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Ukraine v. Russia before the ECtHR: the Case re Crimea is Admissable!

Motor Sich Sanctions: a Social Construct or Bittersweet Reality?

The Breakdown: a Case for Dubinskyi

“Tariff Genocide”: a Story of Ukrainian Magicians

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2021



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UKRAINE V. RUSSIA BEFORE THE ECTHR: THE CASE RE CRIMEA IS ADMISSIBLE!

Valeriia Yakimova

- Basics of the case
- Arguments of Ukraine and Russia
- The issue of jurisdiction over Crimea
- The administrative practice of human rights violations in Crimea



Ukraine v. Russia before the ECtHR: the case re Crimea is Admissible!

Valeriia Yakimova

In the mid of January 2021, the European Court of Human Rights (ECtHR) declared a Ukrainian claim against Russia regarding alleged human rights violations committed by the Russian authorities on the territory of Crimea as admissible. This case is remarkable for Ukraine and all Ukrainians since the ECtHR pronounced the exact beginning of the Russian occupation. Additionally, the decision of the ECtHR contains other crucial findings regarding extraterritorial applicability of the Convention and administrative practice of human rights violations by the Russian authorities. Nevertheless, in some aspects the decision cannot be perceived as a total win of Ukraine since the ECtHR has avoided the sovereignty over Crimea.

As mentioned above, the dispute concerns alleged human rights violations in the territory of Crimea by Russian authorities. First of all, the ECtHR should establish its jurisdiction to hear the case regarding violations of human rights. If the ECtHR has the jurisdiction, it may proceed to the merits of the case and decide the question of human rights violations. That is why both Ukraine and Russia have not raised any substantive claims on this stage of proceedings.

The key argument of Ukraine relates to the date of the Crimea occupation by Russia. Ukraine claims that Russia exercised its jurisdiction over Crimea from 27th February 2014. Notably, on the date of 27th February 2014, Russian authorities unlawfully entered the territory of Ukraine and forcefully changed the government in Crimea. From that moment, Russian authorities have been violating human rights systematically. Notice that Ukraine claims systematic violations of [almost all provisions of the Convention](#), namely, article 2, 3, 5, 6, 8, 9, 10, 11, 14, article 2 of the Protocol № 4, article 2 of the Protocol № 1, article 1 of the Protocol № 1.

Remarkably, Russia does not contest the mere fact of the control over Crimea. However, Russia asserts that it started control over Crimea only from 18th March 2014, the moment of the Treaty of Integration signing. Moreover, Russia claims that its army always has been present in the territory of Crimea, and therefore, Russia has not breached the integrity of Ukraine.

A huge part of the ECtHR decision is devoted to the determination of the jurisdiction over Crimea. According to the ECtHR case law, jurisdiction over the territory is established if the State exercises effective control over such territory. For instance, the presence of a State's army on the territory of another State can be considered as the exercise of effective control over the territory.

In the case of Crimea, the ECtHR conducted an in-depth analysis and stated that there are sufficient pieces of evidence to acknowledge that **Russia exercised effective control over Crimea from 27th February of 2014**. To be more specific, the ECtHR mentioned the facts of Russian military presence, deployment of elite status forces against Ukrainian forces, and mobilization of Ukrainian troops to protect its territory as of particular weight to acknowledge Russia's effective control over Crimea ([*para. 335 of the decision*](#)).

However, it should be noted that the ECtHR omitted the question of sovereignty over Crimea. The ECtHR concluded that this question falls outside the scope of these proceedings on the jurisdiction. Nevertheless, the ECtHR somehow opines on the power over Crimea. It analyzed statements of different States and governmental organizations regarding the non-recognition of Russia's sovereignty over Crimea. Based on such analysis, the ECtHR assumed that Russia exercised somewhat effective control over Crimea than territorial jurisdiction. This statement still can be treated as the first step to the non-recognition of the Russian sovereignty over Crimea by the ECtHR. In any event, the real position of the ECtHR towards the question of sovereignty will be determined on the stage of merits.

Another crucial part of the decision covers the issue of human rights violations in the territory of Crimea. Notice that the ECtHR did not establish the very fact of the human rights violations on the stage of jurisdiction. It somewhat preliminary evaluates the existence of sufficient evidence to acknowledge such human rights violations.

Ukraine claims the existence of the administrative practice, namely repetitive and systematic human rights violations by Russia. Representatives of Ukraine submitted a huge number of various human rights organizations' reports that reveal the instances of human rights violations on the territory of Crimea. As a result, the ECtHR found sufficient evidence to conclude administrative practice of violations concerning almost all claims of Ukraine, except the breaches of the right to life and the right to the property of Ukrainian soldiers. This means that the ECtHR declared the last to claims as inadmissible. However, this fact should in no way be treated as a failure of Ukraine since the ECtHR preliminary concluded violations of another ten provisions of the Convention that will be decided on the stage of merits.

This decision on the admissibility of Ukraine's claim in the case against Russia should be remembered as another victory in Ukraine-Russia lawfare. Moreover, it is worth noting that the decision was adopted by the majority of the judges and with no separate opinions. Also, it already can be stated that this decision on the admissibility will serve as a basis for the decisions in individual applications to the ECtHR relating to Crimea. However, there are some crucial questions of this decision that pose worries. One of these questions relates to the sovereignty over



Crimea. One hopes that the ECtHR will give its clear opinion regarding sovereignty on the stage of merits. However, this decision will be adjudicated by the ECtHR for [decades](#).

MOTOR SICH SANCTIONS: A SOCIAL CONSTRUCT OR BITTERSWEET REALITY?

Anastasiia Vozovych

- The background context – history of *Motor Sich* company and its' intentions with the Chinese partners
- Possible ways to solve the security issue here
- The American context of the decision



Motor Sich Sanctions: a Social Construct or Bittersweet Reality?

Anastasiia Vozovych

On 29th January, the Ukraine president, Volodymyr Zelenskyi, signed presidential decrees to impose sanctions on Skyrizon and its leader, Wang Jing. It was made after the sanctions imposed by the American government. The firm Skyrizon has been trying to attain engine making company Motor Sich. The restrictions regarding Wang are to endure for three years and deprive his right to control assets in Ukraine.

The Ukrainian corporation *Motor Sich* is one of the world's largest manufacturers of engines for missiles, helicopters, and jets. After the collapse of the USSR, it was privatized by Viacheslav Boguslaiev. Before the Russia-Ukraine conflict, *Motor Sich* took the leading position within the Ukrainian export structure, particularly to the Russian Federation. But after the annexation of Crimea and the outbreak of the hostile actions in Donbas, *Motor Sich* lost its largest client – Russia. Since 2014 it has managed to proceed with Russian clients through fake firms in Belarus, but these activities were revealed and ceased. Loss of the Russian market became the starting point of bankruptcy for the aforementioned engine maker, and it was high time to make tough choices.

The most influential stakeholders decided to sell the firm to the Chinese investors, who were ready to make numerous concessions, and it was the right time for a trade-off. The negotiation process was started immediately, and both sides – Ukraine and China – found the middle ground. The property rights were expected to remain under Ukraine while the industrial capabilities were switched to the Chinese investors. Moreover, the Chinese agreed to preserve the workplaces and secure the *Motor Sich* full-fledged operation. During a Trump presidency in 2019, the US noticed these movements in Ukraine and decided to interfere according to numerous reasons, which acquired an economic and political dimension. It exposed deep problems within Ukraine's foreign policy ranging from a distorted perception of Kyiv in the international arena to the issue of Ukraine's independence in international relations.

Purchasing *Motor Sich* by Chinese investors became the dilemma of choice for Ukraine. Kyiv was cornered when it had to seize the pendulum motion between the US and China by stating the concrete preference. It became a problem for Ukrainian society, which is influenced and brainwashed regularly regarding the political manipulations based on the artificially constructed dichotomy between the West and the East. Considering the Ukrainian national interests, the optimal option is brinkmanship between two strong international relations actors. Amid the Russia-Ukraine conflict, it is evident that one of the core priorities for Ukraine is maximizing its capacity within this confrontation.

Furthermore, Russia supports the position to steer clear of the Chinese proposal because Moscow aspired to take the niche of engine production for the Chinese market. From this point of view, Ukraine should be pragmatical and persistent. The issue with *Motor Sich* requires deeper thinking over and numerous consultations. However, the main problem is the ability to find satisfying justifications for taking the particular side. From the point of game theory, Ukraine has two options:

- 1) let *Motor Sich* come down because the US and any other actors from the West do not have the intentions to restore the industrial capacity of engine maker, which is supposed to remain the leading donor of the Ukrainian aviation plant *Antonov*;
- 2) take the risk of making a deal with China, which envisages the small salience of *Motor Sich*'s possible restoration and operation. Ukraine should stick to the second variant if getting rid of all additional factors like technology theft, political orientation, and strategic partnership with powerful actors. However, if the aforementioned factors have 'a skin in the game,' Ukraine has made the right choice and followed up the US position.

To sum up, the sanctions imposed on the Chinese investors who aspire to purchase *Motor Sich* are not only the product of 'big guys'' whims. It is a startling example of Ukraine's lack of political will and distorted perception of its place in the world. Moreover, it became the outcome of our 'fear' associated with the East. We do not get used to diversifying foreign policy vectors. Still, it is high time to look in this direction if we want to convert Ukraine from the object of international relations into a full-fledged party.



THE BREAKDOWN: A CASE FOR DUBINSKYI

Viktor Karvatskyy

- The history of Dubinskyi as a politician
- Details of 'special relationship' between Dubinskyi and Zelenskyi
- Dubinskyi's exit from the politics: breaking down the process and projecting the future of his political career

The Breakdown: a Case for Dubinskyi

Viktor Karvatskyy

On 11th January, the American Ministry of Finance [imposed sanctions](#) on seven Ukrainians. Among American “persona non grata” were Andrii Derkach, former MP & author of leaked tapes featuring former president Poroshenko and vice-president Biden, and Oleksandr Dubinskyi, incumbent MP of Zelenskyi’s ‘Servant of the People’ party. However, Dubinskyi is anything but an ordinary MP. Oleksandr Dubinskyi is the head of the Kyiv regional division within the pro-presidential party and the informal leader of Ihor Kolomoiskyi’s (one of the Ukrainian oligarchs, a firm “supporter” of Zelenskyi’s electoral campaign) group of influence in the ‘Servant of the People’.

Till the sanctions, we could think that Dubinskyi has had some mandate for untouchability. A former *1+1* TV-host (a channel owned by Kolomoiskyi, where Zelenskyi used to have his political sketch-show) was accused by many media & politicians in open lobbying Kolomoiskyi’s interests. For example, Dubinskyi [headed](#) the oligarch’s effort to “kill” the Ukrainian Banking Draft law to prevent *PrivatBank*’s return to Kolomoiskyi (previously owned by Kolomoiskyi business group *PrivatBank* was nationalized by the Ukrainian government). Dubinskyi also had the privilege to criticize the party or the government publicly. Some media-outlets say that Dubinskyi’s group was behind [the leak of tapes with the former PM Honcharuk](#), which deteriorated relations between PM and President, eventually leading to PM’s dismissal.

Dubinskyi had only one red line: he could not criticize Zelenskyi and his actions. In massive informational campaigns led by his own media army, he could only say that many of the ‘sorosiata’ (the slang term for the Ukrainian organizations taking grants and resources from the Western donors; made based on the last name of George Soros) or ‘rogues’ in the Parliament and the Office of the President harm Zelenskyi. As long as the president was untouchable for Dubinskyi’s media attacks, Dubinskyi was immune to any ‘public criticism’ from the president. Even though behind closed doors, Zelenskyi expressed his dissatisfaction with Dubinskyi’s behavior. Nobody knows exactly which kind of ‘gentleman treaty’ was agreed between Zelenskyi and Dubinskyi (or presumably Kolomoiskyi), but this kind of equilibrium was working. Dubinskyi, [being](#) in charge of the Kyiv regional election campaign for the party, managed to reach the highest results for the *Servant of the People* party in the 2020 local elections.

Since 2019 Dubinskyi has been focusing his political influence on the Kyiv region. He ran for a Kyiv Regional Council member position and led severe media campaigns against former Kyiv region governors. Up to October 2020, having formed a coalition with the *Servant of the People* in the Kyiv Regional Council



fraction and filled the council with loyal people, Dubinskyi became one of the most influential persons in the Kyiv region. Not to speak that even the Kyiv region's election campaign was positioned not as the president's campaign ('4th round of presidential election'), but as a personal campaign of Dubinskyi with the motto Team of Oleksandr.

Zelenskyi-Dubinskyi's symbiosis of power worked for both of them until Washington D.C. imposed sanctions on Dubinskyi. Even though during the first "post-sanction" days, it seemed that Zelenskyi would ignore the fact that his desire to build better relations with the Biden administration outweighed the "status quo" in relations with Dubinskyi. Despite that, within the framework of 'Washington-friendly' moves (sanctions against *Motor Sich*, adoption of the law on Security Service of Ukraine, etc.), Zelenskyi decided to act.

On 25th January, the birth date of Zelenskyi (on his birthday party this very day, he told his entourage in a joking manner about his plans to run for the second term), the *Servant of the People* had the general meeting. President himself offered Dubinskyi two times to quit the fraction in the parliament until he proves his innocence. Speaking about a group of 'sorosiata' presenting fake information to Washington, Dubinskyi refused to resign twice. This was the first time that other fraction members could publicly see such a dispute between Zelenskyi and Dubinskyi. The fact that Dubinskyi refused to the president, which was followed by his threats to take twenty MPs with himself out of the fraction in a case of his resignation, Zelenskyi decided to exclude Dubinskyi from the *Servant of the People*.

While the idea to get Dubinskyi out was met likewise popularly in the fraction (many of his colleagues mistrusted or even hated him), the core challenge was to answer if the exit of a so-called 'Kolomoiskyi group' could ruin the coalition. Most of the MPs, regarded as members of such a group, have been elected within a plurality voting electoral system. According to Ukrainian election law, MPs elected within plurality voting, unlike elected in a proportional representation system, can leave their fraction without losing the MP's mandate.

Kolomoiskyi's group in the *Servant of the People* altogether with *For Future*, the party of Ihor Palytsia, his former business partner, which formed in the parliament after the election due to a "reunion" of MPs elected within plurality voting, are an essential tool for Zelenskyi to get needed votes. Given the monocoalition's metamorphoses (MPs do not follow all orders of Zelenskyi anymore), Kolomoiskyi's parliamentary war could theoretically force Zelenskyi to rebuild the coalition.

Zelenskyi could witness this group's influence on the second attempt to designate Yurii Vitrenko, a former *Naftogaz* manager, as Minister of Energy & Vice-Premier-Minister. Even though Kolomoiskyi's group voted for Vitrenko the first

time (at that point influence group of Rinat Akhmetov, another Ukrainian oligarch, failed the vote), the second time, Kolomoiskyi-friendly MPs refused to support Vitrenko. Considering the president's support for Vitrenko and his plans to replace Denys Shmyhal, incumbent PM, by Vitrenko in the future, such behavior could not worry Zelenskyi.

However, in the end, even though the fraction decided to exclude Dubinskyi, Kolomoiskyi's group in the Servant of the People remained the same.

The thing is that the idea of a possible snap election or a new coalition creation would decrease the political influence of Zelenskyi and Kolomoiskyi. According to recent polls, Zelenskyi's party has lost much of its support to Poroshenko's party and *Oppositional Platform – For Life*, a party successor of Yanukovych's *Party of Regions*, comprising many pro-Russian politicians. In the case of the snap-election taking place according to recent polls with four parties getting to the Parliament, Zelenskyi would be forced to form a coalition with Yulia Tymoshenko's party, *Motherland*. There is also no certainty that such an alliance could get needed 226 MPs to form a union. In this case, Kolomoiskyi would be deprived of his group of influence: Poroshenko will not lobby his interests, pro-Russian politicians have their business interests, and Tymoshenko is seen to be more close to Rinat Akhmetov.

Moreover, there is also a theoretical possibility to form a coalition without snap-elections. Even while having 24 MPs, Tymoshenko is still in the game.

Moreover, there is also a group called *Trust* in the current parliament. As well as *For Future*, it was formed by MPs elected within plurality voting while being financed by Andrii Verevskyi, a prominent agrobusinessman. *Trust* would like to create a coalition with Zelenskyi's party. While Tymoshenko wants to get a PM position for herself, *Trust* has much smaller desires.

Both these scenarios make it harder for Zelenskyi and Kolomoiskyi to exercise their political influence. For Kolomoiskyi, who would like to see his friend Ihor Palytsia as an economy minister, it is the no-starter. That is why Kolomoiskyi's group of influence decided to stay in the party to have something rather than nothing. Dubinskyi himself encouraged his supporters to remain in the party to influence the president positively.

“Marriage of convenience” between Zelenskyi and Kolomoiskyi continues with or without Dubinskyi being a part of it. One should not expect Dubinskyi to disappear. He is still an incumbent MP and a trusted ally of Kolomoiskyi. Moreover, the *Servant of the People* party has not yet elected a new head of its Kyiv region branch. Given that Dubinskyi himself formed the Kyiv region team, it is unlikely that *Servant of the People*'s local representatives would dismiss him on time.



Dubynskyi is not going to end his political career at this point. Even though he is prone to lead media attacks against his ex-colleagues, probably not Zelensky himself, he will not join Kolomoiskyi-friendly *For Future* or any other party. According to closed polls, most people, who support Dubynskyi, are voters of *Shariy`s Party*, an anti-Western “virtual” party led by former Ukrainian journalist Anatoliy Shariy. However, Dubynskyi will not join Shariy`s people as they have somewhat different political views regarding Maidan or Russia. Still, more importantly, they will not be able to run the party together.

So Dubynskyi will be around, looking forward to the moment to act. Dubynskyi is about to stay in Ukrainian politics and on our radars.

“TARIFF GENOCIDE”: A STORY OF UKRAINIAN MAGICIANS

Viktor Karvatskyy

- The political and energetic context behind the tariffs in Ukraine
- Implications of how things can go in the future
- Difficulties with Vitrenko’s appointment



“Tariff Genocide”: a Story of Ukrainian Magicians

Viktor Karvatsky

In this HackUkraine`s part, we will name politicians, proposing quick and straightforward decisions aimed not at solving the whole riddle but at gaining electoral support as magicians.

Unfortunately, the Ukrainian energy industry remains a permanent object of endless manipulations for various political parties, politicians, and private enterprises. While generating around 10% of Ukrainian GDP, the energy industry is perceived as necessary for the major part of Ukrainians regarding only one thing - utility tariffs. The post-2014 economic crisis's repercussions with all its components (e.g., inflation) made the tariff question a bullet point for all politicians' agenda. One may observe magicians` competition taking place at every political talk show. This question is also closely related to geopolitics, as pro-Russian parties admire to talk about "good old days" when Ukraine could have direct gas imports from Moscow. Even though Kremlin perceives gas imports only as a dependence weapon, pro-Russian voices prefer not to talk about it.

Understandably, high utility tariffs (gas, electricity, water, etc.) are of utmost importance for Ukrainians. They do not want to make sense of Ukrainian Third Energy Package commitments, unbundling, European Green Deal, or *Naftogaz* programs (state-owned national gas and oil company) policy. However, the state authorities must do their best to eradicate reasons (e.g., the influence of financial groups on the decision-making process) of disproportionate prices, not influencing the market with regulations to win electoral points heroically. In a free-market model, tariffs are not set by the state but are a complex indicator of various domestic & international economic processes. Moreover, citizens' ability to pay utility bills concerns many other economic prosperity and predictability problems.

This time it was Zelensky`s turn to act as an almighty magician, capable of influencing or even crushing the gas market.

This act of ‘tariff drama’ traces back to the second half of December. On 17th December 2020, the Ukrainian parliament failed the voting for Yurii Vitrenko, a former *Naftogaz* manager, as Minister of Energy & Vice-Premier-Minister. Three main groups cause the vote`s failure within the presidential the *Servant of the People* party.

The influence group of Rinat Akhmetov, a Ukrainian oligarch, voted against. Its members perceived Vitrenko as a statesman having ties with Ihor Kolomoiskyi, another oligarch. The influence group of Dmytro Razumkov, Chairman of the Ukrainian parliament, refused to vote for Vitrenko as Razumkov himself does not

support Vitrenko`s position on his extra-incomes paid by the government. Vitrenko successfully led the *Naftogaz* dispute with *Gazprom* in Stockholm arbitration, winning for Ukraine 4,6 billion dollars. As a consequence, he got an enormous remuneration. According to [his e-declaration](#), his annual revenues make up almost 2 million dollars. For Razumkov, willing to build a separate political career, thus, caring about his reputation, it seems too much. Apart from that, a small group of friends of Ukrainian PM Denys Shmyhal, given the president`s support for Vitrenko and his rumored plans to replace Denys Shmyhal, also voted against Vitrenko.

Within a few days, Yurii Vitrenko was designated as an Acting Minister of Energy, replacing Olga Buslavetz, the first female energy minister associated with *DTEK*, Rinat Akhmetov`s energy group. Under Ukrainian law, within 30 days, the powers of any Acting Minister become very limited (reign, but not rule scenario). Vitrenko had a goal to do his best to make MPs vote for him the second time.

Given the mess going on in the energy sector, such as the ever-growing debts to RES producers, the industry requires smart decisions. Of the main trouble-makers is *PSO* (Public Service Obligations). *PSO* provides for the imposition by the state of special obligations on market participants (National Nuclear Energy Generating Company *Energoatom* and *Ukrhydroenergo*, state company administering major hydropower plants along Dnieper and Dniester rivers) to compensate at their expenses the difference between the social tariff for the household consumers and the market value of electricity.

Having an obligation to abolish *PSO* in 2021, the Government, with Vitrenko being a part of it, made another decision was made. *PSO*`s abolishment was postponed till 31st March. However, this governmental decree had one strong side. The Cabinet of Ministers abolished the feed-in electricity tariff of 90 kopecks (0.9 UAH) / kWh for household consumers for the first 100 kWh and set a fixed price at UAH 1.68 / kWh from 1st January 2021. It was perceived in the market as an indicator that *PSO* will not last forever.

However, one can only criticize Vitrenko`s next moves regarding “tariff protests.”

The increase in electricity tariff (a good move for a statesman, but a bad for a politician in need of parliamentary support) altogether with an evident boost in gas prices (caused by cold temperatures & higher demand for gas on European markets) led to a chain of events, known as “tariff protests.” Ukrainian citizens in some villages and cities, either voluntarily or for the money paid by political parties, started to block routes to attract attention to a so-called tariff genocide.

While being more than satisfied with June gas prices, when the price was set at 2.14 UAH for m³ of gas thanks to COVID-19 influence on the gas market



altogether with gas *PSO*, Ukrainians become furious with January prices. Even though *PSO* in the gas industry was lifted at the beginning of August, most Ukrainians still do not understand an existing gas market mechanism.

An additional factor, which fueled the protests, is the gas distribution price, which was separated from the total gas price after the *Naftogaz* unbundling (separation a transmission (*GTSOU*) company from a supply/production company (*Naftogaz*). Governmental agencies failed to combat massive myth-debunking campaigns for Ukrainians on gas distribution prices.

That is why the January protests were so influenced by “tariff genocide” hysteria, supported by various Ukrainian parties.

However, to fully understand the governmental idea's flaws, one should first examine some Ukrainian gas market elements.

When it comes to gas suppliers' share, the Ukrainian gas market still reflects "good old monopolized days" with *RGC* (Regional Gas Company) group, owned by Dmytro Firtash, Ukrainian exile oligarch staying in Austria, [supplying gas to 70%](#) of Ukrainians. The main aim of *Naftogaz* (with its 2% share) is to ruin the monopoly. Even within the Ukrainian "market with problems," this task is real. *Naftogaz* has unique access to gas reserves of its subsidiary *UkrGazVydobuvannia* (largest Ukrainian gas producer with 70% share). It can offer Ukrainians lower prices than *RGC* and virtually all other gas market players. In January, when *Naftogaz* offered the price of 7.22 UAH per 1 cm³, *RGC*-affiliated regional companies' medium price was 9.8 UAH per 1 cm³.

This is the part of the story when magicians come in.

Having found itself under a media tsunami speaking about tariff genocide, Vitrenko, being also under the pressure of Zelensky himself, wanted to solve the situation to show to the President, MPs, and Ukrainians that he can become a strong energy minister in the future.

It is impossible to solve the gas riddle with a dysfunctional gas market one day. A range of long-term actions should be taken (e.g., informational campaigns, energy efficiency programs, the designation of energy ombudsman, creation of protection mechanism for vulnerable consumers, obligation, ensure unbundling at regional level (suppliers from distribution system operators). However, Vitrenko came up with a simple decision. On 18th January, the Cabinet of Ministers set a cap for gas prices at a 6.99 UAH point and gas distribution at 1.79 UAH until 31st March. In other words, a governmental body interfered in a free market to force companies to lower gas prices.

This decision puts at stake an already made progress Ukraine has made in its gas liberalization policy and negatively impacts the market's mechanism. All market participants, more than anything, need governmental predictability. Without

predictability and dialogue between stakeholders, the prices in a free market would be unpleasant for Ukrainians.

Moreover, such a decision levels all efforts done by *Naftogaz* to make Ukrainians leave *RGC*. What is the point for customers to change a supplier if market companies' proposed gas prices are practically the same? According to Anti-Monopoly Committee, only 3% of Ukrainians decided to change the supplier after the liberalization.

Vitrenko, former *Naftogaz* top-manager, is at odds with Andrii Kobolev, incumbent CEO of *Naftogaz*. Vitrenko [publicly accused](#) Kobolev of corruption and weak leadership of *Naftogaz*. After all, it was Kobolev who made Vitrenko leave *Naftogaz* in 2020.

While it seems unlikely, if the inner attitude of Vitrenko to Kobolev has somehow influenced Vitrenko's "gas decision," the Ukrainian story of gas magicians continues.

Due to the “Dubinsky case,” the Ukrainian parliament has failed the second time the vote for Vitrenko. One will see if it is going to be the third one.



IS THE BLOCKING OF SOME UKRAINIAN TV CHANNELS REALLY A CENSORSHIP?

Artur Koldomasov

- Reasons for the ban of Medvedchuk-related channels
- Legal and informational context and analysis of a decision
- Implications of the possible future actions regarding other similar TV-channels

Is the Blocking of Some Ukrainian TV Channels Really a Censorship?

Artur Koldomasov

On 2nd February 2021, the president of Ukraine, Volodymyr Zelenskyi, [imposed](#) personal sanctions regarding Taras Kozak and his businesses, including three major informational TV channels – ZIK, 112 Ukraine, and NEWSONE. As the Council of National Security and Defense explained, it was made as a punishment for the ‘terroristic activity.’ This unexpected decision became a real informational bomb for the Ukrainian society and sparked the debate about the freedom of speech in Ukraine and its’ limits. Ukrainians became divided on that issue – some of them think this decision was reasonable and crucial despite its’ vague legal explanations. Meanwhile, others feel that it crosses the line and looks like an act of personal political revenge. The channels mentioned above were not the best ones also – there are confirmed [cases](#) of fakes and disinformation crafted explicitly by order of Russian powers in their broadcasting. The article breaks down the legal, security, and informational context of that decision, its advantages, and flaws clarifying the matter with this particular case and what will happen next.

Before we dive deep into this complicated case’s details, we have to understand who Taras Kozak really is and why he is considered a security threat to the country.

[Taras Kozak](#) is a Ukrainian businessman who is a very close ally of Viktor Medvedchuk, one of the heads of the *Oppositional Platform – For Life (OP-FL)*, one of the biggest active political parties in a Ukrainian parliament currently. Kozak officially owns many companies, including ones that supervise three major informational television channels – ZIK, 112 Ukraine, and NEWSONE. Medvedchuk himself is the godfather of Vladimir Putin. Through his political party, he promotes populist and pro-Russian agenda, especially regarding the conflict in Donbas. Viktor was also making crucial decisions for the country without verifying the Ukrainian authorities, including ideas for prisoners’ [exchanges](#) and new gas [contracts](#) with *Gazprom*.

According to the [journalistic investigations](#), one of these actions, such as creating and putting into effect the scheme of coal import from the temporarily occupied Donbas territories, was the actual reason for such actions. In addition to Kozak’s TV channels, some of his business shares and even personal planes [were blocked](#). Despite that, we have to understand that a significant part of his financial activity is not blocked because it is hidden in Russia or Belarusian banks. The situation is complicated and needs to be looked at from different points of view.



The legal substance of such a president's decision puts many [questions](#) into the air - beginning with the small but crucial linguistic [mistakes](#) in the document with the sanctions and ending with the vague arguments and reasoning for it in the paper itself. The Ukrainian law has the framework for personal sanctions, and according to the [rule](#) about sanctions, they can be imposed mostly for foreign citizens, companies, countries, or Ukrainian residents. But residents are not the citizens, and the law itself foresees that concern. It has the part which says that the Ukrainian citizens can actually get the sanctions for two reasons:

1. A harmful control made by foreign companies or citizens;
2. Involvement in the terroristic activity.

Such instruments are not used for the first time – the most precedent case was in 2017 when president Poroshenko [imposed](#) the sanctions on both Ukrainian and foreign companies. Nowadays, the representatives of Zelenskyi state that the decision is entirely crafted 'according to the law' but do not show actual proofs for that. Sure, they talk about 'the secret evidence' that the Security Service of Ukraine provided for the decision-makers. But without it being made public, all statements about the possible Russian control of Kozak and his 'terroristic activity' are not confirmed. It creates a good field for informational manipulations and future legal precedents.

At that moment, the representatives of Medvedchuk's party are showing the readiness for the court battles. Furthermore, there is a vast possibility of such cases be investigated in, perhaps, the most infamous Ukrainian court – the District Administrative Court of Kyiv (DACK). However, there are doubts about their future outcomes in both cases – the previous legal claims of that manner [had drastically different consequences and effects](#). Besides, if we talk about the head of DACK Pavlo Vovk, he is in the middle of the political game now that has an impact on the faith of this case.

On the one hand, if he decides to step back from the blocking cases, he would get a guarantee of protection from the further [criminal proceedings](#) under which he is now. Also, in that case, he would save his court because it is on the edge of total closure, and only Zelenskyi has the authority to do this. If he decides to go against the president, he will possibly get the financial reward, but at the same time, the chances of Zelenskyi's actions against the DACK will skyrocket. So, all eyes are on the Supreme Court and DACK right now.

Still, this decision looks like a result of substantial overthinking and complication, not like a thorough and thoughtful process. If it was targeted only towards the TV channels mentioned above, they could be blocked through the National Council of Television and Radio Broadcasting. Yes, there is a risk that it would take too long, but if they were blocked through the Council, it would look more concrete

and legally correct. At the current condition of the case, there is a big chance for it to be canceled without the proper explanations of its' nature.

ZIK, *112 Ukraine*, and *NEWSONE* are definitely the channels that encouraged and shared disinformation, fakes, and Russian propaganda on their broadcast. There are confirmed cases for that, and the early lack of reaction to this made the situation even worse. All these messages suspiciously correlated with the statements of the Russian president and Viktor Medvedchuk. There is no doubt that the fact of ownership of the channels by Kozak is just a cover for the real prevailing of Medvedchuk's agenda on these media outlets. Of course, after the blocking, the reaction of the *Oppositional Platform* members was fast – one of its' leaders, Vadym Rabinovych, even made a public claim [to impeach](#) the Ukrainian president. The problem is that these channels are still being available on the Internet, especially on [YouTube](#).

Furthermore, they are getting a lot of hype and good ratings shares because of the whole informational chaos around the issue. There is even a claim that this decision is an act of [revenge](#) for the recent increase of the *OP-FL* ratings in polls compared to Zelenskyi's party. As a result, if we want to achieve the ultimate lack of access to them, Internet-providers and platforms also have to block any tries to revive the broadcasting for these channels.

This whole situation has also reflected on the television landscape – the viewers of banned channels swiftly moved to watch two other dramatically different informational TV-channels – *Straightforward* and *OURS*. The *Straightforward* channel is known to be backing Petro Poroshenko in its broadcasting, and there is even info that he controls the channel. The *OURS* channel is owned by Yevhenii Muraiev, an MP of the *Oppositional Block*, another Ukrainian parliament party. The second channel tries to keep up the whole case's momentum because its target audience is very similar to the one that was evident for the banned three channels by many features. However, this momentum seems to be not very long – the government already [announced](#) another pack of future sanctions to be imposed for other Ukrainian TV channels. The *OURS* is the first one on the list to be banned. Muraiev is reported to have at least ideological ties with the pro-Russian powers.

Taking everything said into account, we can conclude that it is definitely not an act of censorship. These TV channels are a sophisticated instrument for disinformation that is a huge security threat for Ukraine. However, the way that the blocking was made leaves many loopholes that create a huge possibility of its' future cancellation for legal reasons or use of personal sanctions for personal revenge by future Ukrainian power. Furthermore, Kozak is still financially active in many fields, and it is impossible to limit all of his financial activities at once. As a result, the lack of information on the decision sparks further controversy



about its' relevance and urgency. In general, it is a good step forward but made with the wrong shoes.

WILL THE OPPOSITIONAL PLATFORM BE ABLE TO KEEP THE MOMENTUM?

Erika Bortnik

- Recent polls that show the current political environment in Ukraine
- Secrets of *OP-FL's* success
- Future of relations between the main political parties of the Ukrainian parliament

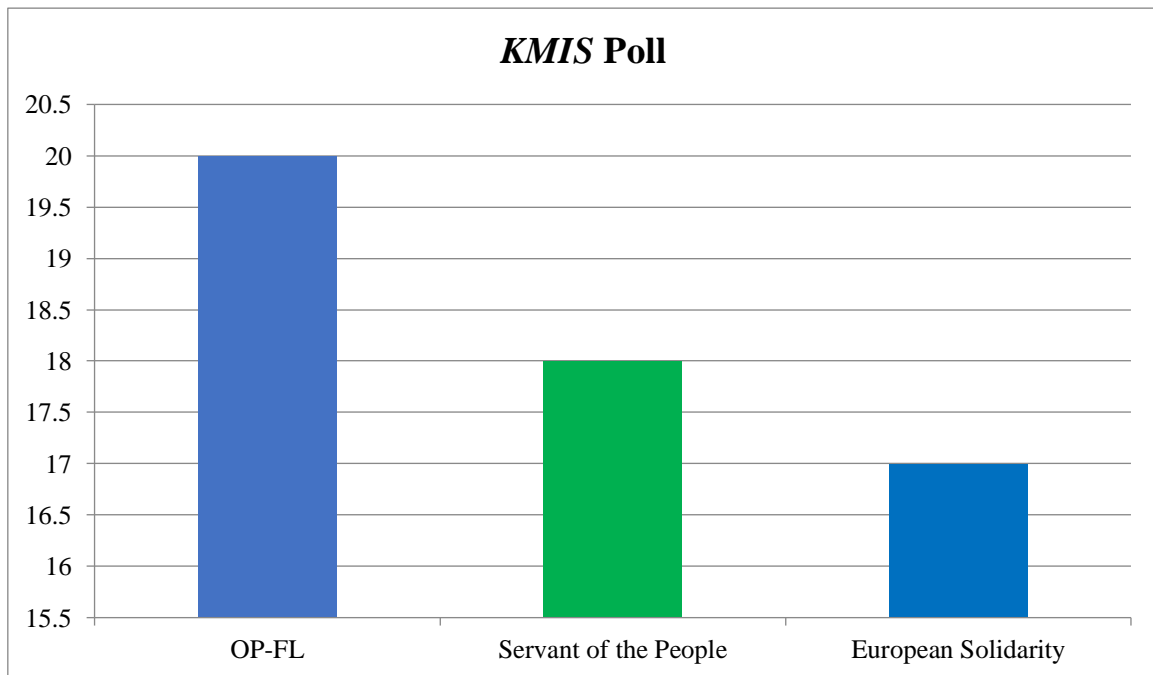


Will the Oppositional Platform Be Able to Keep the Momentum?

Erika Bortnik

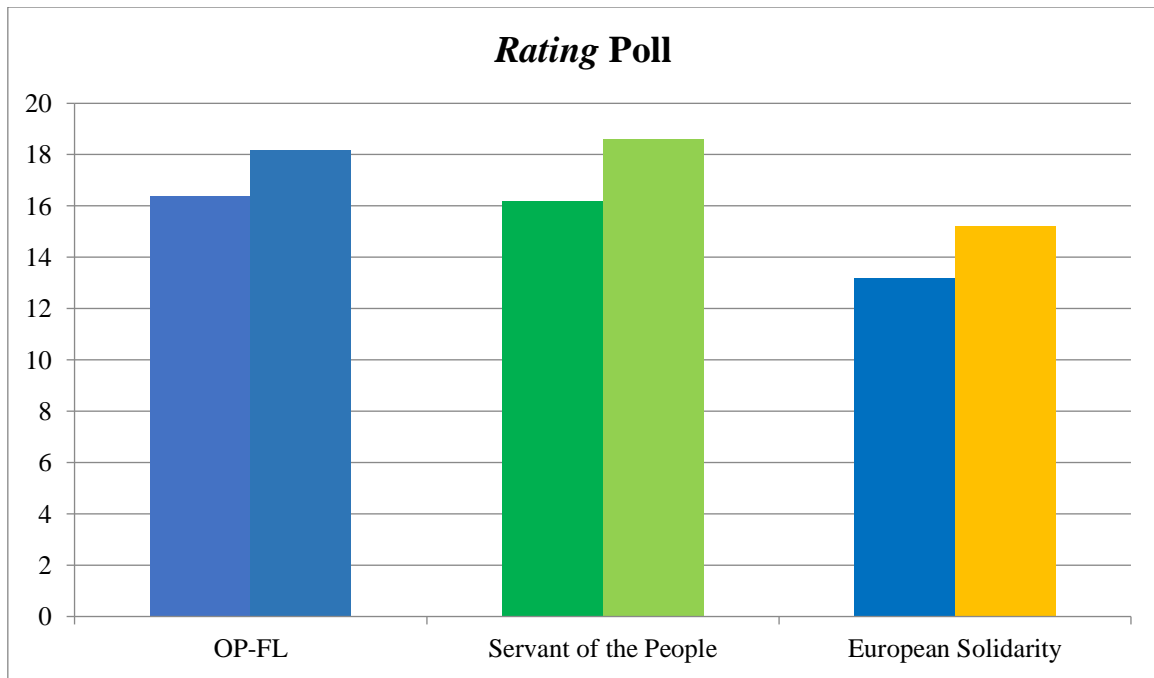
Earlier, President Zelenskyi signed a decree on the sanctions against MP Taras Kozak and his three TV channels. As a result, his party, the Oppositional Platform – For Life (OP-FL), is left without a powerful political instrument in the country where TV is still the leading media-outlet. It happened right when the political rating of the party is in the highest position ever. What does this decision mean for party structure? Will the OP-FL be able to reach an agreement, find new ways to communicate with the voters, and keep the momentum?

Kyiv International Institute of Sociology (KMIS) [published](#) its political rating poll at the end of 2020. It says that *Opposition Platform – For Life* has the highest party trust rating.



(the statistical sampling error does not exceed 3.3%)

The sociological group *Rating* [published](#) almost the same research result in February 2021.



The statistical sampling error of that research is near 2,2%, so we can assume that the OP-FL and the Servant of the People party have the same rating. Petro Poroshenko's European Solidarity follows.

The political rating numbers of *Opposition Platform – For Life* now are the highest since the end of 2019. Furthermore, the party could not compete with the president's the *Servant of the People* ('Servants') until now. 'Servants' lost near 10% in the last six months, while *OP-FL* gained only 3% in the same time. Therefore it is more 'Servants' defeat, not the *OP-FL* win.

Why voters trust the *OP-FL*? What makes it popular? Firstly, the opposition to the current government position. The same Rating's research says that voters tend to think that things in Ukraine are going in the wrong direction. Now 73% of respondents agree with that statement, and this index was growing last six months.

Secondly, *OP-FL* answers the request for tariff reduction. *Rating* says that 89% of Ukrainians support protests demanding that. *Opposition Platform – For Life* constantly repeating the populist promise to reduce tariffs, this is an essential part of their program. They call the gas prices increase a "tariff genocide" and offer to refuse the IMF requirement to set market prices. Moreover, Viktor Medvedchuk has an agreement with Putin on benefits for Russian gas supplies. Vadym Rabinovych [said](#) in January, "all these steps will reduce tariffs by 70-80%". It is a manipulation, of course, but it sheds light on the reasons for their popularity.

One more reason – *OP-FL* gathered all voters who support the pro-Russian position. Their main rival, *Oppositional Block*, failed in the last electoral cycle, so *OP-FL* is the only choice for anti-European voters. It remains actual in the



southern and eastern regions, warmed up by Russian propaganda. *OP-FL* proposes alternative ways to resolve the Donbas conflict, giving them autonomy and paying no attention to Russian forces' presence. This is a unique thesis among Ukrainian parties, and it is not surprising that many people find it attractive. There are also two views in the party – the Boiko-Liovochkin group advocates multi-vector of the country, while Rabinovych-Medvedchuk has an obvious pro-Russian position. *OP-FL* is a party-chameleon, it has different faces to different voters' requests, but the mainline is the same for all - Euroscepticism, regionalism, and populism.

License loss for *112 Ukraine*, *NEWSONE*, and *ZIK* left *OP-FL* without the main tool to secure its position. Their second tool is agreements within the party and with other political forces, and there is a significant problem now, too. Taras Kozak's channels were in the top ten most rated channels [according](#) to the *Media Detector*, and their popularity has grown over the last year. These three channels are connected with the Rabinovich-Medvedchuk group, while the other group has the *Inter* channel, owned by Serhii Liovochkin. According to the same research, *Inter* is more popular than Kozak's channels. Its rating is 30.6%, while the most popular Kozak's *112 Ukraine* rating share is 21.3%. *Inter* became less popular than in 2019, but there has been parity between the two groups until now. After blocking Rabinovych-Medvedchuk channels, there is a great field for conflicts with the Boiko-Liovochkin group.

Yurii Boiko and Serhii Liovochkin migrated to *OP-FL* from Akhmetov's *Opposition Block* and some companions in 2018. The party intensified after unification, but there is no ideological unity. They work together just for the pragmatic purpose, and there is great personal animosity between Rabinovych and Boiko. Two groups divide all that can be divided – seats in parliament and local councils in proportion 50/50, managing the city and regional party centers. This led to many conflicts during the last local elections.

There were two candidates for the mayor seat in Odesa - Tetiana Plachkova and Mykola Skoryk. They tried to [decide](#) something for eight months, and Liovochkin's candidate Mykola Skoryk won this "primaries" but failed in the election. There were also several candidates in Mykolaiiv. Natalia Korolevska, who also migrated from *Oppositional Block*, had their candidate, and there were two more candidates from *OP-FL* – one from the city and one from regional party centers. They also failed here. The most famous figure for voters from *OP-FL* is Yurii Boiko, but even in a town where he went for voting, the candidate from his party lost. *OP-FL* failed too many seats to local parties, and that is a problem that can be resolved by political unity.

Rabinovych's antipathy to Boiko apparently only increased after the election. Now Boiko-Liovochkin group has intensified, and they obviously need to review their interests. *Rating* says that if the presidential election were held in the coming

week, Zelenskyi would gain the most votes, and Boiko would be in second place. Boiko becomes more popular than Poroshenko near six months ago, and the gap between them is growing. The party as a whole and the Rabinovych-Medvedchuk group need to find new channels to talk to voters. They will obviously fight against Zelenskyi's sanction, but there is also a way to reach an agreement with Liovochkin. It is hardly possible that this group will separate from *OP-FL*: Rabinovych and Medvedchuk provide connections with Russia. Also, Vadym Stoliar, called the Kyiv City Hall's grey cardinal, is connected with Rabinovych.

Concluding, groups in *Opposition Platform – For Life* need each other to provide the party with a high rating. *OP-FL*'s popularity is a puzzle, and all actors need to work together to maintain it. The party always tries to hide its internal processes. For instance, they didn't invite journalists to Party Congress in June 2019, and the list remained in secret for a long time. Now they have time until the next election to reach an agreement. The last several years showed that they could do that – pragmatic interests are more important than personal relationships for them. Anyway, we are most likely to find it out post factum.

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