OPENBAAR MINISTERIE

National Public Prosecutor's Office

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Next of kin of the victims of flight MH17

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Our reference LP\19\003211
Subject Update recent developments

Upon answering please refer to date and our reference.

Dear Madam/Sir,

On 7 September 2019 we informed you that the Public Prosecution Service of the Netherlands had requested the Russian authorities to arrest a person who may have been involved in the downing of flight MH17.

As the person concerned has publicly confirmed himself, his name is Vladimir Tsemakh. He was arrested and detained in Ukraine for other criminal offences, unrelated to the downing of flight MH17. Following his apprehension the Joint Investigation Team (JIT) has questioned him several times about his alleged involvement in the downing of flight MH17. He was informed about his right to remain silent and received the assistance of a lawyer. Mr Tsemakh is a citizen of Ukraine and as such, under Ukrainian law, he could not be extradited to the Netherlands. As part of a prisoner swap he was transferred from Ukraine to the Russian Federation on 7 September.

That same day, before his plane landed in Moscow, the Russian authorities confirmed the receipt of our request for Mr Tsemakh's arrest. According to a spokeswoman of the Russian Ministry of Foreign Affairs, the exchanged prisoners fell under responsibility of the Russian High Commissioner for Human Rights upon their arrival.

When the immediate arrest failed to occur, the Prosecution Service contacted the Russian authorities various times and advised them of the possible flight risk of Mr Tsemakh. In particular, when it became known through the media that he was planning to return to Eastern Ukraine.

As reported before, the Public Prosecution regards Mr Tsemakh as a suspect, but it has not yet decided whether it will prosecute him. Generally, more evidence is required to ultimately decide whether or not to prosecute than to consider someone as a suspect. The investigation into the role of Mr Tsemakh in the downing of flight MH17 is still ongoing. To prevent him from fleeing the investigation, the Public Service asked for his extradition. Russia could extradite him to the Netherlands because Mr Tsemakh has single Ukrainian citizenship. Under the European Convention on Extradition, Russia had the obligation to act accordingly.

On 23 September 2019 the Russian authorities informed us that they were considering our request, but required additional information. In later correspondence further information was requested, which was repeatedly provided. According to the Prosecution Service this information had no relevance tot the decision to apprehend Mr Tsemakh. There were no impediments for his arrest.

The request for his arrest was frequently reiterated through Dutch diplomatic and political channels and Russia was called upon to give full and prompt cooperation. The Dutch Minister of Foreign Affairs, Mr Blok, stressed the urgency of our request, both in writing and a personal meeting with his Russian counterpart, Mr Lavrov.

On 19 November the Public Prosecution Service received notification from the Russian authorities that the request for the arrest of Mr Tsemakh could not be executed because no information regarding the whereabouts of Mr Tsemakh in the Russian Federation was available.

According to media reports Mr Tsemakh had already returned to his residence in Eastern Ukraine. From there he cannot be extradited.

The Prosecution Service has concluded that Russia willingly allowed Mr Tsemakh to leave the Russian Federation and refused to execute the Dutch request. While under the European Convention on Extradition, it was obliged to do so.

The Prosecution Service has shared this conclusion with the Russian authorities.

We emphasize that the events relating to Mr Tsemakh have no effect on the MH17-trial. The JIT does everything in its power to obtain relevant facts, including details regarding the role of this person, but that does not change anything about the trial. This will start on 9 March 2020.

Four suspects, Igor Vsevolodovich GIRKIN, Sergey Nikolayevich DUBINSKIY, Oleg Yuldashevich PULATOV and Leonid Volodymyrovych KHARCHENKO have been summoned to appear on this day. In their case the judge will deliver judgment on the accusations.

Because this matter received public attention, including an interview with Mr Tsemakh himself, the Prosecution Service will inform the press about these latest developments.

Yours sincerely,

Digna van Boetzelaer
Deputy Chief Public Prosecutor
Teamleader MH17