⁸ “In today’s actions, we have now sanctioned Russian banks that together hold around \$1 trillion in assets. We’ve cut off Russia’s largest bank — a bank that holds more than one third of Russia’s banking assets by itself — cut it off from the U.S. financial system. And today, we’re also blocking four more major banks. That means every asset they have in America will be frozen. This includes V.T.B., the second-largest bank in Russia, which has \$250 billion in assets.”⁴⁹ “On Tuesday, we stopped the Russian government from raising money from U.S. or

⁴⁶ Remarks by President Biden on Russia’s Unprovoked and Unjustified Attack on Ukraine (February 24, 2022), available at <https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/02/24/remarks-by-president-biden-on-russias-unprovoked-and-unjustified-attack-on-ukraine/>.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

European investors. Now, we're going to apply the same restrictions to Russia's largest state-owned enterprises — companies with assets that exceed \$1.4 trillion.”⁵⁰

- In the words of Prime Minister Boris Johnson, “President Putin of Russia has unleashed war in our European continent. He has attacked a friendly country without any provocation and without any credible excuse. Innumerable missiles and bombs have been raining down on an entirely innocent population. A vast invasion is underway by land by sea and by air.”⁵¹ Prime Minister Boris Johnson further stated, “Today in concert with our allies we will agree a massive package of economic sanctions designed in time to hobble the Russian economy. And to that end we must also collectively cease the dependence on Russian oil and gas that for too long has given Putin his grip on western politics.”⁵²
- The G7 issued a statement condemning the large-scale military aggression by the Russian Federation against the territorial integrity, sovereignty and independence of Ukraine. They reaffirmed that this crisis caused by Russia's attack on Ukraine was a serious threat to the rules-based international order, with ramifications well beyond Europe, whereas President Putin's decision to recognize Donetsk and Luhansk self-declared entities as “independent states” was a grave violation of the basic principles enshrined in the UN Charter.⁵³

⁵⁰ *Id.*

⁵¹ Prime Minister's address to the nation on the Russian invasion of Ukraine (February 24, 2022) (available at: <https://www.gov.uk/government/speeches/prime-ministers-address-to-the-nation-on-the-russian-invasion-of-ukraine-24-february-2022>).

⁵² *Id.*

⁵³ G7 Leaders' Statement on the invasion of Ukraine by armed forces of the Russian Federation: 24 February 2022 (available at: <https://www.gov.uk/government/news/g7-leaders-statement-on-the-invasion-of-ukraine-by-armed-forces-of-the-russian-federation-24-february-2022>).

- The NATO held an emergency meeting of the North Atlantic Council to respond to Russia’s unjustified and unprovoked attack on Ukraine and issued a statement “to condemn in the strongest possible terms Russia’s horrifying attack on Ukraine”. The North Atlantic Council stated that “Russia’s actions pose a serious threat to Euro-Atlantic security, and they will have geostrategic consequences.”⁵⁴
- The European Council has condemned “in the strongest possible terms the Russian Federation’s unprovoked and unjustified military aggression against Ukraine”.⁵⁵ It has expressly concluded that “By its illegal military actions, Russia is grossly violating international law and the principles of the UN Charter and undermining European and global security and stability.” Further the European Council has supported the right of Ukraine to “choose its own destiny” and deplored the ongoing losses of life among the civilian population of Ukraine in connection with Russia’s ongoing attack throughout Ukrainian territory.
- OSCE also condemned Russia’s attack on Ukraine: “We strongly condemn Russia’s military action against Ukraine. This attack on Ukraine puts the lives

⁵⁴ Statement by the North Atlantic Council on Russia's attack on Ukraine (February 24, 2022) (available at: https://www.nato.int/cps/en/natohq/official_texts_192404.htm).

⁵⁵ European Council conclusions on Russia’s unprovoked and unjustified military aggression against Ukraine (February 24, 2022) (available at: https://eeas.europa.eu/delegations/ukraine/111627/%D0%B2%D0%B8%D1%81%D0%BD%D0%BE%D0%B2%D0%BA%D0%B8-%D1%94%D0%B2%D1%80%D0%BE%D0%BF%D0%B5%D0%B9%D1%81%D1%8C%D0%BA%D0%BE%D1%97-%D1%80%D0%B0%D0%B4%D0%B8-24-%D0%BB%D1%8E%D1%82%D0%BE%D0%B3%D0%BE-2022-%D1%80%D0%BE%D0%BA%D1%83-%D0%B2%D0%B8%D1%81%D0%BD%D0%BE%D0%B2%D0%BA%D0%B8-%D1%94%D0%B2%D1%80%D0%BE%D0%BF%D0%B5%D0%B9%D1%81%D1%8C%D0%BA%D0%BE%D1%97-%D1%80%D0%B0%D0%B4%D0%B8-%D1%89%D0%BE%D0%B4%D0%BE_uk).

of millions of people at grave risk and is a gross breach of international law and Russia's commitments."⁵⁶

- The Council of Europe suspended Russia from its rights of representation in the Committee of Ministers and in the Parliamentary Assembly as a result of Russia's attack on Ukraine.⁵⁷

38. A number of states have also proceeded with imposition of sanctions against Russia and its entities and leading oligarchs, to stop the military attack of Russia against Ukraine:

- The United States introduced a number of sanctions⁵⁸ related to (i) accounts and transactions related to certain foreign financial institutions,⁵⁹ and (ii) Prohibitions Related to New Debt and Equity of Certain Russia-related Entities.⁶⁰
- UK and EU imposed sectoral sanctions on Russia, freezing its assets, as well as halting access of Russian banks to European financial markets.⁶¹
- Australia, New Zealand and Japan have also introduced sanctions against Russia.⁶² For instance, according to Japan's Prime Minister Fumio Kishida,

⁵⁶ Joint statement by OSCE Chairman-in-Office Rau and Secretary General Schmid on Russia's launch of a military operation in Ukraine (February 24, 2022) (available at: <https://www.osce.org/chairmanship/512890>).

⁵⁷ Press-release of the Council of Europe "Council of Europe suspends Russia's rights of representation" (February 25, 2022) (available at: <https://www.coe.int/en/web/portal/-/council-of-europe-suspends-russia-s-rights-of-representation>).

⁵⁸ Twitter post of the US Treasury Department (February 25, 2022). (available at: <https://twitter.com/i/web/status/1496933459784306699>).

⁵⁹ Directive 2. Prohibitions Related to Correspondent or Payable-Through Accounts and Processing of Transactions Involving Certain Foreign Financial Institutions (February 24, 2022) (available at: https://home.treasury.gov/system/files/126/correspondent_accounts_directive_2.pdf)

⁶⁰ Directive 3 - Prohibitions Related to New Debt and Equity of Certain Russia-related Entities (February 24, 2022) (available at: https://home.treasury.gov/system/files/126/new_debt_and_equity_directive_3.pdf)

⁶¹ BBC, Ukraine conflict: UK sanctions target Russian banks and oligarchs (February 24, 2022) (available at: <https://www.bbc.com/news/uk-60515626>); Webpage of the UK Government "Russia sanctions: guidance" (available at: <https://www.gov.uk/government/publications/russia-sanctions-guidance>); Press-release of the European Council "EU restrictive measures in response to the crisis in Ukraine" (February 23-24, 2022) (available at: <https://www.consilium.europa.eu/en/policies/sanctions/ukraine-crisis/>).

⁶² The Hill, "Japan, Australia, New Zealand impose penalties on Russia following invasion in to Ukraine" (February 24, 2022) (available at: <https://thehill.com/policy/international/595787-japan-australia-new-zealand-impose-penalties->

these sanctions include export controls on high-tech products such as semiconductors, a freeze on assets held by Russian financial institutions and a suspension of visa issuance for certain Russian individuals and entities. The three Russian banks targeted by Japan's sanctions are VEB, Russia's state development bank; state-backed Promsvyazbank, which focuses on the country's defense sector; and Bank Rossiya.⁶³

39. Latest update as of February 25, 2022. On February 25, 2022, Russian troops have seized control over the decommissioned Chernobyl Nuclear Power Plant and nuclear waste depository—the site of the world's worst nuclear disaster in 1986.⁶⁴

40. From early morning on February 25, 2022, Russia also carried out numerous air raids on Ukraine's largest cities, hitting numerous civilian buildings, which led to casualties. Ukrainians also had to hide in bomb shelters numerous times throughout the day, including in Kyiv, whereas newborns from intensive care unit in Dnipro had to be moved to a makeshift bomb shelter, due to Russia's air raids.⁶⁵ Civil housing in the capital suffered from collateral damage as well, showing that the targeted attacks went far beyond the military infrastructure.

on-russia-following); First Package of Japan sanctions was imposed on February 23, 2022 (available at: <https://www.reuters.com/world/japan-imposes-sanctions-russia-over-actions-ukraine-2022-02-23/>).

⁶³ The Wall Street Journal, "Japan's Russia Sanctions Include Three Midsize Banks" (February 25, 2022) (available at: <https://www.wsj.com/livecoverage/russia-ukraine-latest-news/card/SaC7GVYPYJZwvIMujFNEK>).

⁶⁴ UkraineNow, "Russia attacks Chernobyl" (February 25, 2022) (available at: <https://ukraine.ua/news/russia-attacks-chernobyl/>); CTVNews, "Chernobyl no-go zone targeted as Russia invades Ukraine" (February 25, 2022) (available at: <https://www.ctvnews.ca/world/chernobyl-no-go-zone-targeted-as-russia-invades-ukraine-1.5794537>).

⁶⁵ BBC live reporting on Russia war in Ukraine (available at: <https://www.bbc.com/news/live/world-europe-60517447>); Reports on current state of war by the Armed Forces of Ukraine (available at: https://www.zsu.gov.ua/new_page/6217e45a4909af00130a405a); ABC News, "Ukraine residents sheltering in subway stations, basements and purpose-built bunkers as Russia invades" (February 24, 2022) (available at: <https://www.abc.net.au/news/2022-02-25/ukraine-schools-and-subways-become-bomb-shelters-and-gun-ranges/100860338>); DailyMail, "Heartbreaking footage of newborn babies in makeshift bomb shelter in Ukraine children's hospital as Putin's missiles rain down above" (February 25, 2022) (available at: <https://www.dailymail.co.uk/news/article-10550331/Newborn-infants-childrens-hospital-Dnipro-eastern-Ukraine-moved-bomb-shelter.html>).

41. Ukrainian troops are defending several of the largest cities of Ukraine, including Kharkiv, Sumy, Kherson and Kyiv.⁶⁶ The Ukrainian army had to detonate several bridges in Kyiv and Kharkiv region to block the advancement of Russian troops.⁶⁷ However, Russian troops still managed to enter the capital.⁶⁸

42. In Kharkiv, loud explosions were heard, and missiles were launched in the city centre.⁶⁹ The city mayor called for all citizens to hide in bunkers, metro and basements.⁷⁰ Two power grids were impacted by Russian attacks, which deprived many houses of electricity.⁷¹

43. In Henichesk, occupied by Russia, Ukrainian serviceman Vitaliy Skakun blew up a bridge at the cost of his own life in order to stop the advancement of a tank column.⁷²

44. In Kherson, the crossing to the city was lost after a battle, leaving the access to the city to the Russian Armed Forces.⁷³

45. In Chernigiv, the building of the State Security Service burned after being hit by two missiles.⁷⁴ Russia reported that its forces surrounded the city.⁷⁵

⁶⁶ BBC live reporting on Russia war in Ukraine (available at: <https://www.bbc.com/news/live/world-europe-60517447>); Reports on current state of war by the Armed Forces of Ukraine (available at: https://www.zsu.gov.ua/new_page/6217e45a4909af00130a405a).

⁶⁷ Daily Mail, “Ukrainian troops are engaged in fierce fighting with Putin’s tanks 20 MILES outside of Kyiv and blow up three bridges to halt their advance after Russian jet was shot down over capital: Zelensky rages at Biden for leaving the country ‘alone’,” (February 25, 2022) (available at: <https://www.dailymail.co.uk/news/article-10549113/Kiev-fall-weekend-troops-encircle-capital-taking-Chernobyl-despite-EU-sanctions.html>).

⁶⁸ Forbes, “Live: Russian Forces Advance Into Kyiv Amid Stiff Resistance By Ukrainian Troops”, Forbes (February 25, 2022) (available at: <https://www.forbes.com/sites/dereksaul/2022/02/24/live-russia-ukraine/?sh=76d8082b5020>).

⁶⁹ Ukrinform, “Харків обстрілюють: мер розповів про ситуацію у місті” (February 25, 2020) (available at: <https://www.ukrinform.ua/rubric-ato/3412822-harkiv-obstriluut-mer-rozpoviv-pro-situaci-u-misti.html>).

⁷⁰ РБК Україна, “Ситуація в Харкові прямо зараз: що відбувається в місті” (February 25, 2020) (available at: <https://www.rbc.ua/ukr/stylar/situatsiya-harkove-pryamo-seychas-proishodit-1645692584.html>).

⁷¹ Укрінформ, “Харків обстрілюють: мер розповів про ситуацію у місті” (February 25, 2020) (available at: <https://www.ukrinform.ua/rubric-ato/3412822-harkiv-obstriluut-mer-rozpoviv-pro-situaci-u-misti.html>).

⁷² Ukrinform, “Ukrainian serviceman Skakun blows up Henichesk bridge to stop advance of tank column” (February 25, 2022) (available at: <https://www.ukrinform.net/rubric-ato/3412500-ukrainian-serviceman-skakun-blows-up-henichesk-bridge-to-stop-advance-of-tank-column.html>).

⁷³ РБК Україна, “Російські війська прорвали оборону Херсона” (February 25, 2020) (available at: <https://www.rbc.ua/ukr/news/rossiyskie-voyska-prorvali-oboronu-hersona-1645801809.html>).

⁷⁴ РБК Україна, “У Чернігові атакували управління СБУ. Будівля горить” (February 25, 2020) (available at: <https://www.rbc.ua/ukr/news/chernigove-atakovali-upravlenie-sbu-zdanie-1645800442.html>).

⁷⁵ Owen Amos, “BBC News coverage of Ukraine crisis”, BBC (February 25, 2022) (available at: <https://www.bbc.com/news/live/world-europe-60517447>).

46. On the Serpent Island in the Black Sea, thirteen Ukrainian coastguards gave their lives for the defence of the strategic island near the coast of Romania, under a fatal attack from a Russian warship.⁷⁶

47. In Okhtyrka, missiles hit the building of a kindergarten. The security guard was killed, the service lady and two children suffered from injuries.⁷⁷

Conclusionary remarks

48. Ukraine is facing and countering an existential threat to its sovereignty, territorial integrity, statehood and national identity. The world is facing and countering a brutal affront to the very principles of freedom and self-determination on which the democratic order is based.

49. The Russian invasion of Ukraine not only made it impossible to maintain normal day-to-day operation of utilities, transportation, telecommunications and IT systems, but also interfered with the smooth functioning of the state organs, including the Ministry of Justice of Ukraine, which has conduct of the proceeding and gives instructions on behalf of Ukraine in the present case.

50. In my prior declaration, I explained my concern that disclosure of sensitive information to Tatneft will harm Ukraine's national security. My concern is even greater now. Disclosure of sensitive information to an entity with close ties to Russia—especially information pertaining to military defense and national infrastructure—poses an even more acute threat to Ukraine's welfare now that Russia has sent a large invasion force across the territorial borders of Ukraine. Now, even more so than before, it would be unconscionable for sensitive information to end up in the wrong hands. I am of the strong view of that ordinary protections against

⁷⁶ CNN, "Soldiers' defiant last words as Russian warship targets Snake Island" (February 25, 2022) (available at: <https://edition.cnn.com/2022/02/25/europe/ukraine-russia-snake-island-attack-intl-hnk-ml/index.html>).

⁷⁷ РБК Україна, "При обстрілі дитсадка в Охтирці загинув охоронець. Поранено співробітницю та двох дітей" (February 25, 2020) (available at: <https://www.rbc.ua/ukr/news/obstrele-detsada-ahtyrke-pogib-ohrannik-raneny-1645804038.html>).

unauthorized disclosure or transmission of sensitive information, which may theoretically function at times of peace, are meaningless and illusory at times of war.

51. I agree with the statements made in Ukraine's legal submissions, relayed to me by the Ministry of Justice of Ukraine, that Tatneft's discovery requests are far broader and far more intrusive than necessary to collect on a circa \$170 million judgment. They appear to be a mere pretext to obtain disclosure of information of great importance to Ukrainian national security. They appear to be driven by a more far-reaching interstate agenda and cannot now be dissociated from Russia's ongoing invasion of Ukraine.

52. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed on 28 February 2022



Oksana MARKAROVA