



## Nacionālā elektronisko plašsaziņas līdzekļu padome

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Rīga, 12 May 2022,

### **DECISION No. 216/1-2**

*On restrictions of access to “Vkontakte”, “Odnoklassniki” and “Moi Mir” websites*

National Electronic Mass Media Council of Latvia (hereinafter – the Council) in the following composition – Chairman of the Council Ivars Āboliņš, Deputy Chairman of the Council Aurēlija Ieva Druviete, Member of the Council Ieva Kalderauska, Member of the Council Ilva Milzarāja, Member of the Council Andis Plakans –

**states that:**

[1] On 3 May 2022, the Council received a letter from the competent national regulatory authority No. 21/2022/2351-IP dated 3 May 2022 that provides information on the company “VK Company Limited” (reg. No. 655058, RA000063; registered office: British Virgin Islands, P.o. Box 146, Road Town, Tortola, BVI) and its ownership structure.

[2] “VK Company Limited” owns the social media platforms “Vkontakte”, “Odnoklassniki” and “Moi Mir”.

[3] On 2 December 2021, a statement was published on the website “sogaz.ru”<sup>1</sup>, that AO “СОГАЗ” (reg. No. 1027739820921) has become a shareholder of 45% in the Russian company AO “МФ Технологии”, which in turn controls 57.3% of the shares of “VK Company Limited”. Prior to the stated transaction, “VK Company Limited” was named as “Mail.ru Group Limited”, and after the transaction and the change of the company’s name, “VK Company Limited” has become the largest internet company in Russia, owning the websites “VKontakte”, “Odnokassniki” and “Moi Mir”, as well as the e-mail service provider “mail.ru”.

[4] The largest shareholder of AO “СОГАЗ” is ООО “Аквила”, which owns 32.30% of the shares of AO “СОГАЗ”. Publicly available information in the Uniform State Register of Legal Entities of Russia states that the owner of 100% of shares of ООО “Аквила” is ООО “Большой Дом 9” (reg. No. 1027800539580), whose shareholders are Yuri Valentinovich Kovalchuk

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<sup>1</sup> Accessible at: <https://www.sogaz.ru/sogaz/pressroom/release/843340/> [viewed on 12 May 2022]

(29.64% of shares), Tatiana Alexandrovna Kovalchuk (20.28% of shares), Alexander Ivanovich Germanov (17.72% of shares), Mikhail Alexandrovich Dedov (17.72% of shares) and Dmitry Flerovich Mansurov (14.63% of shares). In view of the above, Yuri Velentinovich Kovalchuk is also one of the beneficial owners of “VK Company Limited” due to his ownership of OOO “Большой Дом 9”, OOO “Аквила” and АО “СОГАЗ”. In addition, it should be noted that the CEO of “VK Company Limited” since December 2021 is Vladimir Sergeevich Kirijenko.

[5] On 17 March 2014, the Council of the European Union (hereinafter – the EU) adopted Regulation No. 269/2014 (hereinafter – the Regulation) imposing restrictive measures in the EU Member States on activities that undermine or threaten Ukraine’s territorial integrity, sovereignty and independence. Article 2 of the Regulation imposes an obligation on the Member States to freeze funds and economic resources and states that no funds or economic resources within the meaning of the Regulation shall be made available, directly or indirectly, to or for the benefit of any sanctioned natural persons or natural or legal persons, entities or bodies associated with them.

[6] On the basis of the Regulation, on 13 March 2020, the EU Council adopted Delegated Regulation No. 2020/389, which states that Yuri Velentinovich Kovalchuk has also been on the EU sanctions list since 30 July 2014. This regulation states that Y. Kovalchuk is a long-term associate of President of the Russian Federation Vladimir Putin. Y. Kovalchuk is also described as the manager and largest shareholder of “Rossiya Bank”, which is considered to be the personal bank of the highest officials of the Russian Federation. Y. Kovalchuk also has a connection with the Russian media company “National Media Group” that controls television channels, which in turn actively support the Russian government's policy of destabilising the situation in Ukraine.

[7] Also, on the basis of the Regulation, on 9 March 2022, the EU Council adopted Delegated Regulation No. 2022/396, which provides for the inclusion of Vladimir Sergeevich Kirijenko on the EU sanctions list. This Delegated Regulation states that Kirijenko is the CEO of “VK Company Limited” that supports the goal of the President of the Russian Federation to gain greater control over the internet and actively provides material or financial support to Russian decision-makers responsible for the annexation of Crimea and destabilisation of Ukraine, or gets benefit from them. The Delegated Regulation also states that “VK Company Limited” controls the most popular Russian social networking sites “VKontakte”, “Odnoklassniki” and “Moi Mir”. It is also noted that “VK Company Limited” is owned by the state-owned “Gazprom group”, so its revenue is a significant source of revenue for the Russian government.

[8] Article 2 of the Regulation imposes an obligation on the Member States to freeze funds and economic resources and states that no funds or economic resources within the meaning of the

Regulation shall be made available, directly or indirectly, to or for the benefit of any sanctioned natural persons or natural or legal persons, entities or bodies associated with them. The Regulation is a legally binding instrument and it must be applied in all the EU Member States. According to Article 1 (d) of the Regulation “economic resources” means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services. Article 1 (e) of the Regulation defines that “freezing of economic resources” means preventing the use of economic resources to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them.

As stipulated in Section 1 (2) of the Commercial Law — *“commercial activity is an open economic activity, which is performed by merchants in their name for the purposes of gaining a profit. Commercial activity is one of the types of business.”* The third paragraph of this Article, on the other hand, states that *“economic activity is any systematic, independent activity for remuneration”*.

[9] The Council's examination of the content of the “VKontakte”, “Odnokassniki” and “Moi Mir” websites reveals the information stated below.

[9.1] “VKontakte” website has several sections, including the section named “video” (<https://vk.com/video>), which contains various audiovisual material, including live television programmes. For example, users have access to the programme “Rossija 24”, the distribution of which is restricted in the territory of Latvia by Council Decision No. 86/1-2 of 24 February 2022, on the basis of the significant violations of the programming rules specified in the Audiovisual Media Services Directive and the Electronic Mass Media Law, which have been repeatedly discovered in the programme.

[9.2] “Odnoklassniki” website has several sections, including the section named “video” (<https://ok.ru/video>), which contains various audiovisual material, including live television programmes. This section also contains live broadcasts of television programmes, the distribution of which is prohibited in the territory of Latvia, for example, the programme “Rossija 1”, which is not included on the list of audio and audiovisual programmes retransmitted in Latvia.

[9.3] “Moi Mir” website has several sections, such as “music”, “games”, “videos” and others. The section “video” (<https://my.mail.ru/video>) contains various audiovisual materials, including the content of television programmes, the distribution of which is restricted in the territory of the Republic of Latvia. For example, the content of the “RT” programme (hereinafter – “Rossia Today”). Based on Council Decision No. 216, the distribution of the “Rossia Today” programme in the territory of the Republic of Latvia is limited until the lifting of sanctions imposed by the

Council of the European Union on the violation of Ukraine's territorial integrity, sovereignty and independence against certain persons directly or indirectly related to “Russia Today”. The Council emphasises that the European Union has also established by Decision (CFSP) 2022/351 of 01 March 2022 and Regulation (EU) 2022/350 that “RT” programmes are subject to EU sanctions and are limited at the European Union level.

[10] Taking into account the findings of the Council and the information provided in Paragraph 9 and its sub-paragraphs of this Decision, the Council emphasises that in accordance with the Electronic Mass Media Law, retransmission of programmes in public electronic communication networks shall be performed upon the receipt of a retransmission permit issued by the Council and in compliance with the Copyright Law and other regulatory enactments regulating the industry. In the present case, the Council has not issued a retransmission licence for the distribution of programmes on any of the networking platforms, thus it can be concluded that the distribution of programmes is ensured without observing the provisions regarding the distribution of television programmes specified in the Electronic Mass Media Law and the National Strategy for the Development of the Electronic Mass Media Sector, which is an external regulatory enactment in accordance with Section 60, Paragraph three of the Electronic Mass Media Law.

[11] In view of that stated above, based on the fact that the websites “Vkontakte”, “Odnokassniki” and “Moi Mir” can be used both to disseminate various types of information (including television programmes) and to generate revenue from advertising on the website, as well as to generate other types of revenue, it can be concluded that the maintenance and provision of websites is an economic activity within the meaning of Section 1, Paragraphs two and three of the Commercial Law, as well as within the meaning of Section 2 of the Regulation. Thus, the social networking platforms “VKontakte”, “Odnoklassniki” and “Moi Mir”, owned and controlled by “VK Company Limited”, are considered to be the economic resources through which the owners and CEO of “VK Company Limited” can generate income. In accordance with the Commission's opinion of 19 June 2020 on the application of Article 2 of the Regulation,<sup>2</sup> which states that the competent authorities of the Member States have the right to determine, in the light of the information available and the circumstances, whether the designated person controls the corresponding entity, the Council concludes that the persons subject to the EU Council sanctions, Yuri Velentinovich Kovalchuk and Vladimir Sergeyevich Kirijenko, get income from the

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<sup>2</sup> Accessible at: [Commission opinion of 19.6.2020 on Article 2 of Council Regulation \(EU\) No. 269/2014 \(europa.eu\)](#) [viewed on 12 May 2022]

operation of the websites “Vkontakte”, “Odnokassniki” and “Moi Mir” in the territory of the Republic of Latvia.

According to the aforementioned the Council:

**concludes:**

[12] Section 57, Part one of the Electronic Mass Media Law (hereinafter also – EPLL) stipulates that *“the National Electronic Mass Media Council is an independent, autonomous institution enjoying full rights, which in accordance with the competence thereof shall represent the interests of the public in the field of electronic mass media and supervise the latter so that in their operations the Constitution of the Republic of Latvia, this Law and other laws and regulations are complied with. The Council is a derived public entity.”* And according to Section 60, Part one, Clause 13 of the Electronic Mass Media Law, one of the competencies of the Council in the field of electronic mass media is *“to promote the policy of the electronic mass media appropriate to the national interests of Latvia”*. In the opinion of the Council, the mentioned condition applies to both programmes registered in Latvia and programmes included on the list of retransmitted audio and audiovisual programmes, as well as such audiovisual content that is available in the territory of Latvia regardless of the way it is delivered to the end user – via cable, satellite, IP-TV, internet service providers, internet video sharing platforms, websites or applications, whether new or pre-installed.

[13] Section 11, Part one of the Law on International Sanctions and National Sanctions of the Republic of Latvia on the introduction, imposition, and enforcement of sanctions provides that: *“The financial and civil legal sanctions imposed by the United Nations Security Council resolutions and the sanctions imposed by the European Union regulations are binding and directly applicable to the Republic of Latvia.”* In accordance with Article 288 of the Treaty on the Functioning of the European Union, the provisions of regulations and decisions of the European Union are also directly applicable in the Member States. Based on Section 5, Part one of the Law on International Sanctions and National Sanctions of the Republic of Latvia, if financial restrictions have been imposed on the subject of sanctions, all persons in accordance with their competence have the obligation to immediately and without prior warning, take the following actions:

*“1) to freeze all financial resources and financial instruments, which are directly or indirectly, completely or partially under the ownership, possession, holding or control of the subject of sanctions, including those financial resources and financial instruments that have been*

*transferred to third persons;*

*2) to deny access for the subject of sanctions to financial resources and financial instruments;*

*3) not to provide the financial services specified in international or national sanctions to the subject of sanctions (including by means of authorisation).”*

In view of the information provided above, restricting the possibility to use “VKontakte”, “Odnoklassniki”, “Moi Mir” websites owned by “VK Company Limited” in the territory of Latvia would ensure conditions in which the subjects of sanctions would not be able to use their economic resources for profit in the territory of Latvia.

[14] Pursuant to Section 5, Paragraph one, Clause 2 of the Law on International Sanctions and National Sanctions of the Republic of Latvia, if financial restrictions have been imposed on the subject of sanctions, all persons in accordance with their competence have the obligation to immediately and without prior warning deny access for the subject of sanctions to financial resources and financial instruments. In view of the information provided above, all persons are obliged to do their utmost to comply with the provisions of both the Law on International Sanctions and National Sanctions of the Republic of Latvia and the document on the basis of which the decision to include the person on the sanctions list has been made, ensuring that the sanctioned person has no direct or indirect access to any financial resources.

In view of the information provided above, the Council concludes that the restriction of the operation of the websites “VKontakte”, “Odnoklassniki”, “Moi Mir” owned by “VK Company Limited” in the territory of Latvia is an urgent necessity. At the same time, the Council points out that an administrative regulation is necessary to be prepared and applied to achieve the goal of ensuring that the authorised persons do not have the opportunity to disseminate their desired information and generate revenue in the European Union using the resources of the “VKontakte”, “Odnokassniki” and “Moi Mir” websites. It is the denial of access to those websites that is the most effective method to ensure that financial resources are not made available, directly or indirectly, to the sanctioned persons. In this case, there is no doubt that a situation in which persons subject to sanctions obtain funds directly or indirectly in the European Union is manifestly and fundamentally contrary to the purpose of the sanctions regime; otherwise, the sanctions are essentially circumvented and their imposition fails to achieve the original goal. Given that “VKontakte”, “Odnokassniki” and “Moi Mir” websites are owned by a sanctioned person, Yuri Velentinovich Kovalchuk, and that the CEO of “VK Company Limited” is a sanctioned person, Vladimir Sergeyeovich Kirijenko, the Council considers that there are no other restrictive means by

which it would be possible to achieve the goal rather than to ensure that the persons subject to sanctions no longer continue to earn income by offering the use of the stated websites in the territory of Latvia.

In view of the urgency of restricting the websites, the Council, in accordance with the third paragraph of the Article 62 of the Administrative Procedure Law (hereinafter – the APL), indicates the reasons why it came to the conclusion that it was not necessary to hear opinion of the recipients of this decision. In accordance with the provisions of Section 62, Part two, Clause 1 of the APL *“it shall not be necessary to clarify the opinion and arguments of a person if the issue of the administrative act is urgent, and any delay directly poses a threat to national security, public order, environment, or the life, health or property of a person”*. In the light of the foregoing, it must be concluded that the Council was not required to hear the views of the recipients of the decision, because the Council has an obligation to take the decision without delay. In addition, the Council notes that the information provided by the recipients of the decision is unlikely to affect the Council's decision, as Yuri Velentinovich Kovalchuk and Vladimir Sergeyevich Kirijenko, CEO of “VK Company Limited”, are still on the sanctions list and are therefore banned from earning money in the European Union. Any opinion of the recipients would not change the fact that the persons concerned are included on the sanctions lists, nor would it change the ownership structure of the company, so it would not be useful.

[15] In accordance with the aforementioned and the Council’s careful assessment of the information provided in the Regulation, as well as in order to avoid the breaching or possible circumvention of the sanctions imposed by the European Union and to protect electronic mass media, as well as internet service providers from breaching the Regulation, pursuant to Section 15, Part four, Section 57, Section 62, Part two, Clause 1, Section 63, Part one, Clause 1 of the Administrative Procedure Law, Section 57, Parts one and two, Section 60, Part one, Clauses 13 and 15 of the Electronic Mass Media Law, Section 11, Part one of the Law on International Sanctions and National Sanctions of the Republic of Latvia and Regulation 269/2014 of the Council of the European Union of 17 March 2014 amending Regulation (EU) No. 2020/389, as well as Council Implementing Regulation (EU) 2022/396 of 9 March 2022, the Council:

**decides:**

1. To Restrict access to the websites available in the territory of Latvia <https://vk.com/>, <https://ok.ru>, <https://my.mail.ru> until the lifting of sanctions imposed by the European Union.

2. To restrict access to the mirror pages of the websites <https://vk.com/>, <https://ok.ru>, <https://my.mail.ru> available in the territory of Latvia.
3. The decision shall be communicated to the owners and/or maintainers of the websites <https://vk.com/>, <https://ok.ru>, <https://my.mail.ru>, using the contact details available to the Council, if any.
4. To notify the Public Utilities Commission of the adopted decision.
5. To notify the Internet services providers registered with the Public Utilities Commission of the adopted decision.
6. To oblige the Internet services providers registered with the Public Utilities Commission of the adopted decision to immediately restrict access to the websites <https://vk.com/>, <https://ok.ru>, <https://my.mail.ru>, as well as mirror pages for these sites.
7. To include the websites <https://vk.com/>, <https://ok.ru>, <https://my.mail.ru> on the list created on the Council website, which indicates those internet resources, the use of which has been temporarily restricted.
8. To publish the decision in the official edition "Latvijas Vēstnesis".
9. To publish the decision on the Council's website.
10. To state that the appeal of this decision shall not stop its validity.
11. To stipulate that the member of the Council responsible for the control of the implementation of this decision shall be Chairman of the Council Ivars Aboliņš.

The decision may be appealed within one month from the day of its entry into force at the Administrative District Court Riga Court House at 1A Baldones Street, Riga, LV-1007. The appeal of this decision shall not stop its validity.

**Deputy Chairman of the Council**

**Aurēlija Ieva Druviete**

*THIS DOCUMENT HAS BEEN SIGNED WITH A SECURE ELECTRONIC SIGNATURE AND  
CONTAINS  
A TIME STAMP*