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WITNESS STATEMENT

OF

VIKTOR MIKOLAJOVIČ SHOKIN

I, Viktor Shokin, holding passport of Ukrainian citizen TT110010, issued by TUM-2 of Shevchenkivskiyi DD of the MIA of Ukraine in Kiev, residing at flat 31, 14 Yaroslavov val, city of Kyiv, state as follows: -

1. I make this statement at the request of lawyers acting for Dmitry Firtash ("DF"), for use in legal proceedings in Austria. I do so entirely voluntarily and without any threat or inducement.
2. I am a former General Prosecutor of the Republic of Ukraine. I worked in the general prosecutor's office of Ukraine from May 1980 to 3 April 2016, at different times. I was Deputy Prosecutor of Ukraine on three separate occasions, from 2002 to 2003; from 2005 to 2007; and from 2014 to 2015. I was General Prosecutor of Ukraine from 10 February 2015 to 03 April 2016. I was dismissed from the position of General Prosecutor in the circumstances that I set out below.
3. In this witness statement I explain that during the period in which I worked as General Prosecutor of Ukraine:
 - (a) DF announced publicly that he would return to Ukraine to address the employers of Ukraine on 2 December 2015, to launch his Plan for the Modernization of Ukraine;
 - (b) US Vice President Joe Biden, who represented the US in its relations with Ukraine, together with Poroshenko and others in Ukraine such as the Minister

of Internal Affairs, Avakov, took steps aimed at preventing DF's return to Ukraine. They resorted to extreme and desperate measures to do this. Indeed:

- i) I found out from speeches given by the Minister of the Internal Affairs, Avakov, which were published in the media that the internal affairs authorities had been investigating three criminal cases, under which criminal charges could have been brought against DF. The media went on to report that if DF returned to the Ukraine he could have been detained and arrested. However, this was merely a pretext to take further action aimed at stopping DF from coming to Ukraine;
 - ii) Then Avakov stated in the media that DF would be arrested and prosecuted in Ukraine on US charges, that this was allegedly possible under Ukrainian law and that US state officials at the time had requested this action;
 - iii) However, I can testify that as General Prosecutor I did not receive any evidence or materials from anyone to support DF's involvement in criminality;
 - iv) It transpired that the actions above did not deter DF from returning, and so the Ukrainian government organised and endorsed a unit of ultra-right militia of the Azov battalion, to threaten DF by posting pictures of military-clad and armed members of the unit, wearing masks and patrolling the airport in waiting for DF to arrive;
 - v) In addition, the media also reported that Ukraine had closed its airspace to private jets.
- (c) Therefore, it is clear to me that certain US officials from President Obama's administration, in particular the US Vice-President Joe Biden, directly manipulated the political leadership of Ukraine on false pretexts, in order to prevent DF from returning to Ukraine, as they were so concerned about him re-establishing public life there.
- (d) DF did not travel to Ukrain. Vice President Joe Biden did, where he met with President Poroshenko on 6 December and addressed the Rada on 8 December.

(e) If the US Presidential Administration had indeed wanted to prosecute DF, the correct legal procedure should have been followed. DF should have been subjected to the official procedure of criminal prosecution upon his arrival in Ukraine, on the basis of materials officially provided by the USA, and a detailed analysis of all the evidence and relevant legal provisions, in full compliance with Ukrainian law. In the absence of sufficient evidence he would have either been acquitted or the criminal proceedings would have been terminated. Consequently, all allegations against him would have been cleared. However, instead of this, state officials from the US Presidential Administration, who had substantial influence on the entire law-enforcement system of Ukraine (my own dismissal being evidence of such influence – see below), did not take any actions in regards to bringing criminal charges against DF in Ukraine. Therefore, I believe that having realised that they could not mount a sustainable prosecution in Ukraine, and following their recent loss in respect of the extradition case in Austria, they took active steps in order to block his return to Ukraine.

(f) Had DF arrived in Ukraine, there was a real possibility of an attempt being made on his life, whether on orders or unilaterally by an extremist ‘serving his country’. And I hereby confirm that as General Prosecutor, I would never have permitted DF to be detained for political reasons, especially as I know for a fact that there were no criminal grounds on which to detain and prosecute him.

(g) This instance of interference in Ukraine’s affairs by US officials to achieve US objectives (barring DF’s return to public life in Ukraine) was closely followed by another instance of interference, namely forcing Poroshenko to dismiss me because my actions as General Prosecutor did not suit the interests of the US Vice-President Biden and the persons connected to him.

4. I now set out the details.

5. The General Prosecutor of Ukraine is appointed to office by the President of Ukraine with the consent of the Verkhovna Rada (‘the Rada’, i.e. parliament). I was accordingly appointed during the presidency of President Poroshenko by 318

votes of members of the Ukrainian Parliament, which constituted a constitutional majority. Whilst occupying this post I was staunchly politically unaffiliated.

6. The circumstances of my dismissal were that I tendered my resignation to the Rada at the request of President Poroshenko. Poroshenko asked me to resign due to pressure from the US Presidential administration, in particular from Joe Biden, who was the US Vice-President. Biden was threatening to withhold USD\$ 1 billion in subsidies to Ukraine until I was removed from office. After I yielded to the President's request and submitted my voluntary resignation, Poroshenko commented about it in the media. He said that I had carried out a colossal amount of work as General Prosecutor, which is something none of my predecessors had been able to do, especially with regards to my work on reforming the different bodies of the prosecutor's office, on creating the Specialised Anticorruption Prosecutor's Office, which enabled the National Anti-Corruption Bureau of Ukraine to conduct legal work, and on creating self-governing prosecution authorities.
7. The official reason put forward for my dismissal was that I had allegedly failed to secure the public's trust. Poroshenko and other state officials, including representatives of the US presidential administration, had never previously had any complaints about my work, however. There were no grievances against me or any allegations that had I committed any corruption-related (or, indeed any other) criminal offenses. Biden never stated anything of the kind either. Furthermore, all sanctions in respect of Yanukovich and his supporters remained in force and were not lifted whilst I occupied the post. Moreover, these sanctions were extended.
8. The truth is that I was forced out because I was leading a wide-ranging corruption probe into Burisma Holdings ("Burisma"), a natural gas firm active in Ukraine, and Joe Biden's son, Hunter Biden, was a member of the Board of Directors. I assume Burisma, which was connected with gas extraction, had the support of the US Vice-President Joe Biden because his son was on the Board of Directors.
9. On several occasions President Poroshenko asked me to have a look at the criminal case against Burisma and consider the possibility of winding down the investigative actions in respect of this company, but I refused to close this investigation. Therefore, I was forced to leave office, under direct and intense pressure from Joe Biden and the US administration. In my conversations with Poroshenko at the time, he was emphatic

that I should cease my investigations regarding Burisma. When I did not, he said that the US (via Biden) were refusing to release the USD\$ 1 billion promised to Ukraine. He said that he had no choice, therefore, but to ask me to resign.

10. When Poroshenko asked me to resign, the way that he put it to me was that he was making it for the good of our country, and that I should agree, also as an act of patriotism. I agreed to tender my resignation on this basis.
11. After my dismissal Joe Biden made a public statement¹, saying – even bragging – that he had me fired. This is when it became clear that the real reason for my dismissal was my actions regarding in Burisma and Biden’s personal interest in that company, which was demonstrated by the following:
 - a) it was Biden’s order and wish that I be removed from office, not Poroshenko’s decision;
 - b) the reason was because it was precisely the state officials from the US administration of President Obama – and Joe Biden in particular - who were telling the heads of the Ukraine law-enforcement system how to investigate and whom to investigate, including members of the Yanukovich regime team. I was not complying with their will (in respect of Zlochevsky, in particular, who was a minister under Yanukovich) so I had to be removed from office;
 - c) it was not Poroshenko being patriotic, it was Poroshenko submitting to the demands of state officials from the US administration of President Obama for reasons of political economy and the personal interests of the US Vice President Biden, amongst others.
12. When I found out about the actual reason for my dismissal from Biden’s statement. I went to the courts and asked for recognition that I had been forced to submit my ‘voluntary’ resignation (and therefore that my dismissal be declared unlawful). I was refused to have my case examined on its merits due to the fact that I had supposedly missed the deadlines for applying to the courts. When I had exhausted all domestic legal remedies, I petitioned the ECtHR, on the basis that my fundamental rights had been breached and that my dismissal was politically motivated and therefore unlawful.

¹ See, *Law and Crime.com*, “Biden Reportedly ‘Bragged’ About the Firing of a Prosecutor Who Was Investigating His Son’s Firm”, 2 April 2019, available at: <https://lawandcrime.com/high-profile/biden-reportedly-bragged-about-the-firing-of-a-prosecutor-who-was-investigating-his-sons-firm>

13. DF won his extradition case in Austria at first instance, on 30 April 2015, while I was General Prosecutor of Ukraine. This was widely reported in the media at the time. It was also subsequently reported that he intended to come back to Ukraine, in order to address the General Assembly of the Federation of Employers of Ukraine ("FEU") on 2 December 2015. He was the head of the FEU.
14. It was public knowledge that in March 2015, DF and the FEU established a body called the Agency for the Modernization of Ukraine to develop a comprehensive plan for the economic revival of Ukraine, involving massive investment into Ukraine. It was called the Plan for the Modernization of Ukraine, and it was also public knowledge that it was to be presented specifically by DF at the FEU event on 2 December 2015².
15. During this period I was present in meetings with Poroshenko, as were the heads of other law-enforcement authorities of Ukraine, in which the matter of barring DF from returning to Ukraine was discussed, although I was not specifically addressed on the issue.
16. Based on the outcome of these meetings, I believe that the initiative and main motivation on barring DF from returning to Ukraine was coming mostly from state officials of the US administration, especially from Biden.
17. This was not a secret. Everyone knew it and it was in the media that state officials from the US Administration of President Obama stood behind the intense and aggressive warnings to DF not to return. For example, one article on 3 December 2015 had the title "A Ukrainian oligarch's foiled homecoming. The U.S. and the government in Kiev want Dmytro Firtash behind bars"³. It said that: "Avakov announced on Sunday that, *after consulting with U.S. officials*, he instructed Ukrainian police to detain Firtash should he attempt to enter Ukraine" (emphasis supplied).
18. Biden, Poroshenko and Avakov were determined to prevent DF from coming to Ukraine; they were absolutely resolute. The media was used to deliver a very strong message, loud and clear, to DF not to come to Ukraine. Photos of armed paramilitaries waiting for DF were taken and posted on the internet (including on Avakov's Facebook

² See for example: http://en.dmitryfirtash.com/activity/agency_for_the_modernization_of_ukraine.

³ See *Politico*, "A Ukrainian oligarch's foiled homecoming", 12 March 2015, <https://www.politico.eu/article/firtash-poroshenko-ukraine-oligarchs-corruption>.

page), and the Ukrainian airspace was closed at the end of November, in order to prevent DF coming to Ukraine.

19. For example, the media reported:

“Andriy Biletsky, commander of Ukraine’s nationalist Azov Battalion, said that his volunteer fighters would arrest Firtash themselves if government forces failed to do so. He later posted a Facebook photo of his armed men waiting at Kiev’s Borispol airport”⁴.

20. Back then, at a press conference I, as the General Prosecutor, was asked about how I would treat Firtash upon his return to Ukraine. Knowing that there were no criminal cases against him in my office and knowing that the situation was the same in other offices as well, I replied that I would greet him with a bunch of flowers, and suggested that he contact Avakov in this regard. As the General Prosecutor and an Honoured Legal Professional of Ukraine, I knew that there were only two legal scenarios in which DF could be detained in Ukraine. The first is that Ukraine would prosecute DF for crimes committed in Ukraine; the second was for DF to be prosecuted in Ukraine on the basis of allegations and materials handed over to us by the US.

21. Under Ukrainian law, DF could not be extradited because he is a national of Ukraine and we do not extradite our nationals. However, Ukrainian nationals can be prosecuted for crimes committed in another country on the basis of the materials provided by this country.

22. Avakov stated publicly to the media that if DF arrived in Kiev, he would be detained and prosecuted, but the truth is that there was no evidence that DF had committed any crimes in Ukraine. Avakov later admitted as much publicly.

23. Had there been any evidence of criminality by DF in Ukraine, the General Prosecutor’s Office would have been aware of it. There was no such evidence. Regarding the absence of domestic charges, the MVD (Ministry of Internal Affairs) spokesman, Artem Shevchenko, stated on 26 November that:

“The MVD of Ukraine does not have any criminal proceedings in which businessman Dmitry Firtash is named as a suspect, though there is a case relating

⁴ See *Politico*, “A Ukrainian oligarch’s foiled homecoming”, 12 March 2015, <https://www.politico.eu/article/firtash-poroshenko-ukraine-oligarchs-corruption/>

to the Ostchem group of companies in which he has been summoned to be interviewed as a witness”⁵.

24. Once it was admitted that there was no basis on which to arrest DF for crimes committed in Ukraine, the US officials and the Interior Ministry of Ukraine switched to the US charges. Thus, on 29 November 2015, the MVD issued a statement with the title: “Dmitry Firtash will be detained on his arrival on request from *US Department of Justice*”⁶ (my emphasis).
25. According to this press statement, Minister Avakov said that Ukraine had offered to take over the criminal proceedings against DF instigated in the US and to prosecute him on those charges in Ukraine. As I say, Ukraine’s law allows for this. However, our law does not allow him to be detained for 40 days as a Ukrainian national.
26. On the same day, Avakov wrote on his Facebook page that DF would be detained on arrival following an application from the US Department of Justice and that the *relevant consultations with the US had already been concluded*⁷.
27. It is my testimony that as the General Prosecutor, I was not provided with any evidence proving DF’s guilt in committing any crimes either in Ukraine or other countries, including the US. I know for a fact that under Ukrainian law, when a foreign state (here the US) seeks criminal prosecution of an individual in circumstances where there has not yet been a verdict of that person (such as in DF’s case – he was wanted in Austria *in order* to be tried), the responsible body for receiving and dealing with such requests is the General Prosecutor’s Office. Where there *has* been a criminal verdict, it is the Ministry of Justice.
28. As there had been no verdict in DF’s case, it was the exclusive competence of the General Prosecutor’s Office to receive any request for a criminal prosecution of DF, as well as all underlying evidence to support a criminal prosecution. As I have said, no such evidence was provided, notwithstanding the fact that every measure had

⁵ See *Ukrainska Pravda*, “Ukraine has closed its skies to charter flights. Is it because of Firtash?”, 28 November 2015, <http://www.pravda.com.ua/news/2015/11/28/7090554>

⁶ See *Ministry of Internal Affairs of Ukraine*, “Dmitry Firtash Will Be Detained On His Arrival In Ukraine On Request From the US Ministry of Justice”, 29 November 2015, http://www.npu.gov.ua/ru/publish_article/1731594

⁷ *Ukrainska Pravda*, “Avakov: Firtash will be detained immediately on his arrival in Ukraine”, 29 November 2015, <http://www.pravda.com.ua/rus/news/2015/11/29/7090612>

supposedly been taken to detain DF upon arrival in Ukraine. Ukraine was going to great lengths to show its readiness to immediately detain DF if he arrived to Ukraine.

29. I can speculate that had DF arrived, he could have been detained under Ukrainian law at that time for up to 72 hours if there were grounds for suspecting that he had committed a crime on the territory of Ukraine. Of course, as I have said, there were no such grounds in DF's case. Further, I would never have allowed the General Prosecutor's Office to be used for political purposes of unfounded criminal prosecution of a person, so my office would not have allowed or assisted in detaining or prosecuting DF, either on Ukrainian or American charges, in the absence of sufficient credible evidence that such a crime or crimes had been committed.
30. I would add that all the actions and statements made by the then state officials from the US presidential administration, as well as the administration of Ukraine, were not aimed at DF's criminal prosecution, but at preventing his return to Ukraine. If they were interested in his criminal prosecution, they would have, on the contrary, created an environment in the media that would have made DF want to return to Ukraine and facilitated his arrival and criminal prosecution.
31. Therefore, in my opinion, the threat of DF's detention and criminal prosecution in Ukraine was the reason why he did not return to Ukraine. The actions committed by state officials from the US presidential administration during Obama's presidency and state officials of Ukraine in order to bar DF's return to Ukraine had nothing to do with DF's actual criminal prosecution. The true reasons for these actions, in my opinion, emerge from the following facts:
 - a. DF was going to return to Kyiv in order to re-enter public life in Ukraine and present his development plan for stronger Ukraine;
 - b. DF's arrival in Ukraine would have forced the US to produce sufficient evidence for DF's criminal prosecution on the US charges, but I (as General Prosecutor) never received any such evidence.

32. Joe Biden was visiting Ukraine frequently at that time. He came again in December 2015. He met President Poroshenko on Sunday 6 December and addressed the Rada on Tuesday 8 December⁸.
33. I am asked whether it was possible that there would have been a risk to DF's life he had not cancelled his return and arrived in Ukraine in late 2015. My answer is – potentially yes!
34. Based on my experience, as well as on my reading of the situation, this could have happened either as a result of an order to assassinate DF, as a result of the actions taken by a person with an extremist agenda, or a result of somebody's political order. In relation to DF, the message via the media could effectively have been seen as a license to "step up" and demonstrate the so-called "fake love" for the motherland by removing one of the most influential people in Ukraine (he controlled some of the media, as well as enterprises underpinning major business sectors in Ukraine). I would like to draw attention to what I have said above about the images of armed extremists in camouflage uniform and the images that could have given a message to the same ultra-right nationalist individuals set against Russia as a country with which DF had actively cooperated back in the day on business matters (Rosukrenergo).
35. In my opinion, the initiator of the prevention of DF's return to Ukraine was the US Vice President Biden. It was precisely on his initiative that Poroshenko and Avakov created psychological conditions for barring DF's return to Ukraine.
36. They had to do everything to prevent DF coming back to Ukraine. As there were no charges brought in Ukraine on allegations of crimes supposedly committed in Ukraine, the only possible reason to detain him beyond the initial permitted 72 hours was, in fact, the existence of credible evidence that he had committed crimes abroad, which could give rise to a verdict. I repeat that no such evidence was forwarded by the US. If it had, as General Prosecutor I would have been aware of it.

⁸ For example, see *RFI*, "Biden visits Kiev to calm Ukrainian fears over Russia relations thaw". 7 December 2015, <http://en.rfi.fr/europe/20151207-us-vice-president-visits-ukraine-adress-kiev-s-concerns>.

37. The actions taken by Biden as a US overseer in Ukraine were not aimed at ensuring that DF was charged on the US charges, but at creating conditions for preventing his return to Ukraine.
38. The events relating to DF and Biden in 2015 reveal the extent of the US administration's interference with Ukrainian domestic affairs and the eagerness to exercise control with the aim of advancing US interests. An example confirming such interference is me being forced to resign from my role as General Prosecutor solely on the demands of the US Vice President, Joe Biden, because I refused to cease my probe into Burisma (in which Biden had significant interests), and because I would never have agreed to a politically motivated, unfounded criminal prosecution.
39. I have never met DF in person and my interests have never crossed with his. However, the steps taken by the state officials from the US presidential administration during Obama's presidency towards both of us demonstrate similar methods of isolating and removing people who do not serve their interests. This could be regarded as one line of actions committed by state officials in respect of people that had caught their attention.

STATEMENT OF TRUTH

I have given this statement orally in Russian. I have carefully read Ukrainian and Russian translation and confirm that it is entirely true to the best of my knowledge and belief. In case of disagreement between the Ukrainian and Russian languages, preference is given to Russian language. I am willing to attend court and testify on these matters before the Austrian authorities.

[Signature] *Shokin V.N.*

[QR Code]
HHX525925

City Ky-

Facts mentioned at this statement have not been verified by the notary.

-yiv, Ukraine

the fourth of September two thousand nineteen.

I, Kh.V. Hornyak, a Private Notary of the Kyiv City Notary District, hereby certify the genuine signature of **Shokin Viktor Mykolayovych** made in my presence.

The identity and legal capacity of **Shokin Viktor Mykolayovych**, who signed the document, have been verified.

Herewith I certify that translation of the text from Ukrainian to Russian is true and made by myself.

Entered in the Register under No. 768,769

Fee paid pursuant to Article 31 of the Law of Ukraine "On Notaries".

Private Notary:

[signature]

Kh.V. Hornyak

[seal of the Notary]

Цей переклад виконано мною, перекладачем Хмельницькою Б.О.

This translation is made by qualified translator Bogdana Khmelnytska

Місто Київ, Україна четвертого вересня дві тисячі дев'ятнадцятого року.

Я, Горняк Х.В., приватний нотаріус Київського міського нотаріального округу, засвідчую справжність підпису перекладача, Хмельницької Богдани Олександрівни, який зроблено у моїй присутності.

Особу перекладача встановлено її дієздатність та кваліфікацію перевірено

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Свідчує плати згідно ст. 31 ЗУ «Про нотаріат»

Приватний нотаріус

Х.В. Горняк

