



# UKRAINE

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The observance of human and citizens' rights and freedoms is an integral part of Ukraine's integration into Europe and its transformation into a well developed democratic country. As the Guarantor of human rights and freedoms, the President believes that it is vital to develop and expand this priority aspect of his activity.

- Official Website of the President of Ukraine, Statement on Human Rights.

What in every other country is called censorship, here is called 'editorial policy.'

- Pavlo P., station "F."

## **NEGOTIATING THE NEWS: Informal State Censorship of Ukrainian Television**

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## I. EXECUTIVE SUMMARY

While the formal censorship that existed in Ukraine during the Soviet era ended after the country gained its independence in 1991, informal censorship continues. Media outlets expressing views critical of government officials or other prominent figures have been subject to arbitrary tax inspections, denial and revocation of licenses on technicalities, and crippling libel suits, while individual journalists have faced harassment and physical attacks. This report documents one insidious form of informal censorship: secret instructional memoranda prepared and distributed by the Presidential Administration to top managers and editors of national television stations and some newspapers. These memoranda, known as *temniki* (from the Russian *temy nedeli* or weekly themes), provide guidelines for the content and nature of news reporting. Editors-in-chief fear repercussions for non-compliance with these directives and thus follow *temniki* instructions when determining editorial frameworks for journalists' work.

State officials routinely deny knowledge of or involvement with *temniki*. However, Ukrainian journalists, media analysts, and prominent politicians consistently report that the instructional documents originate from within the Presidential Administration. Editors receive calls from officials about instructions contained in *temniki*, and the documents themselves consistently call for news coverage that portrays President Leonid Kuchma and the pro-presidential Social Democratic Party of Ukraine (united) (SDPU(u)) in a favorable light and discredits or marginalizes important opposition politicians and parties.

Human Rights Watch conducted research on informal political censorship in October 2002 through interviews with television station employees, government officials, and media analysts. We focused on the impact of *temniki* on television news journalism because television is the most widely utilized form of mass media in Ukraine. To this end, we interviewed ten prominent employees from five national television stations and one Kyiv station, including senior editors, program editors, news anchors, program hosts, and correspondents. In addition, we examined seven *temniki* covering different weeks in late 2001 and in 2002. Human Rights Watch received *temniki* from sources connected to top editors and managers at prominent stations.

*Temniki* were first distributed to a limited number of pro-presidential media outlets in September and October 2001 during the campaign period prior to the March 2002 parliamentary (Verkhovna Rada) elections. Editors, journalists, and media analysts reported that by August 2002 distribution of *temniki* had expanded to all stations, and compliance with the instructions was more vigorously enforced through phone calls and intimidation. *Temniki* became public in early September 2002, when the Chairman of the Verkhovna Rada Committee on Freedom of Speech and Information, Mykola Tomenko, revealed their existence.

*Temniki* have eroded freedom of expression in Ukraine. Editors and journalists feel obligated to comply with *temniki* instructions due to economic and political pressures and fear repercussions for non-cooperation. In the past, media outlets that supported opposition parties or failed to comply with official requests have faced tax inspections, legal actions, or license withdrawals that have threatened their existence or in some cases have shut them completely. Similarly, journalists who have taken independent positions have faced demotion, pay cuts, and dismissal. The harassment and violence journalists experienced even before the appearance of *temniki* have contributed to an atmosphere of intimidation that impels journalists to comply with the directives. The most shocking of these incidents was the murder of outspoken opposition journalist Heorhii Gongadze in September 2000, in which President Leonid Kuchma and other top officials have since been implicated.

Failed reforms and economic stagnation have left media outlets and journalists vulnerable to the sponsorship of large political-financial blocs that use media as mouthpieces for their interests. This situation is especially pronounced for the major television stations. Of the six national television stations in Ukraine, one is state-owned, two are owned by leaders of the SDPU(u) and influenced by the head of the Presidential Administration, and three are financed in significant part by President Kuchma's son-in-law. The most influential regulatory and sole licensing body for domestic media, the National Council on Television and Radio Broadcasting, lacks transparency and has been susceptible to paralyzing political pressure.

Temniki and other external pressures on television stations have transformed the news-making process. Whereas in the past, journalists, news anchors, and production editors largely determined the content of the news, now they must negotiate with editors-in-chief or top managers at length over virtually every aspect of every text and program in order to ensure the station's compliance with the Presidential Administration's instructions conveyed through temniki, phone calls, and other informal channels. In some cases station managers have removed political programming or analytical shows in order to avoid controversy. Outspoken journalists have been transferred to less prominent positions within television stations where their non-compliance is less significant. Under these conditions journalists routinely resort to self-censorship as they have come to understand which material will be acceptable for broadcast and which will be rejected. Television news is now solidly pro-Kuchma, and, because television is the most widely utilized form of mass media in Ukraine, the government's censorship effectively denies the Ukrainian public access to a crucial source of objective information.

Because Ukraine is a state party to both the European Convention on Human Rights and the International Covenant on Civil and Political Rights, the government is obligated to protect the right to freedom of expression.<sup>1</sup> Domestic law also guarantees this right. Article 15 of the Ukrainian Constitution prohibits censorship and Article 34 guarantees each citizen "freedom of thought and speech and to the free expression of his or her views and beliefs."<sup>2</sup> In addition, Ukraine has developed numerous laws to protect the media and journalists and to support free speech and access to information. The failure by the Ukrainian government and the Presidential Administration in particular, to fully implement and enforce these laws and commitments, puts it in breach of its obligation to protect freedom of expression.

Human Rights Watch recommends that the Ukrainian authorities and international bodies take steps to ensure Ukraine's compliance with domestic and international obligations to uphold freedom of expression. The Presidential Administration should cease immediately the use of temniki and any other form of pressure or formal or informal censorship of news making on television stations and other media. The Office of the Prosecutor General should conduct prompt and thorough investigations of government officials and others implicated in censorship or other abuses against the media and hold accountable those responsible. The Verkhovna Rada should take steps to amend legislation on the definition of censorship, on the definition and practice of defamation, on the establishment of a realistic minimum wage for journalists, and on the increased transparency of the National Council on Television and Radio Broadcasting.

Human Rights Watch also recommends that the Council of Europe use all available means and mechanisms to address Ukraine's failure to meet its obligations and implement the recommendations recently set forth by the Committee of Ministers. The Council of Europe should also consider continuing assistance to the Ukrainian authorities through initiatives similar to those set out in the 2001-2002 "Action Plan for the Media in Ukraine." Similarly, the Organization for Security and Cooperation in Europe (OSCE) and the United Nations (U.N.) should ensure adequate implementation of recommendations related to freedom of expression set out in recent reports on Ukraine. Finally, the European Union (E.U.), the North Atlantic Treaty Organization (NATO), and international financial institutions should condition deepening of bilateral relations on measurable progress by Ukraine in guaranteeing freedom of expression.

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<sup>1</sup> Article 10(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms provides: "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television, or cinema enterprises." Article 19 of the International Covenant on Civil and Political Rights provides: "1. Everyone shall have the right to hold opinions without interference. 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

<sup>2</sup> Constitution of Ukraine, Adopted at the Fifth Session of the Verkhovna Rada of Ukraine on June 28, 1996.

## II. POLITICAL BACKGROUND

The appearance of *temniki* followed two years of political scandals involving President Leonid Kuchma and coincided with a precipitous decline in the president's public approval rating as well as with his introduction of new measures to address ongoing battles with the opposition. In 1999 Kuchma won reelection for a second five-year term with more than 56 percent of the vote.<sup>3</sup> Soon after the presidential elections, Kuchma initiated efforts to consolidate his power and exert executive control over the Verkhovna Rada, ostensibly to end the deadlocks between the presidency and the parliament that had plagued the passage of legislation. Kuchma complained that the Rada had wrecked his attempts to secure market reforms and was responsible for prolonging the country's eight-year economic stagnation.<sup>4</sup> In January 2000, Kuchma initiated a controversial referendum on constitutional amendments designed to reduce the Rada's powers in favor of increased authority for the president.<sup>5</sup> Although between 80 and 90 percent of the electorate supported all of Kuchma's proposed changes, with more than 80 percent voter turnout, the Rada failed to ratify amendments that would have significantly reduced its own weight.

Tensions between the executive and legislative branches continued, with the president's credibility coming under severe attack in November 2000, when Socialist Party of Ukraine leader Oleksandr Moroz revealed the existence of secret tape recordings of conversations involving Kuchma and top political and financial figures made by former presidential security guard Mykola Melnychenko. The tapes implicate Kuchma and other prominent officials in numerous scandals, including the kidnapping and murder of investigative journalist Heorhii Gongadze in September 2000.<sup>6</sup> Gongadze had been investigating corruption and was a vocal critic of President Kuchma's January referendum and the government's efforts to restrict press freedoms. The Melnychenko tapes also record Kuchma's authorization of the sale of sophisticated military radar systems to Iraq in violation of a United Nations arms embargo.

The scandal, dubbed "Kuchmagate," and growing public concerns about corruption, worsening poverty, and unemployment inspired the development, in late 2000, of the "Ukraine without Kuchma" protest movement.<sup>7</sup> In

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<sup>3</sup> Central Election Commission of Ukraine, "Unified All-State Single-Mandate Election Constituency: Elections Result," November 14, 1999 [online], <http://195.230.157.53/pls/vp1/webproc0e> (retrieved November 19, 2002).

<sup>4</sup> In contrast to all other countries of the former Soviet Union, Ukraine did not report single year of growth between 1992 and 1999. GDP declined some 53 percent from 1989 to 1998. Privatization and deregulation proceeded very slowly. Anders Aslund, "Problems with Economic Transformation in Ukraine," paper presented at the Fifth Dubrovnik Conference on Transition Economies, June 23-25, 1999 [online], <http://www.ceip.org/files/publications/webnote10.asp> (retrieved December 20, 2002).

<sup>5</sup> The amendments would have given the president increased powers to dissolve parliament; lowered the number of parliamentary deputies from 450 to 300; removed deputies' immunity to criminal prosecution; and created a second parliamentary chamber. The president would have had the authority to appoint members of the second chamber, which is intended to represent the interests of Ukraine's provinces. Ukrainian human rights groups and the Parliamentary Assembly of the Council of Europe deemed Kuchma's proposal a threat to the rule of law and certain to disrupt the balance of powers enshrined in the constitution. International Helsinki Federation for Human Rights, "Ukraine Referendum Threatens Rule of Law: Process Resembles that in Belarus," March 15, 2000 [online], <http://www.ihf-hr.org/appeals/000315.htm> (retrieved December 11, 2002), and Council of Europe Parliamentary Assembly Resolution 1451 (2000), "Reform of the Institutions of Ukraine," April 4, 2000 (10<sup>th</sup> sitting) [online], <http://assembly.coe.int/Documents/AdoptedText/ta00/EREC1451.htm> (retrieved September 14, 2002).

<sup>6</sup> For a full transcript of the tapes see *Ukrainskaia pravda* [Ukrainian Truth], <http://www.pravda.com.ua/archive/?1109-tapes-new>. Note on transliterations: the Library of Congress system has been used throughout, with the Ukrainian 'g' being transliterated according to its phonetic equivalent 'h,' except in cases of direct translation from Russian language documents. The original Ukrainian spelling for proper names has been used throughout, except in cases of direct translation from Russian language documents.

<sup>7</sup> Ukraine's GDP per capita for 2000 was U.S.\$690. The World Bank Group, "Ukraine Data Profile," April 2002 [online], <http://devdata.worldbank.org/external/CPProfile.asp?SelectedCountry=UKR&CCODE=UKR&CNAME=Ukraine&PTYPE=CP> (retrieved December 18, 2002). Official unemployment in 2001 stood at 4.3 percent, but the International Labor Organization recorded an actual rate of 23.8 percent, which includes disguised unemployment described as "administrative leave." International Labor Organization, "Ukraine: A Land of Economic Instability," July 2001 [online], <http://www.ilo.org/public/english/protection/ses/info/database/ukraine.htm> (retrieved December 20, 2002). In Transparency

February and March 2001, students, pensioners, politicians, and others organized rallies throughout the country. Some of these demonstrations ended in violence and the arrest of hundreds of protesters. Sensing this growing antipathy and risk to his government, on March 6, 2001, President Kuchma demanded that all government officials “sever publicly any links to the opposition within the week or submit their resignations.”<sup>8</sup>

In this period President Kuchma also began removing key reform-minded figures from the government. In January 2001, Kuchma dismissed Deputy Prime Minister and Minister for Energy Yulia Tymoshenko, after the Office of the Prosecutor General opened a criminal case against her on charges of fraud and embezzlement during her leadership of Unified Energy Systems of Ukraine from 1995-1997.<sup>9</sup> She had served as deputy prime minister for just over a year, and became an outspoken critic of the president soon after her removal from office. Analysts believe that the criminal case and subsequent dismissal are linked to Tymoshenko’s efforts to reform the energy sector. Her reforms began to jeopardize the interests of the nation’s oil and gas oligarchs, many of whom are closely associated with Kuchma and who have enjoyed growing political and economic power during Kuchma’s second term.<sup>10</sup> The businessmen most adversely affected by Tymoshenko’s reforms were those connected to the pro-presidential SDPU(u), which controls the majority of district energy distributors.<sup>11</sup> Tymoshenko was arrested and jailed for six weeks before a district court ruled that the charges against her were unfounded. In April 2002, a district court closed all proceedings against Tymoshenko, but in August 2002 the newly appointed prosecutor general, Sviatoslav Piskun, initiated a new criminal case against her on the same charges and in September 2002 opened yet another case against her for illegally calling for the ousting of President Kuchma.

Three months after the dismissal of Tymoshenko, popular reformist Prime Minister Viktor Yushchenko also came under attack. Despite Yushchenko’s success in carrying out reforms, important industrial and financial figures believed many of Yushchenko’s policies interfered with lucrative business arrangements. Communist Party deputies formed an alliance with the SDPU(u) and other pro-Kuchma parties representing the interests of leaders of some of Ukraine’s most powerful business conglomerates to oust the Yushchenko government in a vote of no confidence in April 2001.<sup>12</sup> During his sixteenth-month tenure as prime minister, Western analysts credited Yushchenko with curbing inflation, meeting domestic and international debt commitments, paying pension

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International’s Corruption Perception Index, Ukraine ranked 87 out of 90 countries, tied with Azerbaijan and less corrupt than only Yugoslavia and Nigeria. Transparency International, “2000 Corruption Perceptions Index,” n.d. [online], <http://www.gwdg.de/~uwwv/> (retrieved December 20, 2002).

<sup>8</sup> “Constitutional Watch: Ukraine,” *East European Constitutional Review*, vol. 10, no. 1 (Winter 2001) [online], <http://www.law.nyu.edu/eecr/vol10num1/constitutionwatch/ukraine.html> (retrieved November 18, 2002).

<sup>9</sup> The case against Tymoshenko was not the first involving United Energy Systems of Ukraine (UESU). In 1997, Kuchma ousted his former protégé, Prime Minister Pavlo Lazarenko, whose fortunes are linked to UESU. The prosecutor general initiated criminal proceedings against Lazarenko on charges of embezzlement and providing illegal political concessions to UESU. In the 1998 parliamentary elections, much of the widespread violence was believed to be associated with the ongoing rivalry between Lazarenko and Kuchma, including five bomb explosions in the headquarters of Lazarenko’s opposition newspaper, *Vseukrainskie Vedomosti* [All-Ukrainian Gazette]. “Constitutional Watch: Ukraine,” *East European Constitutional Review*, vol. 7, no.2 (Spring 1998) [online], <http://www.law.nyu.edu/eecr/vol7num2/constitutionwatch/ukraine.html> (retrieved December 20, 2002). Lazarenko fled to the United States in 1999 and is currently in custody in the United States awaiting trial on money laundering and other charges. “Lazarenko’s Attorney to Defend his Deputy Immunity in Ukrainian Court,” May 21, 2002, *Kyiv Post* [online], <http://www.kyivpost.com/nation/10743/> (retrieved December 20, 2002).

<sup>10</sup> Tymoshenko’s reforms were designed to increase transparency in the energy sector. They curbed the widespread practice of gas and electricity purchases being paid through the barter of goods instead of cash payments. Askold Krushelnycky, “Ukraine: Political Tensions On the Rise,” RFE/RL Newsline, February 15, 2002 [online], <http://www.rferl.org/nca/features/2001/02/15022001112844.asp> (retrieved December 12, 2002).

<sup>11</sup> Taras Kuzio, “Russian President Gives Ukrainian Counterpart a Helping Hand Against the Opposition,” RFE/RL Newsline, August 15, 2002 [online], <http://www.rferl.org/newsline/2002/08/150802.asp> (retrieved December 11, 2002). The SDPU(u) is one of several pro-presidential political parties formed in recent years by major industrial-financial groups seeking to advance group and political interests. These groups have also purchased numerous media outlets.

<sup>12</sup> “Constitutional Watch. Ukraine,” *East European Constitutional Review*, vol. 10, nos. 2/3 (Spring/Summer 2001) [online], [http://www.law.nyu.edu/eecr/vol10num2\\_3/constitutionwatch/ukraine.htr](http://www.law.nyu.edu/eecr/vol10num2_3/constitutionwatch/ukraine.htr) (retrieved November 18, 2002), and “Hopes Depart, Worries Return,” *The Economist*, May 3, 2001 [online], [http://www.economist.com/displayStory.cfm?Story\\_ID=613466](http://www.economist.com/displayStory.cfm?Story_ID=613466) (retrieved September 4, 2002).

arrears, and overseeing the first period of real economic growth in Ukraine in more than a decade.<sup>13</sup> The Rada replaced Yushchenko with Kuchma's proposed candidate, Anatolii Kinakh.

In the months following these changes, the Rada and the president fought over the passage of a new election law. Controversy would mar the March 2002 parliamentary elections throughout, with reports of illegal interference by public authorities, abuse of administrative resources, instances of violence, and intimidation of reporters and media outlets.<sup>14</sup> Despite manipulation by the authorities, the pro-presidential bloc "For a United Ukraine" garnered 11.8 percent of the votes gained on party ballots, which account for half of the parliament's seats. Two opposition parties proved to be more popular in the party balloting; the "Our Ukraine" coalition led by Viktor Yushchenko won 23.57 percent, while the Communist Party of Ukraine secured 20 percent. Only three other parties surpassed the 6 percent minimum for winning seats: the Yulia Tymoshenko Bloc (7.26 percent), the Socialist Party of Ukraine (6.87 percent) and the SDPU(u) (6.27 percent).<sup>15</sup> In the final composition of the Verkhovna Rada, however, "For a United Ukraine" held the greatest total number of seats, having won heavily in the election of individual pro-presidential candidates in local constituencies voting, which accounts for the other half of the parliament's seats.<sup>16</sup>

Thus, the opposition parties' popular electoral success did not translate into a strong position in parliament. In May 2002 the "For a United Ukraine" bloc and the SDPU(u) cooperated to secure the Rada chairman and deputy chairman positions. Two key appointments came soon thereafter: Kuchma named SDPU(u) Chairman Viktor Medvedchuk as head of the Presidential Administration in June 2002 and one month later won parliamentary approval of his candidate for prosecutor general, Sviatoslav Piskun. Beginning in this period, pro-presidential parties began to persuade many independent deputies and deputies from other parties and factions to join their ranks.<sup>17</sup> A pro-presidential majority is important for Kuchma in order to facilitate passage of his proposed legislation and to stave off impeachment.<sup>18</sup>

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<sup>13</sup> "Hopes Depart, Worries Return." After a nearly decade of negative growth rates, Ukraine recorded 5.8 percent real GDP growth in 2000. World Bank, "Ukraine at a Glance," September 23, 2002 [online], [http://www.worldbank.org/data/countrydata/aag/ukr\\_aag.pdf](http://www.worldbank.org/data/countrydata/aag/ukr_aag.pdf) (retrieved December 11, 2002).

<sup>14</sup> For a full analysis of the elections see Organization for Security and Cooperation in Europe (OSCE), "Ukraine: Parliamentary Elections 31 March 2002: Final Report," May 27, 2002 [online], [http://www.osce.org/odihr/documents/reports/election\\_reports/ua/ua\\_pe\\_march2002\\_efr.php3](http://www.osce.org/odihr/documents/reports/election_reports/ua/ua_pe_march2002_efr.php3) (retrieved September 12, 2002).

<sup>15</sup> Central Election Commission of Ukraine, "Elections of the People's Deputies of Ukraine: Elections 31 March 2002," [online], <http://195.230.157.53/pls/vd2002/webproc0v> (retrieved February 6, 2003).

<sup>16</sup> The parliamentary seats were distributed accordingly: "For a United Ukraine," 182 seats, "Our Ukraine," 117 seats, Communist Party of Ukraine, 66 seats, Socialist Party of Ukraine, 24 seats, and the Yulia Tymoshenko Bloc, 22 seats, and 39 unaffiliated seats. "Stumbling Along," *The Economist*, April 4, 2002 [online], [http://www.economist.com/displayStory.cfm?Story\\_ID=1073582](http://www.economist.com/displayStory.cfm?Story_ID=1073582) (retrieved September 4, 2002). See also Taras Kuzio, "Loser Takes All: Ukrainian President Co-opts Parliament," RFE/RL Newline, vol. 6, no. 100, Part I, May 30, 2002 [online], <http://www.rferl.org/newline/2002/05/300502.asp> (retrieved September 9, 2002). The "For A United Ukraine" bloc consisted of five parties: Labor Ukraine, the Regions Party, the People's Democratic Party, the Agrarian Party, and the Party of Industrialists and Entrepreneurs and was led by then-Head of the Presidential Administration Volodymyr Lytvyn.

<sup>17</sup> Between the March elections and December 2002, the "Our Ukraine" faction lost eighteen deputies, reducing its number of seats from 120 to 102. Peter Byrne, "Majority Rules," *Kyiv Post*, December 19, 2002 [online], <http://kpnews.com/nation/12499/> (retrieved January 1, 2003).

<sup>18</sup> Taras Kuzio, "Presidential Tactics," *Ukrainskaia pravda*, September 7, 2002 [online], <http://www.pravda.com.ua/en/?2096-1-new> (retrieved September 9, 2002). Since 1998, opposition parties have made numerous unsuccessful attempts to force a parliamentary vote on impeaching President Kuchma. For example, in 1998, opposition parties successfully brought the motion for impeachment into the agenda, but ultimately no vote was held. "Constitutional Watch: Ukraine," *East European Constitutional Review*, vol. 7, no.1 (Winter 1998) [online], <http://www.law.nyu.edu/eecr/vol7num1/constitutionwatch/ukraine.html> (retrieved December 31, 2002). In June 2002, the Yulia Tymoshenko Bloc proposed a motion for impeachment, but the item did not receive sufficient votes to be tabled in debates. "Constitutional Watch: Ukraine," *East European Constitutional Review*, vol. 11, no. 3 (Summer 2002) [online], <http://www.law.nyu.edu/eecr/vol11num3/constitutionwatch/ukraine.html> (retrieved December 31, 2002). A proposal was again made in September 2002. "Parliament Reluctant to Impeach Kuchma," Forum [online], <http://eng.for-ua.com/news/2002/09/12/193738.html> (retrieved December 31, 2002).

Although Kuchma managed to consolidate his position in parliament and in key executive agencies, during the summer his popularity continued to suffer in the face of ongoing scandals and unresolved social and economic issues. According to a September 2002 poll, just 5.9 percent of Ukrainians expressed complete support for Kuchma and nearly 72 percent supported his resignation.<sup>19</sup> In September and October 2002, opposition parties—the Communist Party of Ukraine, the Socialist Party of Ukraine, the Yulia Tymoshenko Bloc and “Our Ukraine”—staged anti-Kuchma protests around the country.<sup>20</sup> The largest of these “Rise Up Ukraine” protests, held on September 16 in the capital, Kyiv, drew more than 20,000 participants.

The Ukrainian government went to great lengths to frustrate the opposition’s actions by banning the protests from Kyiv’s center and demanding that they be held in a stadium on the distant edge of the city.<sup>21</sup> Schedules for Kyiv-bound buses and commuter trains were changed inexplicably for September 16, and traffic police denied cars and buses with non-Kyiv license plates entrance to the capital. As a result, thousands of people did not enter the city that day, irrespective of whether they intended to participate in the demonstrations. In the days prior to the demonstration, the police harassed students and members of opposition parties. The government also initiated an aggressive media campaign designed to dissuade people from participating and to obscure the scale of the protests and demands of the protesters.<sup>22</sup> In addition, for no clear reason, currency exchange offices in many areas of the capital were closed in the days before and on the day of the Kyiv demonstration. The morning after the protest, police violently broke up the demonstrators’ tent camp and arrested several dozen participants.

In the months following the demonstrations, opposition and pro-presidential forces in the Rada jockeyed for position and neither was able to form a stable majority. In response to parliamentary impasses, in November Kuchma dismissed Kinakh and appointed Donetsk Governor Viktor Yanukovych as prime minister, who was able to organize a majority in the Rada by mid-December.<sup>23</sup> The impact of the Kuchmagate scandal on the president intensified in October 2002, after United States experts authenticated the Melnychenko tapes and the U.S. government took steps to isolate Kuchma over his approval of the Iraqi arms deal.<sup>24</sup> Soon thereafter, Kyiv Appeals Court Judge Yurii Vasylenko opened a criminal investigation against Kuchma in connection with these and other charges, but in December the Supreme Court rescinded the orders for an investigation. In February

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<sup>19</sup> Anatoliy Hrystenko, “Mental Fatigue,” *Dzerkalo tyzhnia* [The Weekly Mirror], no. 37(412) (September 28, 2002) [online], <http://www.mirror-weekly.com/ie/show/412/36249/> (retrieved November 22, 2002).

<sup>20</sup> Even after his dismissal from the post of prime minister, Yushchenko and his Our Ukraine faction remained only moderately oppositional to Kuchma and sought compromise solutions for forming a parliamentary majority. However, his relationship to other opposition parties became much less ambiguous in late 2002, beginning with the September protests and culminating in Kuchma’s December legislative victories (see note 23) after which Yushchenko called for new elections and a nationwide strike. Peter Byrne, “Majority Rules.”

<sup>21</sup> On the day of the protests, demonstrators ignored the court order.

<sup>22</sup> For details on the government’s actions related to the protests, see Taras Kuzio, “Ukraine Returns to Soviet-Era Tactics to Subdue Opposition,” RFE/RL *(Un)Civil Societies*, vol. 3, no. 38 (September 18, 2002) [online], <http://www.rferl.org/ucs/2002/09/38-180902.html> (retrieved September 18, 2002), and Evgenia Mussuri, “Government Employs Religion, Media in Effort to Foil Rallies,” *Kyiv Post*, September 19, 2002 [online], <http://www.kpnews.com/main/11852> (retrieved September 20, 2002).

<sup>23</sup> Yanukovych is a member of the Ukraine’s Regions Party, a party created by the Donetsk industrial-financial group. On December 19, 2002 Serhii Tyhipko of Labor Ukraine, a party created by the Dnipropetrovsk industrial-financial group, was elected as the National Bank chairman in a secret vote by the pro-presidential parties in the Rada. In a similarly secret vote two days earlier, the same deputies voted to redistribute all Rada committee chairmanships to pro-presidential factions. With these appointments and changes, pro-presidential oligarchic parties have gained control over the main state institutions: the Presidential Administration (Kyiv’s SDPU(u)), the parliament (Donetsk’s Ukraine’s Regions), and the National Bank (Dnipropetrovsk’s Labor Ukraine). Peter Byrne, “Majority Rules,” and Taras Kuzio, “Ukrainian President Orchestrates Oligarchic Takeover,” RFE/RL Newsline, vol. 6, no. 233, Part II, December 13, 2002.

<sup>24</sup> The United States suspended US \$54 million in aid under the Freedom Support Act. These funds were to be directed to the central government authorities in assisting in administrative and legal reform and represented 35 percent of total FSA support allocated for Ukraine in the 2002 fiscal year. U.S. Department of State, “U.S. Suspends Some Aid to Ukraine over Kolchuga Sale to Iraq: Excerpt from September 24 State Department Press Briefing,” September 25, 2002 [online], <http://usinfo.state.gov/regional/nea/iraq/text/0925usukr.htm> (retrieved February 6, 2003).



2003, the Supreme Council of Justice recommended that the Verkhovna Rada dismiss Vasylenko on charges that in initiating the criminal case against Kuchma, the judge violated the constitution.<sup>25</sup>

### III. MEDIA BACKGROUND

Ukrainians currently enjoy access to a wide variety of broadcast, print, and Internet news sources. According to the National Council for Television and Radio Broadcasting, Ukraine has 791 registered television and radio stations.<sup>26</sup> In addition, there are 3,925 print media sources, more than 500 Ukrainian Internet news sites, and thirty-five news agencies. Four percent of television and radio stations and 9 percent of print media outlets are state-owned. There are three state-run news agencies.<sup>27</sup>

The diversity in news sources, large number of independent media outlets, and constitutional and legal guarantees for the media would all suggest that freedom of expression is adequately developed and respected. However, individual journalists and editors have faced physical attacks, crippling libel suits, and informal pay schemes that leave them vulnerable to censorial pressures. Media companies have faced economic obstacles to independent development and have encountered official harassment and arbitrary licensing and tax procedures.<sup>28</sup> For these reasons, in its 2002 Worldwide Press Freedom Index, Reporters without Borders listed Ukraine 112<sup>th</sup> out of 139 countries in terms of journalistic freedom and government efforts to guarantee freedom of expression.<sup>29</sup> The Committee to Protect Journalists named President Kuchma on its list of the world's ten worst enemies of the press in 1999 and again in 2001.<sup>30</sup>

Numerous governmental agencies exist to regulate information and the media. The bodies authorized to develop and implement information policy include the Rada Committee for the Freedom of Speech and Information and, within the executive, the State Committee for Information Policy, Television and Radio Broadcasting and the State Committee for Communication and Information. The National Council for Television and Radio Broadcasting is responsible for broadcast licensing.<sup>31</sup> In the months following revelations about the Gongadze murder and growing criticism of the authorities' relationship to the media, in April 2001 President Kuchma established the Information Policy Council, a presidential administration body designed to protect information and media rights and freedoms and to improve relations between media and the authorities. In July 2002, after the appointment of Viktor Medvedchuk, an additional department within the presidential administration, the Department of Information Policy, was created.

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<sup>25</sup> Vasylenko claims that the recommendation for his removal is unfounded insofar as the constitution does not prohibit the initiation of criminal investigation against the Ukrainian president. "Judge Vasylenko Regards As Political Reprisals of Recommendation of Supreme Council of Justice on his Dismissal," Ukrainian News Agency, February 6, 2003 [online], <http://www.ukranews.com/cgi-bin/openarticle.pl?lang=eng&id=313278> (retrieved February 6, 2003).

<sup>26</sup> Ukrainian National Council of Television and Radio Broadcasting, "Analysis of Television and Radio Broadcasting in Ukraine," [online], <http://www.nradatvr.kiev.ua/return3.htm> (retrieved December 19, 2002).

<sup>27</sup> Nathalia Gabor and Zoya Skoropadenko, "The Ukrainian Media Landscape," European Journalism Center, October 2002 [online], <http://www.ejc.nl/jr/emland/ukraine.html> (retrieved December 13, 2002), and Ukrainian National Council of Television and Radio Broadcasting.

<sup>28</sup> See "Limits on Freedom of Expression" below.

<sup>29</sup> Reporters Without Borders, "Press Freedom Index," October 2002 [online], [http://www.rsf.fr/article.php3?id\\_article=4118](http://www.rsf.fr/article.php3?id_article=4118) (retrieved December 16, 2002).

<sup>30</sup> Committee to Protect Journalists, "CPJ Names Ten Enemies of the Press on World Press Freedom Day," May 3, 2001 [online], [http://www.cpj.org/enemies/enemies\\_01.html](http://www.cpj.org/enemies/enemies_01.html) (retrieved November 19, 2002).

<sup>31</sup> The National Council for Television and Radio Broadcasting exists as one the most influential regulators in the domestic media market, given its authority to withdraw or grant broadcast licenses. The council consists of eight members: four presidential appointees and four parliamentary appointees. Both the president and the Rada have the authority to remove individuals. From December 1998 to June 2000 the council remained inactive due to political fighting between the executive and legislative branches. See Katya Gorchinksaya, "Media Licensing Agency to Resume Work," *Kyiv Post*, June 15, 2000 [online], <http://www.thepost.kiev.ua/main/2872/> (retrieved October 24, 2002).

## Broadcast Media

Of Ukraine's 791 licensed television and radio companies, twenty-eight are state owned.<sup>32</sup> Five hundred twenty-two of them (63 percent) either do not broadcast or are barely solvent. There are fifty-nine cable television companies, which maintain about two million subscribers. The vast majority of television and radio stations are regional or local, including 322 television stations, 417 radio stations, and forty-four combined television and radio broadcasting stations.<sup>33</sup> The state-owned Ukrainian National Radio Company is the only station to have 100 percent national coverage. Other major stations included Nashe Radio [Our Radio], with 46 percent coverage, Dovira [Trust], with 33 percent, and Gala-Radio with 28 percent.<sup>34</sup> Ukrainian radio stations transmit foreign radio programs from the BBC, Deutsche Welle, Radio Free Europe, Radio Canada, and Voice of America.

In recent years, two of Ukraine's wealthiest individuals and prominent political figures have come to directly control or heavily influence all major Ukrainian television stations, except UT-1, which is state-owned. Viktor Pinchuk, son-in-law of President Kuchma and a Labor Party parliamentary deputy, maintains heavy investment in Novyy Kanal, STB, and ICTV, as well as the Dnipropetrovsk Channel 11.<sup>35</sup> Pinchuk's other media holdings include Ukraine's largest daily newspaper, *Fakty i komentarii* [Facts and Comments], and the Ukrainian News news service.<sup>36</sup> Novyy Kanal and STB both also receive significant Russian investment. SDPU(u) figure Oleksandr Zinchenko owns Inter, and SDPU(u) figures also own Studio 1+1.<sup>37</sup> Head of the Presidential Administration Viktor Medvedchuk also maintains financial commitments and influence over these stations, as well as UT-1.<sup>38</sup> An SDPU(u) leader, Hryhorii Surkis, owns TET, an important Kyiv local and regional station which reaches 12 percent of the nation.<sup>39</sup>

UT-1, owned by the National Television Company of Ukraine, is the only truly national television station, with coverage of more 98 percent of Ukrainian territory. The five other major stations broadcast over a significant portion of Ukrainian territory and are thus considered 'national': Studio 1+1 has 95 percent coverage; Inter has 62 percent coverage; and Novyy Kanal, STB, and ICTV each maintain about 25 percent coverage.<sup>40</sup> The three stations with largest coverage, UT-1, Studio 1+1, and Inter, account for nearly 90 percent of television advertising profits, with the remaining 10 percent divided among the other 828 stations.<sup>41</sup> According to AGB, a television audience data collection company, for July to September 2002, Studio 1+1 enjoyed 27 percent of the average market share, Inter 26.7 percent, Novyy Kanal 8.3 percent, ICTV 5.8 percent, STB 5 percent, and UT-1 4.6 percent.<sup>42</sup> Regional stations enjoy a much smaller market share and largely broadcast programs relevant to local interests. Russian channels such as ORT, RTR, NTV, and TV-6 air via cable and satellite and some

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<sup>32</sup> Ukrainian National Council of Television and Radio Broadcasting.

<sup>33</sup> Nathalia Gabor and Zoya Skoropadenko, "The Ukrainian Media Landscape."

<sup>34</sup> The European Institute for the Media, *Ukrainian Media Bulletin*, January 2002 [online], <http://www.eim.org/> (retrieved November 15, 2002).

<sup>35</sup> The European Institute for the Media, *Ukrainian Media Bulletin*, January 2002.

<sup>36</sup> In a ranking of the wealthiest people in Central and Eastern Europe, the Polish weekly news magazine *Wprost* [Directly] named Viktor Pinchuk the second wealthiest man in Ukraine, with a total net worth of U.S.\$1.3 billion. Pinchuk controls the Interpipe Company and one of Ukraine's largest banks among other important industrial holdings. Peter Byrne and Vitaly Sych, "Three Ukrainians Among Region's Wealthiest," *Kyiv Post*, October 24, 2002 [online], <http://www.kpnews.com/main/12104/> (retrieved October 24, 2002).

<sup>37</sup> Nathalia Gabor and Zoya Skoropadenko, "The Ukrainian Media Landscape."

<sup>38</sup> *Wprost* ranked Medvedchuk the third wealthiest person in Ukraine. In addition to large stakes in television and media companies, Medvedchuk controls several banks and the Dynamo-Kyiv soccer club. Byrn and Sych, "Three Ukrainians Among Region's Wealthiest."

<sup>39</sup> Katya Gorchinskaya, "Business Elite Eye Media Property," *Kyiv Post*, June 16, 2000 [online], <http://www.kpnews.com/diplaypr.php?arid=289> (retrieved October 24, 2002).

<sup>40</sup> Nathalia Gabor and Zoya Skoropadenko, "The Ukrainian Media Landscape" and The European Institute for the Media, *Ukrainian Media Bulletin*, January 2002.

<sup>41</sup> Nathalia Gabor and Zoya Skoropadenko, "The Ukrainian Media Landscape."

<sup>42</sup> AGB, "Ukraine Data: Average Market Share in Prime Time," October 2002 [online], [http://www.agb.com/public/countries/audiencedata/ukraine\\_1.htm](http://www.agb.com/public/countries/audiencedata/ukraine_1.htm) (retrieved December 13, 2002).

programs are retransmitted on Inter and other regional companies. Western Ukraine receives Polish, Czech, and Hungarian television programs.<sup>43</sup>

According to a November 2001 report by the National Broadcasting Council, feature films and soap operas dominate television programming. Both Novyy Kanal and ICTV dedicate more than 66 percent of broadcast time to this content, and Inter more than 50 percent. Films and soap operas are less frequent on UT-1, which offers more news and current affairs programs. About 20 percent of broadcasts on Studio 1+1, STB, and Inter are dedicated to news. On weekdays, Studio 1+1 offers between five and seven thirty-minute news programs a day at varying times, including a morning combined news-entertainment program, with the rest of programming largely dedicated to comedy shows, soap operas, films, and cartoons.<sup>44</sup> STB's news program *Windows* airs four times daily and has additional business and crime news programs. Other typical programs include a comedy show, imported programs including *Lifestyles of the Rich and Famous* and *Fantasy Island*, as well as frequent feature films.<sup>45</sup> Inter airs eight short news programs during morning and daytime hours, two evening news programs at 8:00 p.m. and 11:40 p.m., and varied entertainment programming, including the soap operas *In The Name of Your Love* and *Isabella*. Novyy Kanal also presents numerous serial dramas and feature films, as well as two five-minute morning news programs interspersed in its *Waking Up* morning show, one afternoon broadcast and two twenty-five minute evening broadcasts at 7:00 p.m. and 11:15 p.m.<sup>46</sup> All stations offer fewer news programs and more feature films on weekends.

### Print Media

As of October 2002, there were 355 national, 464 regional, and 1732 local newspapers registered in Ukraine, as well as 1,374 magazines. The European Journalism Center determined that, compared to twenty-six other European countries, Ukraine has the smallest total number of print media. Overall circulation is also quite low due to low incomes. The newspaper *Fakty i komentarii* has the largest circulation, selling 1,019,000 copies per day, followed by *Silski visti* [The Village News], which sells 476,000 copies per day, and the state paper *Golos Ukrainy* [The Voice of Ukraine] with a daily circulation of 180,000 copies. The national weekly *Dzerkalo tyzhnia* [The Weekly Mirror], known for its objective reporting, has a circulation of 48,000, just eight thousand more than the national daily *Den* [The Day].<sup>47</sup> *Uriadovyi kurier* [The Official Courier] and *Golos Ukrainy* are the main state-funded newspapers. During the 2002 parliamentary elections *Fakty i komentarii*, *Segodna* [Today], *Den* and *Kievskie vedomosti* [The Kiev Gazette] supported pro-presidential parties. *Silski visti*, *Ukraina moloda* [The Youth of Ukraine], and Yulia Tymoshenko's *Vechernie vesti* [The Evening Gazette] were the main papers supporting the opposition.<sup>48</sup> Most Ukrainian newspapers have large local or regional, rather than national, distribution. Most magazines do not enjoy wide circulation and are oriented towards specialized audiences.<sup>49</sup>

Ukrainian-language publications media comprise nearly 38 percent of registered print media, Russian-language publications, 22 percent, and bilingual publications, 20 percent. The daily circulation of Russian language press is about twenty-five million copies per day, compared to sixteen million copies of Ukrainian language press, concentrated largely in western Ukraine. Ukraine's Autonomous Republic of Crimea maintains numerous Crimean-Tatar language editions, although Russian-language print press dominates.<sup>50</sup>

### Internet Media

Ukraine has experienced an Internet boom in recent years, and currently over 500 different media sources can be accessed online. Most of these news sources are independent and are not associated with political parties

<sup>43</sup> Nathalia Gabor and Zoya Skoropadenko, "The Ukrainian Media Landscape."

<sup>44</sup> Channel 1+1, "Television Programming" December 19-25, 2002, [online], <http://www.1plus1.net/schedule/> (retrieved December 19, 2002).

<sup>45</sup> Television channel STB, "Television Programming," December 16- 22, 2002 [online], <http://www.stb.ua/tvcast/> (retrieved December 19, 2002).

<sup>46</sup> Novii Kanal, "Television Programming," December 16- 22, 2002 [online], <http://www.novy.tv/tv/> (retrieved December 19, 2002).

<sup>47</sup> Nathalia Gabor and Zoya Skoropadenko, "The Ukrainian Media Landscape."

<sup>48</sup> OSCE, "Ukraine: Parliamentary Elections 31 March 2002: Final Report."

<sup>49</sup> Nathalia Gabor and Zoya Skoropadenko, "The Ukrainian Media Landscape."

<sup>50</sup> Ibid.

or other interest groups. More than half (55 percent) of Ukrainian websites are run by media outlets and news agencies, 23 percent belong to political parties, 14 percent host forums and news sites, and eight percent are personal pages.<sup>51</sup> Ukraine has more than 320 online newspapers and journals, and most major print media have online versions.<sup>52</sup> The most popular Internet media source is the virtual magazine *Korrespondent.net*.<sup>53</sup> While the total number of users in Ukraine has also grown to more than two million, only 750,000 people regularly use the Internet, the majority of them being men (83 percent) between the ages of 20 and 29 (48.9 percent).<sup>54</sup>

### Limits on Freedom of Expression

Despite the large number and variety of news sources, the abolition of the pre-publication state censorship of the Soviet era, and the decriminalization of libel in 2001, numerous factors limit freedom of expression for journalists and editors of Internet, print, and television media alike. Violent attacks on journalists, which many believe to have been politically motivated, are common.<sup>55</sup> The most infamous of these were the murders of two journalists investigating corruption among political officials, Heorhii Gongadze in 2000 and Ihor Oleksandrov in 2001. Defamation suits against media outlets and individual journalists are frequent. Irrespective of the merits of individual cases, the enormous sums regularly claimed and often awarded in defamation actions threaten the survival of media critical of local and national political figures.<sup>56</sup> Most media outlets keep the official pay of journalists very low and supplement this salary through undocumented, under-the-table “envelope” payments, beyond the notice of the tax authorities.<sup>57</sup> In these circumstances journalists can be easily coerced through the threat of elimination of the bulk of their pay. No less importantly, journalists, particularly those based outside of the capital, also complain of the lack of government transparency and access to government information, despite a recent presidential decree designed to guarantee this right.<sup>58</sup>

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<sup>51</sup> Research company “Meta,” as quoted in European Institute for the Media, *Ukrainian Media Bulletin*, November 2001 [online], <http://www.eim.org/> (retrieved November 15, 2002).

<sup>52</sup> Yuri Onisimov, “Association for Progressive Communications European Internet Rights Project Country Report: Ukraine,” 2001 [online], [http://www.apc.org/english/rights/europe/c\\_rpt/ukraine.html](http://www.apc.org/english/rights/europe/c_rpt/ukraine.html) (retrieved December 16, 2002).

<sup>53</sup> Nathalia Gabor and Zoya Skoropadenko, “The Ukrainian Media Landscape.”

<sup>54</sup> Yuri Onisimov, “Association for Progressive Communications European Internet Rights Project Country Report: Ukraine.”

<sup>55</sup> Reporters Without Borders documented two murders, two jailings, eighteen attacks, and twenty-seven other incidences of pressure and intimidation against journalists in Ukraine during 2001. Reporters Without Borders, “Ukraine-Annual Report,” 2001 [online], [http://www.rsf.fr/article.php3?id\\_article=1785](http://www.rsf.fr/article.php3?id_article=1785) (retrieved September 9, 2002).

<sup>56</sup> According to the OSCE Representative on Freedom of the Media, “High libel fees have become one of the means that lead the media into bankruptcy and foster a climate of self-censorship.” OSCE Office of the Representative on Freedom of the Media, “Current Situation of Media in Ukraine,” March 2000 [online],

[http://www.osce.org/fom/documents/reports/country/rep\\_media\\_ukraine.pdf](http://www.osce.org/fom/documents/reports/country/rep_media_ukraine.pdf) (Retrieved January 6, 2003), p. 14. In 1998, *Vseukrainskie vedomosti* [All-Ukraine Gazette] was closed following a ruling in favor of the Dinamo-Kyiv football club that forced the newspaper to pay U.S.\$1.75 million for moral damages. Also in 1998, Minister of the Interior Yuri Kravchenko sued *Kyivskie vedomosti* over a series of critical articles regarding his work as a minister. The Starokiev District Court awarded him over U.S.\$2.5 million in damages, forcing the newspaper to discontinue publishing briefly before the decision was overturned by the Supreme Court. OSCE, “Current Situation of Media in Ukraine,” p. 10. From 1997 to 1999 officials initiated more than twenty criminal and civil libel suits against Oleh Liashko, editor of the opposition newspaper *Polytyka* [Politics], demanding more than U.S.\$40 million in damages. Prior to the 1999 presidential election, between March and June *Polytyka* was forced to change printing houses seven times and forced to close four times in thirteen months, following protracted litigation on allegations of violations of secrecy statutes. United States State Department, “Report on Human Rights Practices: Ukraine,” [online] <http://www.state.gov/g/drl/rls/hrrpt/1999/> (retrieved December 16, 2002). Since becoming editor-in-chief of *Svoboda* [Liberty], Liashko has faced other official interference. See “Ukrainian Authorities Crack Down on *Svoboda*,” Prima News Agency, March 3, 2002 [online], <http://www.prima-news.ru/eng/news/news/2002/3/28/9255.html> (retrieved December 16, 2002). In September 2002, a court required a local newspaper in Myrhorod, *Myrhorodskaia pravda* [Myrhorod Truth], to pay U.S.\$80,000 to former Presidential Cabinet representative Volodymyr Lanovyi, and seized the newspaper’s and editor’s assets to ensure payment. As of December 2002, the opposition newspaper *Vechernie vesti* faces fifteen defamation suits with requested damages totaling \$15 million. “Parliament Mulls Media Freedom,” RFE/RL Poland, Belarus, and Ukraine Report, vol. 4, no. 48 (December 17, 2002).

<sup>57</sup> Institute for Mass Information, “Mikola Tymenko: Independence of Ukrainian Media: Fight for Freedom,” n.d. [online], <http://en.imi.org.ua/articles/1035293440116/> (retrieved December 16, 2002).

<sup>58</sup> Presidential Decree, “On Additional Steps to Ensure Transparency and Openness of the State Bodies’ Activities,” N.683/2002, August 1, 2002. The decree proposes a study and a report to examine the implementation of the Law of Ukraine

The weakness of the Ukrainian economy limits the ability of independent media outlets to thrive as profit-generating businesses that rely exclusively on advertising and sales revenue. Journalists face little opportunity for job mobility and steady income. Economic instability has forced the majority of media outlets and journalists to accept sponsorship from major industrial or political interests in exchange for financial security. The Organization for Security and Cooperation in Europe (OSCE) as well as international and domestic media monitoring groups have noted that the concentration of media ownership frequently limits objectivity in news reporting and that personal or group interests and opinions dominate most media sources. Regional media are most vulnerable to pressure by owners and very often reflect the interests of local business and political interests. Print and broadcast media with a national scope are frequently owned or controlled by individuals close to President Kuchma and therefore most often follow a pro-Kuchma line.<sup>59</sup>

Media outlets' weak financial positions also leave them vulnerable to political pressure. While the law guarantees equal entry into the market for all potential participants, state-run or pro-presidential media outlets receive favorable rates for newsprint, state-owned offices, and distribution and postal services.<sup>60</sup> Endemic corruption and arcane tax and accounting regulations for businesses lead to falsification of financial records as a necessary tool for survival. As a consequence, most media owners face selective state harassment or closure "under the guise of perfectly legitimate law enforcement."<sup>61</sup> In addition, the OSCE, international and domestic monitoring groups, and several analysts have noted the government's use of arbitrary and harassing tax, fire, and health inspections to paralyze and close independent media outlets.<sup>62</sup> In one high-profile case, Taki Spravi [So It Goes], one of Ukraine's top three publishing firms, was subject to some thirty raids by the tax police between March and November 2002 after the publication of a biography of opposition leader and former Deputy Prime

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"On Information" and other normative legal acts. Non-governmental organizations will be invited to participate in the research and report.

<sup>59</sup> According to the OSCE Representative on Freedom of the Media, "State-owned media exist on state subsidies and non governmental media are controlled by financial-political clans that—depending on their loyalty to the authorities—determine the policy of the publication. That is why all media in Ukraine...serve the interests of the authorities or political and financial circles supporting them, and not the interests of readers or viewers." OSCE, "Situation of the Media in Ukraine." For examples and analysis see European Institute for the Media, "Preliminary Report on Monitoring of Media Coverage during the Parliamentary Elections in Ukraine March 2002," April 1, 2002 [online], <http://www.eim.org/Library.htm> (retrieved December 16, 2002), (The European Institute for the Media (EIM) is a Dusseldorf- and Paris-based think tank examining developments in European media and communications. The institute publishes monthly bulletins on the Ukrainian media in addition to other monitoring reports); International Research and Exchanges Board (IREX), "Media Sustainability Index-Ukraine," 2001 [online], [http://www.irex.org/pubs/msi\\_2001/](http://www.irex.org/pubs/msi_2001/) (retrieved September 10, 2002), (IREX is a United States-based nonprofit organization specializing in higher education, independent media, Internet development, and civil society programs in the United States, Europe, Eurasia, the Near East, and Asia); and Kharkiv Group for Human Rights Protection, *Freedom of Expression in Ukraine 2001* (Kharkiv: Kharkiv Group for Human Rights Protection, 2002).

<sup>60</sup> OSCE, "Current Situation of Media in Ukraine," pp. 6-7, and IREX, "Media Sustainability Index-Ukraine." On equal entry see Law of Ukraine "On Information," Verkhovna Rada resolution no. 2658-12, October 2, 1992; Law of Ukraine "On Television and Radio Broadcasting," Verkhovna Rada resolution no. 3760-12, December 21, 1993 (and amendments); Law of Ukraine "On Printed Mass Communication Media," Verkhovna Rada resolution no. 2783-12, November 16, 1992 (and amendments); and Law of Ukraine "On Information Agencies," Verkhovna Rada resolution no. 74a/95, February 28, 1995.

<sup>61</sup> IREX, "Media Sustainability Index-Ukraine."

<sup>62</sup> Ukrainian law allows for the operations of any organization to be suspended following a resolution by the Fire Safety Department, the Health and Anti-Epidemic Service or any other government structure. During a period of two and a half years, the newspaper *Den* was inspected more than thirty times by various state regulatory bodies. In 1999, the Health and Anti-Epidemic Service made claims against STB television, which were proven groundless. OSCE, "Current Situation of the Media in Ukraine," p. 10. In February 2002, the tax police searched the office of the Internet site, Obkom.net, seized documents and computers, and detained station employees. The State Tax Administration claimed that Obkom.net was connected to Koral Bank's money laundering schemes, had failed to pay its taxes, and was paying its employees illegally. The Chief Editor of Obkom.net believed the raid to be connected to its publication of articles critical of political figures, including the Head of the State Tax Administration, Mykola Azarov. European Institute for the Media, *Ukrainian Media Bulletin*, February 2002 [online], <http://www.eim.org/> (retrieved November 15, 2002). See also IREX, "Media Sustainability Index-Ukraine."

Minister Yulia Tymoshenko, *Unfulfilled Orders*.<sup>63</sup> Several prominent television and radio stations, including the Kyiv-based UTAR television station, Studio 1+1, and Radio Kontinent, all lost their broadcast licenses in recent years in controversial decisions by the National Council for Television and Radio Broadcasting (NCTRB).<sup>64</sup>

During the March 2002 election period there were numerous reports of direct action against media outlets. In January 2002, printers refused to publish the socialist newspaper *Rubezh* [The Border], prompting a hunger strike by the publication's journalists. In February and March 2002, Kyiv printing houses cancelled contracts to publish the opposition newspapers *Slovo batkivshchyny* [The Word of the Fatherland] and *Vechnie vesti*, forcing the owners to relocate their printing operation to western Ukraine.<sup>65</sup> In September 2002, fake copies of *Vechnie vesti* were circulated, calling on Kyiv residents not to join the protests.<sup>66</sup> One week before the elections, unidentified policemen stopped a truck carrying 107,000 copies of the *Svoboda* opposition newspaper and dropped them in a river. The police subsequently confiscated the reprinted edition at the publisher.<sup>67</sup>

#### IV. INFORMAL STATE CENSORSHIP THROUGH TEMNIKI

On September 3, 2002, the chairman of the Verkhovna Rada Committee for Freedom of Speech and Information, Mykola Tomenko, made public the existence of an unsigned instructional memorandum, alleged to have originated in the Presidential Administration, which contained detailed instructions for national television station managers concerning the portrayal of political events during news broadcasts. Tomenko had received the document from a top manager at a national television station. These secret directives, known as temniki, originally were sent to a few stations closely associated with the SDPU(u) in the autumn of 2001, in the pre-campaign period prior to the 2002 parliamentary elections. Editors, journalists, and media analysts reported that

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<sup>63</sup> According to the chief of the Smolensky District tax police, Volodymyr Furlet, his office was authorized to freeze Taki Spravi's bank accounts in June after the company failed to submit to authorized inspections. The tax police also accused the firm of being involved in money laundering, attempted to take court action that would force the sale of his business at auction, and later initiated a criminal case against the publishing house. Taki Spravi officials claim that, beginning in March 2002, they complied with numerous tax inspections, including inspections without warrants and armed inspections in which the firm's employees were threatened. Taki Spravi's director, Serhii Danyliv, claims that although he complied with the tax police's requests for documents, the authorities continued to conduct audits. Firm officials stated that the tax inspectors only requested documents related specifically to the book on Tymoshenko. Danyliv has initiated a counter suit against the tax inspectorate on the grounds that his business may be ruined as a result of the authorities' actions. He has also started proceedings before a U.S. court and the World Bank's International Center for Settlement of Investment Disputes. Peter Byrne, "A Taxing Ordeal," June 27, 2002 *Kyiv Post* [online], <http://www.kpnews.com/mail/11376> (December 19, 2002), Askold Krushelnicky, "Ukraine: Publisher Accuses Kuchma Government of Censorship, Harassment," RFE/RL *Media Matters* vol. 2, no. 47 (December 6, 2002) [online], <http://www.rferl.org/nca/features/2002/12/06122002190954.asp> (retrieved December 10, 2002) and "Interview: President of 'Taki Spravi': journalists understand that we are paid off old scores," *Telekritika* [online], [http://www.telekritika.kiev.ua/interview\\_eng/?id=3552](http://www.telekritika.kiev.ua/interview_eng/?id=3552) (retrieved December 19, 2002).

<sup>64</sup> The NCTRB determined that in 2001, some 70 percent of television and radio companies violated their licensing terms. European Institute for the Media, *Ukrainian Media Bulletin*, November 2001. Nevertheless, the council remains selective in its revocation of licenses, and many believe that the council's decisions lack objectivity and transparency. In April 2002, the NCTRB revoked the license of UTAR, one of the oldest independent Kyiv television stations. The popular station Studio 1+1 had its license revoked in February 2002, but continued to broadcast during the appeals process. In November the Supreme Economic Court dismissed the charges against Studio1+1 and declared the license valid. "The Court Battle for the Future of Ukrainian Television," RFE/RL *Media Matters* vol. 2, no. 33 (August 30, 2002) and "Supreme Economic Court Declared Valid Broadcasting License of 1+1 Studio," UNIAN, November 1, 2002 [online], <http://www.unian.net/eng/news/print-27385.html> (retrieved January 2, 2003). In December 2001, the NCTRB transferred the broadcasting rights of Radio Kontinent, which transmitted Deutsche Welle, the BBC, and Voice of America, to Onyks radio station, claiming that Onyks' bid for broadcasting frequencies "more fully reflects informational interests of Ukraine." Heorhii Gongadze had worked on Kontinent, a station known for its outspoken criticism of the government and Kuchma. "No more Deutche Welle, BBC for Ukrainians," Prima News Agency, January 9, 2002 [online], <http://www.prima-news.ru/eng/news/news/2002/1/9/8816.html> (retrieved October 24, 2002).

<sup>65</sup> The European Institute for the Media, *Ukrainian Media Bulletin*, March 2002 [online], <http://www.emi.org> (retrieved November 15, 2002).

<sup>66</sup> Taras Kuzio, "Ukraine Returns to Soviet Era Tactics to Subdue Opposition."

<sup>67</sup> The European Institute for the Media, *Ukrainian Media Bulletin*, March 2002.

by August 2002 distribution of temniki had expanded to all stations, and compliance with the instructions was more vigorously enforced through phone calls and intimidation on the part of members of the Presidential Administration.

Production editors and journalists normally encounter temnik instructions and other external directives as delivered to them by top station editors. They reported having seen the clearly identifiable documents in the hands of their supervisors. However, only the most senior station managers and editors-in-chief receive temniki; they are expected to determine an editorial policy in accordance with temniki guidelines and take necessary measures to ensure that they are fulfilled. Journalists from some stations reported that top editors openly discuss with production editors and newsmakers the existence of guidelines and the pressure they feel to guarantee compliance. Editors and journalists fear that failure to comply could result in potentially devastating inspections or withdrawals for the station, or demotion, salary cuts, or job loss for individuals.

Journalists reported that temniki have transformed the news-making process on national television. While Human Rights Watch could not confirm that temniki guided the presentation of all material appearing on news broadcasts, our research did confirm the existence of several clear trends in news programming across all television stations that are consistent with temnik guidelines. Both temniki available to Human Rights Watch and journalists' statements confirmed that temnik instructions direct television editors and journalists to cover events in ways that portray President Kuchma and the SDPU(u) favorably and that minimize or eliminate negative or controversial information about pro-presidential figures. In addition, the guidelines instruct newsmakers to present negative or misleading information about opposition politicians and parties, or ignore them altogether. The dominance of these trends in programming suggests that television editors and journalists have been induced to tailor their news broadcasts to the narrow framework established by the temnik guidelines. This editorial agenda is not simply attributable to the particular interests of individual station owners, managers, or editors, but rather is imposed by the government and expressed through subtle but effective coercion. Despite government denials of authorship or the existence of temniki, the instructions they carry clearly promote reporting biased in favor of Kuchma and the SDPU(u).

### **Temniki History**

A few newspapers and the two television channels most closely controlled by the SDPU(u) were the first to receive guidelines outlining news broadcasts in late 2001 during the lead-up to the March 2002 parliamentary elections. According to editors and journalists interviewed by Human Rights Watch, these stations' leaders responded by formulating editorial policy and supervising subordinates according to the instructions presented in the temniki guidelines. According to a major news figure working for one of these stations, the instructions from station leadership in this period, "were ...concentrated and clear, so that no one could say, 'I don't understand how the news should be presented.'"<sup>68</sup> Newsmakers soon became accustomed to editors' frequent instructions on political reporting that seemed to them to "depend[] on the mood of the president."<sup>69</sup> Although journalists were expected to comply with these instructions, a number of them told Human Rights Watch that they nevertheless felt free to include certain information prohibited by the instructions and produce balanced political news without facing negative repercussions.

Political pressure expanded from SDPU(u)-controlled channels to other television stations in the summer of 2002, not long after the appointment of Viktor Medvedchuk as the head of the Presidential Administration and the creation of the Department for Information Policy within the Presidential Administration in mid-2002. As a major news figure from a leading television station told Human Rights Watch, "In this period, systematic censorship on *all* channels emerged."<sup>70</sup> Not only were temniki being sent to all national stations, but editors and journalists felt increased pressure to comply with the directives' instructions. An editor from one station

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<sup>68</sup> Human Rights Watch interview with Denis D., station "A," Kyiv, October 17, 2002. In order to protect the identity of journalists interviewed by Human Rights Watch, the names of all interviewees and the names of the television stations on which they work have been replaced with pseudonyms. In some cases the location of interviews has been omitted. Other details that could reveal journalists' identity have also been omitted.

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

confirmed that after returning from a vacation in the summer 2002, he “immediately felt a sharp difference” in the pressure to edit news in accordance with the outside directives.<sup>71</sup>

In this period top station managers and editors also received more frequent phone calls from figures within the Presidential Administration insisting on compliance and threatening repercussions for stations and individuals who disobeyed the instructions. As a result, leading editors no longer simply established editorial limits but also exercised stricter oversight of the news content and pressured journalists to produce one-sided news, threatening them with negative consequences for non-compliance. Vadim V., an editor from a leading station, reported that by autumn 2002 temniki were no longer used exclusively by the station leadership to determine editorial policy, but also occasionally appeared in the newsroom, where journalists and production editors worked to determine broadcast materials.<sup>72</sup> Journalists noted that the expanded influence of temniki and increased outside pressure coincided with opposition parties’ preparation for nationwide anti-Kuchma demonstrations and efforts by leading politicians to lay the preliminary groundwork in advance of the 2004 presidential elections.<sup>73</sup>

### **Temniki Authorship**

According to editors and journalists, temniki typically arrive via fax or email on blank paper rather than on official letterhead and have no signatures or official stamps that could allow their origins or author(s) to be traced. Journalists speculate that individuals within the Presidential Administration write the temniki, under the tutelage of public relations specialists, and in some cases in cooperation with station managers or top editors. The anonymous nature of the temniki makes their existence easy to deny by both those responsible for their production and those within the executive responsible for media policy. The Head of the Presidential Administration’s Department for Information Policy, Serhii Vasiliev, announced, “We have not said... what issues the media is allowed to examine.”<sup>74</sup> An official at the State Committee for Information Policy, Television, and Radio Broadcasting, the executive body responsible for regulating the media and guaranteeing freedom of expression, told Human Rights Watch, “There is no state policy that condones censorship.”<sup>75</sup> He also denied the existence of the temniki.

Ukrainian authorities attribute perceived censorship in the media to the undue influence of owners and managers or foreign governments, but not the state. They further seek to shift the blame by accusing journalists or politicians who have openly discussed censorship or temniki of engaging in negative publicity, or political or financial opportunism. In a September 13, 2002 press conference, President Kuchma stated that Ukraine’s negative image in terms of freedom of speech was considerably exaggerated for political purposes.<sup>76</sup> In early October, Viktor Medvedchuk claimed that the first politician to publicly confirm the existence of temniki, opposition politician Mykola Tomenko, is himself the author of the temniki.<sup>77</sup> In response to the Verkhovna Rada’s hearings on censorship on December 5, 2002, Serhii Vasiliev stated that the journalists who spoke out against political censorship are all, “representatives and directors of mass media, which are funded by foreign grant makers... Thus, it is necessary to approach the leaders of those countries, which finance these projects, with requests to end censorship immediately.”<sup>78</sup>

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<sup>71</sup> Human Rights Watch interview with Vadim V., station “B,” Kyiv, October 11, 2002.

<sup>72</sup> Ibid.

<sup>73</sup> For details on some of President Kuchma’s political actions regarded as anticipatory of the 2004 elections, see Taras Kuzio, “Can Glasnost Save President Kuchma and His Regime?” RFE/RL Newsline, August 30, 2002 [online], <http://www.rferl.org/newsline/2002/08/300802.asp> (retrieved December 18, 2002).

<sup>74</sup> Peter Byrne, “Media Feeling the Squeeze on Eve of Protests,” *Kiev Post*, September 13, 2002 [online], <http://www.kpnews.com/main/11785/> (retrieved October 15, 2002).

<sup>75</sup> Human Rights Watch interview with Anatolii Murakhovskiy, first deputy chairman of the State Committee for Information Policy, TV and Radio Broadcasting, Kyiv, October 15, 2002.

<sup>76</sup> European Institute for the Media, *Ukrainian Media Bulletin*, September 2002 [online], <http://www.eim.org/> (retrieved November 15, 2002).

<sup>77</sup> Vakhtang Kipiani, “The Knight of Darkness and Temniki,” *Ukrainskaia pravda*, October 8, 2002 [online], [http://www.pravda.com.ua/cgi-bin/print\\_ru.cgi](http://www.pravda.com.ua/cgi-bin/print_ru.cgi) (retrieved October 30, 2002).

<sup>78</sup> “Vasiliev: Censorship was thought up by journalists, in order to receive money,” *Korrespondent.net* [online], [http://www.korrespondent.net/display\\_print.php?arid=60892](http://www.korrespondent.net/display_print.php?arid=60892) (retrieved December 6, 2002).



## **Temniki Format**

The standard temnik is an eight- to ten-page Russian language document sent weekly to television stations and some newspapers with detailed instructions related to the week's political events. Additional temniki with further instructions elaborating on specific political developments may also be distributed. Of the instructional documents available to Human Rights Watch, those issued in 2001 were titled "Temnik," whereas those issued in 2002 were titled "Press release" or "Additional commentary," but informally all are known as temniki.

Each temnik presents explicit and detailed instructions about which political topics should be covered, how this news should be interpreted, and in which order material should be presented during broadcasts. The tone of the guidelines is straightforward and civil. The standard temnik format consists of several subheadings, which include *Theme of the week*, *Fundamental themes of the week*, *Ongoing themes*, *Controversy*, *Additional themes*, and *Potential themes*. The *Additional themes* section includes information on topics that should be covered or ignored on specific days of the week. Under each of these subheadings, a particular theme is listed and then followed by one of three phrases—*Interpretation*, *commentary*, or the abbreviation *FIU* (for internal use)—after which explicit instructions are set forth for how each theme included under a subheading should be interpreted.

For the topics acceptable for broadcast, the *interpretation*, *commentary*, and *FIU* section of the temnik includes additional guidelines often requesting that certain aspects of events be highlighted or downplayed, to ensure the emergence of a pro-Kuchma and pro-SDPU(u) perspective. Sometimes these sections state that additional information will follow or that a certain theme will be further clarified. Temniki from 2001 occasionally gave the names of the people responsible for supplying this additional information. Additional information comes in separate temniki and may also come through other means, such as phone calls. Instructions may also include directives specific to certain types of media (newspapers or television stations) or specific media outlets. Instructions also may direct readers' attention to attachments of additional texts or press releases that sometimes accompany temniki.

## **Temniki Themes**

The temniki include instructions for newsmakers to portray President Kuchma favorably and avoid discussion of events that question his credibility. If a potentially controversial news item is deemed acceptable for inclusion in news broadcasts, the directives typically include instructions to avoid implicating the president. The activities of the SDPU(u) also figure prominently in the temniki. Many of the directives also address news topics related to freedom of expression. Temnik instructions often place a "request to ignore" under topics related to the opposition or call for a distortion in the presentation of the opposition to emphasize controversy, conflicts, and corruption.

### *Portrayal of Kuchma*

Some temnik "requests" regarding coverage of Kuchma appear unrelated to specific political controversy, but instead depict events with the aim of promoting the president's standing at a time when his domestic and international reputation had been damaged by scandals. A temnik titled "Additional commentary on events of week 36," issued for the first week of September 2002, includes under the *Fundamental themes of the week* section the topic: "President L. Kuchma's participation in the Global summit on sustainable development in Johannesburg (RSA)."<sup>79</sup> The instructions request that news broadcasts emphasize Kuchma's interactions with powerful European leaders and downplay his contact with African government authorities. "For presentation of the two sides of the meetings—a request to accent the President's discussions with representatives of the European political elite. A request to portray meetings with leaders of African states in an international economic context based on additional agreement."<sup>80</sup>

Some temniki seek to clarify Kuchma's position on controversial issues and others explicitly aim to shield the president from criticism. A temnik titled "Press release" and dated September 13 was issued shortly after Kuchma delivered his televised Independence Day public address. The speech drew negative public reaction, as many concluded that Kuchma intended to change the constitution in order to seek a third term or create conditions

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<sup>79</sup> Anonymous, "Additional commentary on events of week 36: for internal use," p. 1. Capitalization in the original.

<sup>80</sup> Ibid.

for transferring the presidency to his chosen successor.<sup>81</sup> The document opens with the request “to cover the day’s events in the following order on all this evening’s news bulletins,” and lists as the second point, “President Leonid Kuchma took part in an Internet Conference” with the *commentary*:

During the Internet Conference, President made several important announcements. Their basic theses:

- L. Kuchma will step down as president in 2004;
- L. Kuchma is convinced that Ukraine does not need a dictatorship anymore than any other country;
- L. Kuchma considers that his government is ready for dialogue with the public, but society is not ready for this. ‘Open government is a two-way street.’<sup>82</sup>

Similarly, “Additional commentary for events of week 36” states in the *Additional themes* section for September 3 that, “A ‘round table’ discussion of political reforms in Ukraine begins at 15:00. FIU: Request to exclude from broadcasts any theses placing under doubt the seriousness of the president’s initiatives.”<sup>83</sup> Ironically, it was at the September 3 roundtable discussion on political reform that Mykola Tomenko first revealed the existence of *temniki* and used the *temnik*, “Additional commentary for events of week 36,” as evidence.

“Additional commentary for events of week 36” contained directives to eliminate information about other cases in which Kuchma had been implicated in possible wrongdoing. In late July 2002, eighty-three people had been killed and more than one hundred people injured when a military aircraft crashed into a crowd of spectators at an air show at the Skniliv airfield in Lviv. Kuchma and military officials came under attack for safety failures that may have contributed to the accident.<sup>84</sup> In relation to this, the final point of the *Additional themes* for September 3 states, “Forty days have passed since the airplane accident at the Skniliv airfield. FIU: A request to ignore the attempts of political parties to turn the fortieth-day [anniversary] of the tragedy into a political show.”<sup>85</sup>

While Human Rights Watch is not aware of any *temnik* instructions on initial coverage of the criminal investigation of Kuchma announced in October 2002, the response by television news programs when the story broke followed a clear pattern, indicating external pressure. In what one journalist described as a “day of shame for Ukrainian television” on October 15, channels either ignored or reported only in midnight broadcasts on the decision of a Kyiv appellate court judge to open a criminal case against President Kuchma on charges of corruption and abuse of power. In response to this important event, on its prime time evening news program, Studio 1+1 “simply was silent. Not a single word. Zero reaction.”<sup>86</sup> The station broadcast some information on a late night show starting just before midnight. Similarly, both STB and Novyy Kanal included the opening of the criminal case against the president as a news item only in late night programming; it received no mention on the main evening newscasts. The state channel UT-1 did not comment on the initiation of the case in its main evening news broadcast at 9:00 p.m. When UT-1 did describe the event in its late night news program, the text focused on the unfairness of the case. On Inter’s prime time news program, the topic appeared eighth in the news order, well after other material, including the arrival of the Estonian president in Odessa. ICTV proved to be the

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<sup>81</sup> The speech was made on August 24, 2002, the eleventh anniversary of Ukrainian independence from the Soviet Union. In this speech he proposed the transformation of Ukraine from a presidential to a parliamentary-presidential republic. There was speculation that this proposal was made only in reaction to the opposition protests demanding greater democracy and possibly designed to create the conditions under which Kuchma might be able to serve a third term or for his chosen successor to be elected. Taras Kuzio, “Can Glasnost Save President Kuchma and His Regime?”

<sup>82</sup> Anonymous, “Press release,” September 13, 2002.

<sup>83</sup> Anonymous, “Additional commentary on events of week 36: for internal use,” p. 4.

<sup>84</sup> Kathleen Knox, “Ukraine: Opposition Turns Up Heat On Kuchma Over Tragedies,” RFE/RL August 2, 2002 [online], <http://www.rferl.org/nca/features/2002/08/02082002160340.asp> (retrieved December 31, 2002) and “Ukraine Mourns World’s Worst Air Show Tragedy,” RFE/RL Newline July 29, 2002 [online], <http://www.rferl.org/newline/2002/07/290702.asp> (retrieved December 19, 2002).

<sup>85</sup> Anonymous, “Additional commentary on events of week 36,” p. 4.

<sup>86</sup> Leonid Amchuk, “Day of Shame for Ukrainian Television,” *Ukrainskaia pravda*, October 17, 2002 [online], <http://www.pravda.com.ua/ru/archive/?21017-4-new> (retrieved October 29, 2002).

only station that covered the criminal case in its standard evening news program, but as the fifth item of news.<sup>87</sup> In contrast, the case received attention in major international newspapers, including the *New York Times*, the *Washington Post*, and *Berliner Zeitung*, as well as Polish and Russian press.

### *Freedom of Expression*

Controversial issues related to freedom of expression are also a topic of concern for temnik authors. For example, the temnik “Additional commentary for events of week 36” included reference to a press conference to be held by the publishing house Taki Spravi, which had recently come under the scrutiny of the tax authorities after the publication of a controversial biography of Yulia Tymoshenko.<sup>88</sup> The press conference’s stated theme was: “The tax police began concrete actions directed towards the illegal seizure of ‘Taki Spravi’ property. They should answer for their violations of the law.”<sup>89</sup> Temnik instructions requested that news broadcasts ignore this press conference. Two other *Additional theme* items related to freedom of expression also included “request to ignore” instructions. These were points 13 and 19, which read, respectively: “At 10.00 a ceremony will begin for the opening of the Arpad Gense Ukrainian-Hungarian Institute for Informational Technology,” and “The commission for journalistic ethics and the non-governmental organization ‘Charter-4’ are resuming their trip through Ukraine. On September 2-3 representatives of the commission will visit Lviv.”<sup>90</sup>

Some events related to freedom of speech are deemed appropriate for coverage, albeit with a particular interpretation. “Temnik 11” from December 2001 noted that local and international organizations were planning an Internet conference for December 10 entitled “Media and Elections.” The *interpretation* of this event lists specific questions for journalists to ask participants, including a question for Yulia Mostovaia, the editor of *Zerkalo nedeli*, a publication known for its independent stance. The temnik requested specifically that journalists should ask Mostovaia, “[Articles]... that function as political advertising have appeared in your newspaper. Will you continue to support this practice? If yes, then go ahead and say, which party will your newspaper support during the elections?”<sup>91</sup>

“Temnik 10” and “Temnik 11” addressed other media issues. The *Controversy* section of both documents includes a topic entitled “Negative discussion of the SDPU(u) in the mass media. The basic accusation is monopolization of the media.” The interpretation was not elaborated in either temnik, but was to “be distributed additionally” with a contact person specified.<sup>92</sup> Point 21 of “Temnik 10” under *Additional themes* described parliamentary activities for December 5 and attempted to portray debate on the National Council for Television and Radio Broadcasting as simple political infighting:

The Verkhovna Rada committee of freedom of speech and information is holding a conference at which they will examine amendments to the current legislation on television and radio, which aim to increase the inspectorate functions of the NCTR. The relationship of parliament to the report of the National Council of Ukraine for television and radio broadcasting (NCTR) may be biased by the proximity of the elections, announced chairman of the Verkhovna Rada Committee on freedom of speech and information [and top SDPU(u) official] Aleksandr Zinchenko. In his words, the committee is analyzing ‘the exceptional professional activities of the NCTR, and the [parliamentary] hall divides according to political tastes, passionately, without analysis of the essence of the questions.’<sup>93</sup>

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<sup>87</sup> Amchuk, “Day of Shame.”

<sup>88</sup> See note 63 above.

<sup>89</sup> Anonymous, “Additional commentary on events of week 36,” p. 3.

<sup>90</sup> Ibid. Charter 4 is a Ukrainian non-governmental organization founded by several prominent journalists that promotes journalistic integrity and conducts monitoring of the media.

<sup>91</sup> Anonymous, “Temnik 11,” December 9-15, 2001, p. 5.

<sup>92</sup> Anonymous, “Temnik 10,” December 2-8, 2001, p. 3. The name of the contact person has been omitted.

<sup>93</sup> Ibid., p. 6.

### *Activities of the SDPU(u)*

Temnik instructions also concentrate on activities of the SDPU(u) and its leader Viktor Medvedchuk. “Temniki” 10, 11, and 12 covering the final three weeks of December each contained instructions related to various national events that presented opportunities for the SDPU(u) to receive positive coverage. These temniki also conveyed instructions for describing events related to the dismissal of Viktor Medvedchuk from the post of deputy chairman of the Verkhovna Rada.

The *Fundamental themes of the week* for “Temnik 10” included first “the activities of the SDPU(u)” and the theme: “presentation of the revitalized SDPU(u) [web]site.” The temnik made clear that this event was to be interpreted as follows:

The SDPU(u) is using the internet not only as a means for information (here it is obvious that Our Newspaper+ is better at this), but as a means of communication in the system: Leader [and] party members, party [and] supporters, press group [and] journalists, public archive [and] analysts. The SDPU(u) invites even the harshest statements into debates on its forums. In the near future personal sites of leaders and a forum for questions about social democracy will be added. On December 5, a press conference with A. Zinchenko is planned (press release attached).<sup>94</sup>

Other domestic events also presented opportunities for the SDPU(u) and its members to receive positive news coverage. For December 4, 2001 the *Additional themes* of “Temnik 10” noted:

The national academy of science of Ukraine together with the Fund for intellectual cooperation ‘Ukraine XXI’ is holding a presentation of the first two volumes of the five-volume publication, “History of Ukrainian Culture.... Interpretation: Present [this theme] fully, show a picture. SDPU(u) member [...] cares about culture.”<sup>95</sup>

Similarly, in “Temnik 11,” the *Additional themes* for December 10 described another opportunity for SDPU(u) activities to be highlighted. Point sixteen reads:

[International] Human Rights Day. On December 10, 1948 the UN General Assembly adopted the Universal declaration on human rights. It has been celebrated throughout the world since 1950. Interpretation: Connect this to the Law on Languages. In this way, the SDPU(u) defends human rights.<sup>96</sup>

In the *Controversy* section of “Temnik 10,” point 10 recognizes, “the appearance [in parliament] of projects, analogous to SDPU(u) projects.” This event was to be interpreted to suggest that:

The projects begun by the SDPU(u) find support from other parties. There it is—leadership. Of ideas. The return of the possibility of a social-democratic majority in the future parliament. They have joined our initiatives. What may this stand for but that Medvedchuk will become not only the Leader of the SDPU(u)...<sup>97</sup>

For December 6, “Temnik 10” offers instructions regarding the relevance of international diplomatic events to the SDPU(u)’s political projects. Point 22 suggests that if Ukrainians chose to elect the social democrats in the March elections, the country would have the unique potential to achieve political and social conditions approaching those found in one of Europe’s most economically and politically powerful countries, Germany:

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<sup>94</sup> Anonymous, “Temnik 10,” pp. 1-2. *Our Newspaper+* is the official SDPU(u) party newspaper.

<sup>95</sup> Ibid., p. 5. The name of the SDPU(o) official has been omitted.

<sup>96</sup> Anonymous, “Temnik 11,” p. 5.

<sup>97</sup> Anonymous, “Temnik 10,” pp. 3-4.

German Chancellor Gerhard Schroeder will visit [Ukraine]. The fourth round of high-level Ukrainian-German talks will take place.... Interpretation: Schroeder is the head of a country in which the social democrats and greens created a [coalition] government. Try to imagine what kind of Ukrainian government might exist if it was created by the social democrats and the greens.<sup>98</sup>

The December temniki also included detailed instructions for covering events related to the dismissal of SDPU(u) leader Medvedchuk from his post as vice chairman of the Verkhovna Rada.<sup>99</sup> “Temnik 10” begins its *Fundamental themes of the week* with: “[The SDPU(u)] collected signatures for the VR’s [Verkhovna Rada] passage of the ‘law on languages.’”<sup>100</sup> The ‘interpretation’ suggested that any attempt to oust Medvedchuk should be linked to his position on the language law. It stated:

Fundamental interpretation is based on the text of [then-Chairman of the Verkhovna Rada Committee on Freedom of Speech and Information and prominent SDPU(u) politician] Zinchenko’s presentation in the VR (text in attachment). It is necessary to present the issue such that the SDPU(u) members are the main initiators. There were many versions [of the law], but [the version proposed by] Medvedchuk prevailed, [and] the signatures were collected. Accentuate all seven languages (Hungarian, Romanian) in a list not starting with Russian. If the law will be passed, then the so-called “Russian Block” may self-destruct and the communists will lose not less than 5% percent of the total number of voters. As a result [of these political losses], a collection of signatures for the dismissal of Medvedchuk began.<sup>101</sup>

The *Theme of the Week* of “Temnik 11” also addresses “The collection of signatures for the dismissal of Viktor Medvedchuk,” and offers a detailed interpretation:

We are concerned that the right and the left are collecting signatures. It is necessary to protect Medvedchuk—to remember his promotion to the post of first vice speaker, how many important laws the Rada has passed in this time, etc. Connect all positive aspects of the parliament during the session conducted by Medvedchuk to him personally....<sup>102</sup>

After Medvedchuk’s dismissal on December 13, 2001, “Temnik 12” addressed the topic and its repercussions in one-and-a-half pages of *Interpretation*. The *Theme of the week* was “The Dismissal of V. Medvedchuk from the post of first vice speaker of the VR.” Additional commentary follows: “Numerous parties

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<sup>98</sup> Ibid., p. 6.

<sup>99</sup> On December 13, 2001, 234 members of the Verkhovna Rada voted to dismiss Medvedchuk. The factions that gathered the 150 signatures to place the motion of a dismissal included the Socialist and Communist Parties, as well as some centrist and some right-leaning parties. “Oligarchic Social Democrats Suffer Setback,” RFE/RL, *Poland, Belarus, Ukraine Report* vol. 3, no. 48 (December 18, 2001) [online], <http://www.rferl.org/pbureport/2001/12/48-181201.html> (retrieved December 11, 2002).

<sup>100</sup> Anonymous, “Temnik 10,” p. 1.

<sup>101</sup> Ibid. During the pre-election period, the SDPU(u) worked to garner additional support from Russian language speaking parts of Ukraine. The SDPU(u)-sponsored law on languages would have defined the legal status of Russian as a ‘state’ but not ‘official’ language. Taras Kuzio, “Russia Gives Ukraine a Helping Hand in its Elections,” RFE/RL Newline vol. 6 no. 13, Part 2, January 22, 2002 [online], <http://www.rferl.org/newline/2002/01/220102.asp> (retrieved December 23, 2002).

<sup>102</sup> Anonymous, “Temnik 11,” p. 1. “Temnik 11” also focuses on the importance of Medvedchuk’s leadership with respect to Ukraine’s international standing. For December 11, *Additional theme* thirty-five notes that: “The Monitoring Committee of the Council of Europe’s Parliamentary Assembly is planning to examine the Ukraine’s fulfillment of its Council of Europe obligations.” The interpretation details Medvedchuk’s role in this:

“On December 7, during a meeting with the Chair of the Council of Europe Committee of Ministers, the Latvian Minister of Foreign Affairs, V. Medvedchuk announced that Ukraine had passed the majority of laws and codices related to its Council of Europe obligations. That is, the majority of commitments have been made. The remaining open question is the final legislation regulating legal conflicts that have emerged in the voting on the passage of the ‘European Charter on Regional and Minority Languages.’ Connect this to the necessity to regulate the status of the Russian language through laws! Quote this as the position of Medvedchuk when illustrating the work of the committee.” “Temnik 11,” pp. 5-7.

and individual politicians evaluated this event as ‘a strong PR step for the SDPU(u).’ There are suggestions that for the party, new perspectives for strengthening the effectiveness of its pre-election campaign are opening.” The interpretation of these events instructed newsmakers to emphasize that:

... unless Medvedchuk himself had not forced the vote, then it is possible to say with great certainty that the dismissal would not have occurred ... What took place on December 13 was an impulsive gesture by a proud man, ‘You don’t trust me? Then vote.’ ... In the end they have gotten themselves an unmanageable and ineffective parliament for the next three months ...<sup>103</sup>

The text that follows interpreted the political context that precipitated the dismissal:

Nationalists and the Communists joined forces for the vote [on the dismissal] in order to deliver a blow to the center. This is a very worrying symptom ... This alliance can become a destructive force, the actions of which will lead to unpredictable consequences.<sup>104</sup>

Specific instructions are included for media outside of the capital:

Separate line for regional media- a source within the PA [Presidential Administration] revealed that the dismissal of Medvedchuk was constructed by Bankova [the central Kyiv street where the Presidential Administration is located] in order to replace Kinakh with Medvedchuk in the post of premier ... That is why Kinakh is so scared. Medvedchuk is now considering [the offer], but judging from everything, he will doubtfully agree. It is not advantageous for him; his hands will be tied. For regional media—the line ‘develop courage, vote for Medvedchuk.’<sup>105</sup>

And the final interpretation discusses other ways in which to present Medvedchuk:

For all media: Widely discuss ‘Who is Medvedchuk?’ Use the information line about his dismissal in order to show him not only as a politician, but as a Personality. Offer a portrait, appraisals of Medvedchuk by people close to him. Begin to accent the changes in Medvedchuk’s demeanor. He appears with out a tie, playing golf, he’s changed the color of his suit, frequently smiles, jokes. The man is changing.<sup>106</sup>

### *Portrayal of Opposition Politicians*

Temniki instructions also offer detailed information for covering the activities of opposition figures and parties, in particular the most popular politician in Ukraine, Viktor Yushchenko and vocal opposition politician, Yulia Tymoshenko.<sup>107</sup> The events related to the September 16 opposition protest, described above, also received significant attention in the temniki. Journalists confirmed that editors pressured them to comply with the instructions.

Journalists told Human Rights Watch that top management consistently requested that they “change the context” in which Viktor Yushchenko appears and that Yushchenko and his “Our Ukraine” bloc are to be portrayed as mired in internecine conflict or in disagreement with other members of the opposition.<sup>108</sup> The temniki call for precisely such coverage. In its discussion of the forthcoming 2002 parliamentary elections,

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<sup>103</sup> Anonymous, “Temnik 12,” December 16- 22, 2001, p. 1.

<sup>104</sup> Ibid.

<sup>105</sup> Anonymous, “Temnik 12,” p. 2.

<sup>106</sup> Ibid., p. 2.

<sup>107</sup> According to an October 2002 poll conducted by the Ukrainian Razumkov Center for Economic and Political Studies, if presidential elections had been held in October, Yushchenko would have received 24 percent of the vote, well ahead of Communist Party leader Petro Symonenko (10 percent), Tymoshenko (6.3 percent) and Viktor Medvedchuk (5.9 percent). “Yushchenko holds lead in opinion polls,” Interfax-Ukraine, November 2, 2002 [online], <http://www.pravda.com.ua/en/archive/?2112> (retrieved November 20, 2002).

<sup>108</sup> Human Rights Watch interview with Valentin V., station “D,” November 8, 2002.

“Temnik 10,” listed an item called “Yushchenko’s Activities,” which addressed the removal of some members from the “Our Ukraine” party. It proposed an *interpretation* that “... ‘ethnic cleansing’ is taking place. ... Altogether, incomprehensible things are happening with their party list. ... A big scandal is in the works for the party conference.”<sup>109</sup>

“Temnik 11” addresses similar themes. “The activities of Yushchenko and ‘Our Ukraine’” are included under the *Fundamental themes of the week* section, with a long interpretation that states “it is important to show that Yushchenko’s supporters, who want to get into parliament on the party list, won’t make it” due to complications in bloc and party quotas.<sup>110</sup> In addition, the conferences of three parties that participate in the Our Ukraine bloc were scheduled for the same day. The interpretation of these developments suggests:

[O]bviously, this reflects a split in the bloc. They didn’t agree. It will not be possible to achieve effective PR with conferences being held on the same day...<sup>111</sup>

One correspondent also noted that news broadcasts on his station also focused on Yushchenko’s conflicts not only within his own party, but with members of other opposition parties. “If Yushchenko is shown, he is in conflict with another side: [Socialist Party leader Oleksandr] Moroz criticized Yushchenko.”<sup>112</sup>

In “Additional commentary for events of week 36,” the subheading titled *Themes for presentation in Sunday television programs* lists “The reaction of society and politicians to President L. Kuchma’s address to the Ukrainian people on August 24, 2002.” Here, the instructions portray Our Ukraine as struggling to communicate a coherent message and Yushchenko as rethinking his presidential aspirations. The *For internal use* directive provides detailed instructions for newspapers and television stations:

A request for newspaper materials . . . to demonstrate the contradictory position of ‘Our Ukraine’ in relation to L. Kuchma’s television address [on August 24, Ukrainian Independence Day]. On the one hand, ‘OU’ says that its bloc has considered a transformation to a parliamentary-presidential republic to be necessary, and on the other hand notices that ‘now is not the time’ for a change of political systems; society and politicians [sic] aren’t ready. On the one hand, ‘UO’ is against the interference of the PA [Presidential Administration] in the structuring of parliament, and on the other hand, requests the president’s cooperation in forming a majority around ‘OU.’ Which of the pronouncements of V. Yushchenko are we to believe? These unbalanced and contradictory reactions of V.Yu. may provide evidence that he is nervous and recognizes the possibility that his hopes for the presidential seat are lost.<sup>113</sup>

Along similar lines, journalists reported receiving instructions never to show photos or videos of certain members of the opposition and to show other opposition figures only on occasion, as when speaking on non-political issues. A news editor at station “F” described this very simple equation: “No information on a person means that, for the television audience, that person does not exist.”<sup>114</sup> Journalists consistently stated that among topics they were expected to ignore, prominent opposition politician Yulia Tymoshenko ranked first. One journalist told Human Rights Watch that the top editors of his station told him in advance of the autumn 2002 protests: “We need to eliminate [images of] Tymoshenko.”<sup>115</sup> A prominent newsmaker from another station stated, “With respect to Tymoshenko, the editors say, quite clearly: No.”<sup>116</sup> Yet a third journalist stated, “The

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<sup>109</sup> Anonymous, “Temnik 10,” p. 2.

<sup>110</sup> Anonymous, “Temnik 11,” pp. 1-2.

<sup>111</sup> Ibid. Bold in original.

<sup>112</sup> Human Rights Watch interview with Pavlo P., station “F,” Kyiv, October 19, 2002.

<sup>113</sup> Anonymous, “Additional commentary on events of week 36,” pp. 2-3. Translator’s note: misspelling/typographical error “politicians” in the original. Yushchenko and Viktor Medvedchuk are considered to be the leading contenders in the 2004 presidential elections.

<sup>114</sup> Human Rights Watch interview with Valerii V., station “F,” Kyiv, October 11, 2002.

<sup>115</sup> Human Rights Watch interview with Pavlo P., station “F,” Kyiv, October 19, 2002.

<sup>116</sup> Human Rights Watch interview with Denis D., station “A,” Kyiv, October 17, 2002.

strictest taboo applies to Tymoshenko.”<sup>117</sup> While it is unclear whether journalists cited such instructions as a result of particular *temniki* or as a result of other forms of external pressure, *temniki* consistently call for biased reporting on Tymoshenko. In “Temnik 11,” the *Additional themes* for December 10 addressed the fact that “The leader of the Yulia Tymoshenko bloc will hold a press conference ‘New rules, new conditions for political games,’” with the *interpretation*, “REQUEST TO IGNORE.”<sup>118</sup>

In its instructions for December 17, “Temnik 12” similarly directs journalists to ignore the following entry on Tymoshenko: “The Kiev Pecherski district court is examining Yu. Tymoshenko’s case appealing the grounds used as the basis of her dismissal from the post of vice-premier.”<sup>119</sup> However, other aspects of the controversy surrounding Tymoshenko and the criminal cases against her and her associates remained an acceptable topic for coverage. In “Temnik 11,” for December 12, the *Additional themes* noted that a California court was holding hearings on money laundering charges against former Prime Minister Pavlo Lazarenko.

Interpretation: Connect this to Tymoshenko, [Socialist Party of Ukraine leader Oleksandr] Moroz. The ‘Master’ and his ‘family.’ Post the prepared drawings of their relations (‘genealogical tree’) on the Internet, then circulate it in the official media. (Responsible- [ ]). Prepare a series of caricatures, ‘family order in laundering dirty money.’<sup>120</sup>

*Temniki* also “requested” negative coverage of Tymoshenko’s supporters. The September 13 “Press release” noted that:

The Head of the State Tax Administration has commented on the detention of an assistant to Rada Deputy Oleksandr Turchynov of the Yulia Tymoshenko bloc with a large sum of cash. Commentary: The event is relevant and timely. Videos of the detention will be distributed. Request to give [this topic] broad coverage.<sup>121</sup>

“Additional commentary on events of week 36” details other kinds of information about the opposition that are acceptable for publication and broadcast. In discussing Our Ukraine’s organization of a conference, called the All-Ukrainian Forum of Democratic Forces, the *temnik* gives instructions to highlight the problems and probable failure of the forum irrespective of any reforms that its leader, Viktor Yushchenko, may attempt to institute.<sup>122</sup>

Informational work on the so-called “Forum of Democratic Forces” will go according to the following logical sequence:

- The ‘Forum’ is actually a gathering of selected representatives of [political] parties.
- Far from all the forces intending to participate in the event can be called ‘democratic’ (for example the SNPU of O. Tiagnibok).<sup>123</sup>
- Yushchenko should remove from the list of participants people who are far from democracy and determine the rules for participation in the ‘Forum.’ Then more truly democratic forces will be prepared to participate.
- If V. Yu. does not do this, he risks utterly discrediting the ‘forum’ in the eyes of society.

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<sup>117</sup> Human Rights Watch interview with Valentin V., station “D,” November 8, 2002.

<sup>118</sup> Anonymous, “Temnik 11,” p. 5. Point sixteen of this section noted the observance of International Human Rights Day on this same day, December 10.

<sup>119</sup> Anonymous, “Temnik 12,” p. 4.

<sup>120</sup> Anonymous, “Temnik 11,” p. 8. Name of contact person withheld.

<sup>121</sup> Anonymous, “Press release,” September 13, 2002.

<sup>122</sup> The forum was designed to address the continuing political crisis and threats to Ukrainian democracy. In an open letter to President Kuchma, Our Ukraine called on the authorities to participate in the forum “for the sake of the consolidation democratic forces, formation of a parliamentary majority and a coalition government.” “Our Ukraine Calls on President to Show his Commitment to Democracy,” *Kyiv Post*, September 6, 2002 [online], <http://www.kyivpost.com/opinion/11741/> (retrieved December 21, 2002).

<sup>123</sup> The Social-Nationalist Party of Ukraine, headed by Oleksandr Tiagnibok, is a small right-wing party that espouses neo-Nazi views.



- If V.Yu. ‘cleanses’ the list and brings order to its formulation, dozens and dozens of different parties and organizations are expected to send letters with demands to participate in the ‘forum’s’ organizational committee. As a result there will be a chance of a ‘watering down’ and ‘disruption’ of the ‘forum,’ and the event risks becoming ridiculous.<sup>124</sup>

This temnik also suggested other topics for coverage on the day of the Forum, which was to take place on September 15, the eve of the “Rise Up Ukraine” protest:

It would appear expedient to ‘revive’ the scandal at the ‘Orliat’ cemetery in Lviv [A Ukrainian-Polish disagreement over a Polish war memorial] in order to redirect the protest potential of the city’s people in another direction. Cardinal Liubomir Guzar is available for interview.<sup>125</sup>

#### *Activities of Opposition Parties*

Temniki also include requests to ignore particular events related to opposition parties. “Temniki” 10, 11, and 12 of December 2001 all included information about pre-election party conferences, with most of them acceptable for coverage. However, “Temnik 10” listed a “Request to ignore” the “Party conference of [opposition youth party] Moloda Ukraina.”<sup>126</sup>

#### September 16 Demonstrations

Temniki and Human Rights Watch interviews demonstrated that coverage of the opposition parties’ “Rise up Ukraine” movement and the anti-Kuchma protests scheduled for the anniversary of the death of Heorhii Gongadze on September 16 was closely regulated. The *Ongoing themes* section of “Additional commentary on events of week 36,” distributed less than two weeks before the demonstrations, stated:

The opposition is preparing to carry out street demonstrations on September 16, 2002. FIU: This theme is only for print and Internet publications. Request to exclude [this topic] from television broadcasts.<sup>127</sup>

More explicitly, in the *Additional themes* section of the same temnik, for September 2, 2002, point 18 states, “A press conference on the theme ‘Rise up Ukraine’ begins at 11.00 FIU: Request to ignore.”<sup>128</sup> Journalists confirmed that in the weeks prior to the Kyiv demonstrations, there was very little coverage of demonstrations that had already begun in some of the regions, or of any other of the opposition’s activities.<sup>129</sup>

Despite the fact that the demonstrations were held on the anniversary of the disappearance of murdered journalist Heorhii Gongadze, television stations offered no mention of him or his still unsolved case.<sup>130</sup> The last point of the September 13 “Press release,” distributed in the final days before the demonstrations, included information requesting that stations ignore one important reference to Gongadze. This document requested that stations disregard a statement by Yurii Karamzin, a member of parliament, that he had “received information as to the whereabouts of Georgii Gongadze’s head.”<sup>131</sup>

As the protests drew closer, the temniki requested that channels provide coverage emphasizing negative aspects of the protests. In the September 13 “Press release,” instructions requested that news programs discuss at length the Shevchenko District Court decision to ban the protests from the center of Kyiv. In addition, the document described as “important and timely” a statement adopted by the Presidium of the Ukrainian Trade

<sup>124</sup> Anonymous, “Additional commentary on events of week 36,” p. 2. Translator’s note: inconsistencies in capitalization of Forum/forum in the original.

<sup>125</sup> Anonymous, “Additional commentary on events of week 36,” p. 2.

<sup>126</sup> Anonymous, “Temnik 10,” p. 8.

<sup>127</sup> Anonymous, “Additional commentary on events of week 36,” p. 4.

<sup>128</sup> *Ibid.*, p. 3.

<sup>129</sup> Human Rights Watch interview with Yurii Y., station “A,” Kyiv, October 9, 2002.

<sup>130</sup> *Ibid.*

<sup>131</sup> Anonymous, “Press release,” September 13, 2002.

Unions Federation (TUF) saying that support for the September 16 protests was “not expedient” and recommending that TUF chairman not take part “in this and other political actions.”<sup>132</sup>

Similarly, journalists reported that in the days prior to the demonstrations, all channels aired a series of speeches delivered by religious leaders and the regional governor dissuading people from participating in the protests. These highly public figures described the events as hooliganism and as disturbances to public order.<sup>133</sup> Television stations also ran regular reports by the Ministry of the Interior about hospitals stocking up on medical and emergency supplies.<sup>134</sup> The September 13 “Press release” also described as “important and timely,” a speech by Presidential Administration Head Viktor Medvedchuk commenting on the planned demonstrations, and requested that the text of his speech be “quoted in full.”<sup>135</sup> The document does not mention inclusion of statements of opposition leaders in response to these news events.

The anti-Kuchma protests coincided with what journalists described as a “peak in the waves of temniki.”<sup>136</sup> They reported immense pressure from editors to comply very strictly with instructions that often demanded news broadcasters to include inaccurate information in their reporting. Thus, no station remained silent about the protests, but “neither were [journalists] able to display the whole truth.”<sup>137</sup> Journalists interviewed by Human Rights Watch denied rumors that they had received pre-prepared tapes for broadcasts on September 16, but the limits on what could be reported were so strict that most stations ultimately reported almost exactly the same material. According to analysts, on this day, more than any other, it was “entirely clear that the channels are bounded by the constraints of censorship...”<sup>138</sup> Another noted:

[O]f course there was a feeling that there was some sort of a directing hand, if nothing else by the fact that the order of the news was exactly the same on all channels: first [President Kuchma’s attendance of the Second European Economic Summit in] Salzburg, then information on the public demonstrations. The common direction was obvious, the common basic goal was obvious: to show these demonstrations as if they don’t have meaning.<sup>139</sup>

For the news broadcasts on the evening of September 16, journalists reported that editors expected them to report inaccurate information. Denis D., a prominent television journalist, told Human Rights Watch that he attended the demonstrations and calculated that some 50,000 people participated. However, in the evening news broadcast he was expected to “lie openly” and report only an “officially confirmed” statistic of 15,000 participants.<sup>140</sup> To further obscure the true number of participants, video footage gave no indication of the volume of people in the city square, showing only distinct faces or small groupings.<sup>141</sup> In one ICTV broadcast, a correspondent appeared standing on the empty European Square and reported on the protests after the mass of demonstrators had since moved on to occupy the streets surrounding the Presidential Administration. The channel presented the events as if they had come to a quiet conclusion and failed to cover the real and ongoing story in another location. The effect of this editorial choice was to “give the demonstrations a much diminished quantity and less emotional incandescence on ICTV.”<sup>142</sup>

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<sup>132</sup> Ibid. On the close relations between the SDPU(u) and the Ukrainian Trade Unions Federation, see “Trade Unions and Social Democrats are Allies,” SDPU(u) website, February 13, 2002 [online], [http://www.sdpuo.org.ua/eng/news/actual\\_article/3C6A3AF3](http://www.sdpuo.org.ua/eng/news/actual_article/3C6A3AF3) (retrieved February 19, 2003).

<sup>133</sup> Human Rights Watch interview with Yurii Y., station “A,” Kyiv, October 9, 2002.

<sup>134</sup> Taras Kuzio, “Ukraine Returns to Soviet Era Tactics to Subdue Opposition.”

<sup>135</sup> Anonymous, “Press release,” September 13, 2002.

<sup>136</sup> Human Rights Watch interview with Denis D., station “A,” Kyiv, October 17, 2002, and Human Rights Watch interview with Vadim V., station “B,” Kyiv, October 11, 2002.

<sup>137</sup> Human Rights Watch interview with Yurii Y., station “A,” Kyiv, October 9, 2002.

<sup>138</sup> Natalia Ligacheva, “Television in the Conditions of a Police State,” *Telekritika* [Television Criticism], September 17, 2002 [online], <http://www.telekritika.kiev.ua/comments/> (retrieved November 7, 2002).

<sup>139</sup> Irena Bekeshkina, academic director, Fund for Democratic Initiatives, as quoted in Natalia Ligacheva, “Television in the conditions of a police state.”

<sup>140</sup> Human Rights Watch interview with Denis D., station “A,” Kyiv, October 17, 2002.

<sup>141</sup> Human Rights Watch interview with Yurii Y., station “A,” Kyiv, October 9, 2002.

<sup>142</sup> Natalia Ligacheva, “Television in the Conditions of a Police State.”

In the face of editorial restrictions, stations primarily used images that included the faces of elderly people and communist supporters, particularly those holding old Soviet placards or photographs of Stalin. Footage showing demonstrators focused on the red flags and banners of the communists and failed to include images of the white flags of the “Our Ukraine” opposition bloc, suggesting that the opposition was directed by and relevant only to those “who seek a return to a previous regime.”<sup>143</sup> Journalists also stated that they were requested not to show images of Viktor Yushchenko, but concentrated on politicians from parties perceived as less mainstream or more radical, including the Communist Party and Yulia Tymoshenko’s Bloc.

Other images that were not included in broadcasts were those of young people and of anyone demanding the resignation of Kuchma, despite the fact that the demonstrations were organized around this principal theme. Instead, television broadcasts of participants and political leaders necessarily included only vague or neutral statements, or statements that, however obliquely, portrayed the state authorities in a positive light. One editor told Human Rights Watch, “We were instructed to ask people about the fact that police don’t break up the protests. People would say, ‘Yes, it’s good that the police don’t break up the protests.’ In this way, the police and the authorities look good in this situation.”<sup>144</sup> Another editor said that the station leadership approved a small excerpt from a speech by Socialist Party leader Oleksandr Moroz. The footage was completely devoid of context and merely captured Moroz stating, “Our goal is a better life for all people.”<sup>145</sup> As one journalist put it, broadcasts on September 16 “presented the position of the opposition in such an opaque way that people still asked, ‘What do these people really want?’”<sup>146</sup>

Coverage portrayed the crowds in the central square as primarily an obstacle to normal traffic flow, which prevented non-participants from going to work or stopped an ambulance from accessing sick demonstration participants. News broadcasts did not show what eyewitnesses described as “thousands of police officers just standing on the edges [of the demonstration] not managing the traffic problem, but asking drivers stuck in traffic if they wanted to file official complaints against the demonstrators.”<sup>147</sup> Analysts described the control of information and the obstruction as “less about direct attempts to block the opposition and more about raising the degree of inconvenience.”<sup>148</sup>

The government’s closure of all six national television stations, ostensibly for maintenance, for several hours on the morning of September 16 also remains unexplained. Some journalists and media analysts noted that the closures must have been linked to the demonstrations because all stations had never been off the air simultaneously for maintenance in the past. However, many hesitated to describe the closures as a purely censorial act to prevent viewers from seeing news about the protests. Technical reasons could have justified the simultaneous closures. According to one journalist, “since four of the six stations share the same transmitter, for maintenance on that transmitter, it makes sense to take all stations off the air at once.”<sup>149</sup> Furthermore, none of the major television stations had a regularly scheduled news program during the morning hours that the stations were closed. However, one analyst believed that while it was plausible that all of the national stations were scheduled for regular maintenance on the morning of September 16, regional stations were not, and yet these stations were taken off the air as well.<sup>150</sup> The true reasons for the closures of the stations on the morning of September 16 remains unclear, yet most media analysts and journalists interviewed by Human Rights Watch doubt that the incident was purely coincidental.

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<sup>143</sup> Human Rights Watch interview with Yurii Y., station “A,” Kyiv, October 9, 2002.

<sup>144</sup> Ibid.

<sup>145</sup> Ibid.

<sup>146</sup> Human Rights Watch interview with Vadim V., station “B,” Kyiv, October 11, 2002.

<sup>147</sup> Human Rights Watch interview with Natalia Ligacheva, Editor-in-Chief, Telekritika website, Kyiv, October 10, 2002. Telekritika is a non-governmental, non-profit organization that provides independent, critical analysis of Ukrainian television news. Telekritika was created by Internews-Ukraine, a non-profit public organization that works to support the development of democracy through support of independent mass media.

<sup>148</sup> Human Rights Watch interview with Natalia Ligacheva, Editor-in-Chief, Telekritika website, Kyiv, October 10, 2002.

<sup>149</sup> Human Rights Watch interview with Yurii Y., station “A,” Kyiv, October 9, 2002.

<sup>150</sup> Human Rights Watch interview with Natalia Ligacheva, Editor-in-Chief, Telekritika, Kyiv, October 10, 2002.

## V. THE IMPACT OF TEMNIKI ON FREEDOM OF EXPRESSION

Increased external pressure, including the explicit directives contained in temniki, has changed the practice of television news journalism. Journalists recognized that in the past a certain degree of outside pressure on stations' senior editors and managers from the authorities or certain political parties influenced editorial policymaking. Now, however, editors and journalists feel unable to work and impart information free from political interference. Since the summer of 2002, in particular, television station management has exerted unprecedented pressure on journalists and production editors to work within very narrow editorial boundaries. Editors feel compromised and forced to ensure compliance with temnik directives and other instructions in order to counter threats to their television stations. Journalists told Human Rights Watch that station managers and top editors frequently receive angry or threatening phone calls from the Presidential Administration when their reporting strays beyond the pre-determined boundaries.

These complaints often lead station managers to take additional coercive measures to modify journalists' reporting. The management of most stations is reluctant to fire journalists, except in extreme cases. Journalists reported that some managers are sympathetic to journalists and also believe dismissals publicly reveal problems, create scandal, and confirm the existence of censorship.<sup>151</sup> Instead, station managers may threaten journalists with transfer to less influential positions, such as from evening news programming to morning or daytime shows with less political content. Editorial pressure is less stringent on news programming outside of the prime time viewing hours.<sup>152</sup> Some news program hosts were asked to retire or themselves chose to retire when station management removed their programs from the air or significantly reformatted them. Journalists are particularly vulnerable to the pressures of their editors because they receive the majority of their salaries illegally and do not pay taxes on them. The station leadership may avoid accusations of censorship or other negative public reactions over the dismissal of prominent employees by keeping journalists on staff, but taking away their unreported pay. Thus, in many cases, editors and journalists who are no longer welcome at their stations nevertheless remain employed.

In these conditions, journalists feel unable to conduct impartial research, analysis, or reporting, and resort to self-censorship or resign from television reporting altogether. They also feel restricted in their ability to freely make statements on censorship or participate in union organizing or other activities designed to help journalists challenge undue pressures and censorship.

### **Changes in Editorial Policy and Growing Threats to Journalists**

Before the summer of 2002, journalists, news anchors, and production editors all played an active part in the decision-making process regarding news broadcasts. Journalists and correspondents would research news material and would then work with anchors to write texts. News anchors would then confer with program editors or editors-in-chief. Production editors made the majority of the final decisions regarding news content and the priority of news items. The editor-in-chief played a relatively distant role, being responsible for determining the station's general editorial policy and making recommendations to program editors to that effect. "At our station, the producer and editor would determine the content of the news and the editor-in-chief had the right to give an opinion, but he would not impose it," noted Yurii Y., an editor from a leading television network.<sup>153</sup> A prominent news figure from the same network confirmed, "[In the past] in the editorial process there was more or less a degree of democracy, insofar as two or more opinions were being expressed and heard."<sup>154</sup>

Editors and journalists reported that the system began to undergo notable changes, starting in the summer of 2002. One production editor from a leading station stated that "[in this period], channels began to feel maximum influence."<sup>155</sup> The editor-in-chief no longer remained responsible primarily for general oversight and direction.

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<sup>151</sup> Human Rights Watch interview with Yurii Y., station "A," Kyiv, October 9, 2002.

<sup>152</sup> Two journalists confirmed this fact, saying that information airing on the main evening news broadcast was controlled significantly more than information airing on morning, daytime, or late night broadcasts. Human Rights Watch interviews with Valentin V., station "D," November 8, 2002 and Anatolii A., station "A," Kyiv, October 10, 2002.

<sup>153</sup> Human Rights Watch interview with Yurii Y., station "A," Kyiv, October 9, 2002.

<sup>154</sup> Human Rights Watch interview with Denis D., station "A," Kyiv, October 17, 2002.

<sup>155</sup> Human Rights Watch interview with Anatolii A., station "A," Kyiv, October 10, 2002.

He began to review in detail proposed news material and to decide the substance of programming in order to guarantee that the requests in the temniki were fulfilled. As one editor described the transformation of the process, “the editor-in-chief now receives orders, which he then redistributes to his editors.”<sup>156</sup> For Pavlo P., a political correspondent, this meant that, “what in every other country is called censorship, here is called ‘editorial policy.’”<sup>157</sup>

A newsmaker from a leading station described the changes in the editorial process during the autumn 2002, when top editors began to reject outright the material that he and other journalists deemed important for broadcast. Top editors would instead propose their own material, something uncommon in the past. This meant that “everywhere there was a constant reworking of the material” as editors and others argued over which news items should be presented.<sup>158</sup> Pavlo P. described his experience with the editor-in-chief during this period of increasing direct control. When Pavlo P. expressed his dissatisfaction with the growing limitations on the kind of news stories that editors would accept from reporters, the editor told him, “If you don’t want to deal with this editorial policy, then you should write about flowers.”<sup>159</sup>

Anatolii A., a news editor, also reported changes in the leading editor’s supervision of his program. During the summer, even as external pressure from the Presidential Administration increased, Anatolii A. frequently disregarded many of the spoken demands from the editor-in-chief regarding the inclusion and presentation of certain news items and exclusion of other topics. Although for many weeks the editor would ask, “Why did you ignore my requests?” Anatolii A. experienced “no consequences for his ultimatums.”<sup>160</sup> However, in early October 2002, the editor-in-chief told him,

The channel is under threat, and you are ignoring my spoken recommendations. I don’t want to limit your freedom, but I am forced to filter what material goes into your show. I am obliged now to write to you in advance telling you which subjects to present and the order of subjects.<sup>161</sup>

When Anatolii A. refused to fully comply with these new written requests, the editor-in-chief threatened him with a transfer from his status of program editor to a less influential position, a threat that he understood to be valid based on past experience of colleagues on the same channel.

Anatolii A. recalled that even in early 2001, prior to the introduction of the temniki and the increase in censorship, some reporters on his station who focused on political themes and the March 2001 opposition protests were slowly moved out of their positions. The station leadership did not take these actions crudely. Rather, journalists and editors of political shows received new positions with increased pay, but found themselves working at different times of day and on less politically sensitive programs, such as early morning or entertainment shows.<sup>162</sup>

One editor noted that editors dictated new changes to the format of news programs. “In the past we could invite two or three guests with different opinions on a topic in order to present different sides.”<sup>163</sup> Now, since the editor-in-chief fears that there will be severe consequences should he lose control over the content of live discussions, production editors and news anchors face difficulty in inviting a variety of guests for such shows or hosting live shows at all. One journalist who worked on an important evening news program stated, “On our station there was an understood list” of people who could be invited for talk shows and who could not.<sup>164</sup> Similarly, for news broadcasts, journalists are reduced to interviewing only “people who follow a particular

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<sup>156</sup> Human Rights Watch interview with Yurii Y., station “A,” Kyiv, October 9, 2002.

<sup>157</sup> Human Rights Watch interview with Pavlo P., station “F,” Kyiv, October 19, 2002.

<sup>158</sup> Human Rights Watch interview with Denis D., station “A,” Kyiv, October 17, 2002.

<sup>159</sup> Human Rights Watch interview with Pavlo P., station “F,” Kyiv, October 19, 2002.

<sup>160</sup> Human Rights Watch interview with Anatolii A., station “A,” Kyiv, October 10, 2002.

<sup>161</sup> Ibid.

<sup>162</sup> Ibid.

<sup>163</sup> Human Rights Watch interview with Yurii Y., station “A,” Kyiv, October 9, 2002.

<sup>164</sup> Human Rights Watch interview with Ivan I., station “E,” Kyiv, October 17, 2002.

line.”<sup>165</sup> In another case, Yevhen Y., an editor on a prominent news station reported that station leaders proposed a call-in poll on a political subject during an ostensibly live broadcast. In actuality, however, the program had been recorded an hour earlier and the percentage of callers who would ‘support’ a particular political position was predetermined.<sup>166</sup>

In some cases station leaders have dealt with analytical shows that seek to present critical examinations of different political perspectives by canceling them altogether or diluting them to such a degree that they are unrecognizable. Ivan I. described the gradual transformation of an evening analytical news show that he worked on for several years. For several months beginning in March 2002, there were increasing restrictions on whom the show’s creators could invite for live political discussions, and the texts approved by his editors were increasingly limited. In September 2002, under greater pressure to avoid critical reporting, the station management decided to reformat the show such that it no longer presented balanced political analysis or hosted guests during live broadcasts. Ivan I. stated that he and his colleagues accepted the format without a change of the show’s name, since they considered it “a pity to lose the brand, the audience, the advertising, everything.” However, in the course of these months, they felt that “the meaning of the program went to zero.”<sup>167</sup> The management of the station explained the change by arguing that production of the program in the old format had grown too expensive. Ivan I. understood that the program proved to be too expensive not financially, but politically. Ultimately, “everyone was tired of the daily arguments [about the show’s material]. They were arguments no one needed.”<sup>168</sup>

Journalists recognize that in many cases top editors and managers have no option but to fulfill the requests outlined in the temniki or other demands issued by the Presidential Administration. Senior editors do not necessarily promote biased reporting based on their own personal convictions, but on the understanding that non-compliance with the directives places their own jobs, the jobs of the stations’ employees, and the very existence of the station at risk. “The editor-in-chief is trapped. He knows that he doesn’t have much choice.”<sup>169</sup> Because the government maintains licensing and tax pressures on every station, each station’s survival depends on remaining in favor with authorities that have the ability to create problems. One journalist told Human Rights Watch, “The tax administration has promised that the television station won’t be searched, so long as we comply with instructions and political wishes.”<sup>170</sup>

Journalists reported that the Presidential Administration maintains pressure on editors and managers through phone calls about particular broadcasts or journalists. “Every week there are complaints ... [regarding the content of the news],” stated one prominent news figure from station “A.”<sup>171</sup> A former senior employee of a leading Kyiv station, Yevhen Y., told Human Rights Watch that the station leadership had received calls asking, “What is happening on this station? Are you trying to start a revolution?” When a station manager confronted him, Yevhen Y. asked if there had been specific complaints related to his journalism. The manager responded, “I simply don’t need telephone calls from the president.”<sup>172</sup> In another case, a station received calls from the Presidential Administration requesting that editors fire a journalist who had recently spoken publicly and published articles denouncing censorship.<sup>173</sup>

At some stations, the editor-in-chief is willing to discuss openly with senior staff the dilemmas the temniki pose. One editor of a leading station stated that “inside the channel, there are no secrets; everyone in the [editorial] team discusses the temniki.”<sup>174</sup> Another program editor told Human Rights Watch,

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<sup>165</sup> Human Rights Watch interview with Yurii Y., station “A,” Kyiv, October 9, 2002.

<sup>166</sup> Human Rights Watch interview with Yevhen Y., station “C,” Kyiv, October 11, 2002.

<sup>167</sup> Human Rights Watch interview with Ivan I., station “E,” Kyiv, October 17, 2002.

<sup>168</sup> Ibid.

<sup>169</sup> Human Rights Watch interview with Yurii Y., station “A,” Kyiv, October 9, 2002.

<sup>170</sup> Human Rights Watch interview with Ivan I., station “E,” Kyiv, October 17, 2002.

<sup>171</sup> Human Rights Watch interview with Denis D., station “A,” Kyiv, October 17, 2002.

<sup>172</sup> Human Rights Watch interview with Yevhen Y., station “C,” Kyiv, October 11, 2002.

<sup>173</sup> Human Rights Watch interview with Yurii Y., station “A,” Kyiv, October 9, 2002.

<sup>174</sup> Human Rights Watch interview with Vadim V., station “B,” Kyiv, October 11, 2002.

Within the circle of station editors, everyone understands what is going on, the true story, and why the editor-in-chief is coerced into doing what he does. Within the group of journalists, he is very open about the pressures he faces, the political demands, but he will not say the same to outsiders.<sup>175</sup>

An editor-in-chief of another station told his staff that, “we must comply [with the directives] because if we don’t, we will lose the station altogether.”<sup>176</sup> Similarly, on another station, one editor-in-chief expressed openly to station journalists his remorse for forcing a narrow editorial policy. He told them, “I take all responsibility for this. I am the worst. I am suppressing freedom of speech... If there are complaints about you or your work, I will take all responsibility.”<sup>177</sup> A journalist from station “A” noted that his editor-in-chief argued that his desire to protect his staff and the station convinced him to participate in the actual writing of temniki “in order that they be more civilized and clever.”<sup>178</sup> Journalists from other stations remarked that top editors do not discuss with others the existence of temniki or pressures that they face, but simply expect that staff journalists comply unquestioningly with editorial policy.<sup>179</sup> An editor from this same station said, “It is not acceptable within the station to discuss censorship. Everyone is afraid of losing their jobs.”<sup>180</sup>

### **Self-Censorship**

In the face of increasing pressures from editors to report in specific ways on a limited number of topics, journalists increasingly resort to self-censorship rather than face arguments with top editors, negative reactions from the presidential authorities, or the loss of their jobs and careers. For most television journalists, departure from a station does not provide a real solution to the problems of censorship. Since the system of temniki and pressure from the Presidential Administration pervades all national television stations, conditions for journalistic freedom across stations are equally poor. Journalists feel that they would gain nothing by leaving one station and attempting to move to another. One journalist preparing to leave his job stated that with regard to censorship, “On all channels, everything is the same.”<sup>181</sup> Another editor told Human Rights Watch, “To leave a station means to give up television journalism altogether because there is nowhere else to go. A person has two options: work within the system or not work at all.”<sup>182</sup>

The majority of journalists choose to stay at their stations and either comply fully with strict editorial policy or seek ways to negotiate within the boundaries of the directives. For Pavlo P., a political correspondent, “It is better to work every day and fight for every theme, every bit of material” than to abandon journalism altogether.<sup>183</sup> Yet in order to continue working, journalists often sacrifice objectivity and fairness in reporting. A major news figure told Human Rights Watch of his decision to begin censoring the news material he presented to his editors: “I would write my text and the director of information would read this text and there would be constant arguments. Ultimately, ... I gradually came to understand what might be allowed and proposed material along those lines.”<sup>184</sup> Similarly, a journalist on station “A” reported that in the process of working with the editor-in-chief he soon came to understand “which themes would not pass at all and which would go through, although with some limits.”<sup>185</sup>

“Each journalist and editor is trying to overcome censorship in some way,” reported one newsmaker.<sup>186</sup> In order to do this, journalists feel compelled to report with caution and a constant eye to potential repercussions for

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<sup>175</sup> Human Rights Watch interview with Yurii Y., station “A,” Kyiv, October 9, 2002.

<sup>176</sup> Human Rights Watch interview with Vadim V., station “B,” Kyiv, October 11, 2002.

<sup>177</sup> Human Rights Watch interview with Denis D., station “A,” Kyiv, October 17, 2002.

<sup>178</sup> Human Rights Watch interview with Anatolii A., station “A,” Kyiv, October 10, 2002.

<sup>179</sup> Human Rights Watch interview with Pavlo P., station “F,” Kyiv, October 19, 2002.

<sup>180</sup> Human Rights Watch interview with Valerii V., station “F,” Kyiv, October 11, 2002.

<sup>181</sup> Human Rights Watch interview with Ivan I., station “E,” Kyiv, October 18, 2002.

<sup>182</sup> Human Rights Watch interview with Anatolii A., station “A,” Kyiv, October 10, 2002.

<sup>183</sup> Human Rights Watch interview with Pavlo P., station “F,” Kyiv, October 19, 2002.

<sup>184</sup> Human Rights Watch interview with Ivan I., station “E,” Kyiv, October 17, 2002.

<sup>185</sup> Human Rights Watch interview with Denis D., station “A,” Kyiv, October 17, 2002.

<sup>186</sup> Ibid.

their actions. Yevhen Y., a former editor, believed that because now “journalistic investigation is dangerous, there is a very low level of analysis.”<sup>187</sup> Yet journalists frequently take risks with the material they present. One important news figure told Human Rights Watch:

I couldn't lie openly. .... But at the same time, all I could think about was how to protect myself from ... negative reactions ... I tried to find ways to present two sides of a story in such a way that no one would be upset.<sup>188</sup>

A correspondent from one station noted, “It is not desirable to present negative facts about Kuchma, but sometimes we find moments to present some of these facts on the air.”<sup>189</sup> Denis D. told Human Rights Watch that he attempts to include certain prohibited news in the spoken component of his broadcasts, even as video material shows a more compliant perspective. He applied this approach when reporting on the September 16 demonstrations: he mentioned Yushchenko's participation in the protests, although editors had banned Yushchenko's image from the broadcasted video footage.<sup>190</sup> Analysts noted that one news anchor from another station presented the news regarding the September 16 demonstrations in such a careful manner that she “clearly attempted to emphasize the abnormality of the situation somehow, while at the same time appeased the vigilance of those who obviously watch over the channel.”<sup>191</sup>

Some journalists reported that their self-censorship progressed to such a degree that they preferred to avoid discussing material at all rather than present only one biased side of a story or the disinformation requested in the *temniki*.<sup>192</sup> Editors faced similar obstacles. One former top editor at a leading station expressed his feeling of exasperation over the censorship and his repeated failed attempts to negotiate with the station leadership about the inclusion of particular items in news broadcasts. He told Human Rights Watch, “When you lose so many times, you ultimately stop trying to win.”<sup>193</sup> This editor requested and received transfers to positions within the station where he would be less responsible for enforcing an editorial policy that he did not support. He told Human Rights Watch that his request for transfer was based on the knowledge that “in the future I would be forced to carry out other people's politics and enforce censorship” and that from other positions he would have opportunity “to argue for the inclusion of certain material.”<sup>194</sup>

Some journalists, news anchors, and senior editors with great reluctance have chosen to leave their stations. A former editor from one leading station, Yevhen Y., told Human Rights Watch that in the days following his public statements about state censorship of television news broadcasts in the spring of 2002, the station's management took steps to force him out. They denied him access to station equipment and introduced new editorial staff, without informing him or other senior editors in advance. Yevhen Y. and others were left without a space to work or a staff to supervise. “We were slowly moved to the periphery so that we would simply quit. I dreamed of being fired so that I wouldn't have to quit,” he remembered.<sup>195</sup> In these circumstances, Yevhen Y. felt that he “had lost the right to practice [his] profession,” and resigned.<sup>196</sup>

A prominent top manager stated that despite many years of commitment to a leading television station, the administration's censorship ultimately compelled him to quit this autumn. “My conscience wouldn't allow me to continue in these conditions. I was embarrassed to be associated with those practices, that material,” he stated.<sup>197</sup> Similarly, Ivan I. decided to leave his station after the program he worked on was reformatted and a proposed talk show to replace it was never developed. “It was a dead end out of which I had to find an exit,” he told Human

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<sup>187</sup> Human Rights Watch interview with Yevhen Y., station “C,” Kyiv, October 11, 2002.

<sup>188</sup> Human Rights Watch interview with Denis D., station “A,” Kyiv, October 17, 2002.

<sup>189</sup> Human Rights Watch interview with Valentin V., station “D,” November 8, 2002.

<sup>190</sup> Human Rights Watch interview with Denis D., station “A,” Kyiv, October 17, 2002.

<sup>191</sup> Natalia Ligacheva, “Television in the Conditions of a Police State.”

<sup>192</sup> Human Rights Watch interview with Yurii Y., station “A,” Kyiv, October 10, 2002.

<sup>193</sup> Human Rights Watch interview with Vadim V., station “B,” Kyiv, October 11, 2002.

<sup>194</sup> Ibid.

<sup>195</sup> Human Rights Watch interview with Yevhen Y., station “C,” Kyiv, October 11, 2002.

<sup>196</sup> Ibid.

<sup>197</sup> Human Rights Watch interview with Oleh O., station “A,” Kyiv, October 18, 2002.



Rights Watch. “And the only exit was to quit.”<sup>198</sup> However, when he attempted to resign on the official basis of “a mutual agreement” between himself and the management, the station leaders refused, regarding such a statement as controversial, and demanded that Ivan I. resign “of his own volition.”<sup>199</sup> The situation resulted in a standstill in which Ivan I. remained employed by the station but no longer worked, receiving only the meager official salary, rather than the salary he had received previously. He believes that once he leaves the station he will be blacklisted. Another journalist confirmed that on occasion journalists have been blacklisted once they have resigned from their stations.<sup>200</sup>

### **Restriction of Activities Outside of Television Reporting**

In addition to limitations journalists endure at their stations, journalists have felt pressure to limit activities that they undertake outside of their stations. Journalists began to organize a professional union and a strike committee in the autumn 2002 in response to growing censorship and the vulnerabilities they felt in the workplace. Yet many journalists reported feeling that by participating in these activities, they could risk their jobs. One former editor told Human Rights Watch, “The channel would not allow its journalists to demonstrate publicly.”<sup>201</sup> The station’s editor-in-chief described the current situation to his journalists as “a dark time,” and implored his employees, “Let’s simply survive through this together and in the end we can all be fine.”<sup>202</sup> Journalists from another station reported that in return for not firing employees, the leadership requested that when conflicts or problems arise, employees work to “sort it out themselves, within the circle” rather than go on strike or give interviews.<sup>203</sup> The management asked journalists and editors, “Try to protest less, and let’s just hold on through this turbulent period for a few years.”<sup>204</sup> When some of the station’s journalists voiced complaints about censorship to the top management, the message they received in return was:

You are trying to create a scandal. You are going to make life impossible for the other [hundreds of] people who work here who do not deal with censorship, like technical and administrative workers. You put the channel under threat and you will be responsible for [hundreds of] other people who will also lose their jobs.<sup>205</sup>

Similarly, on another national station, a journalist reported, “We were told that we should think about the channel: ‘If you go, if you protest, you threaten the whole channel.’”<sup>206</sup>

Yurii Y. reported that, in addition to working at a leading television station, for many years he wrote articles for both an independent newspaper as well as for one of the newspapers owned and controlled by people close to President Kuchma. Yurii Y. felt that by writing for newspapers of divergent political orientations he would avoid being limited in his own reporting to a particular political or editorial line. In addition, he believed that his material would reach a much wider readership than if he bound himself to only one publication. However, in mid-September, after Yurii Y. spoke out publicly against censorship and wrote articles accusing the government of manipulating television journalism, the newspaper refused to accept his material. In addition, Yurii Y. reported that the editor-in-chief of the television station received calls with demands that the station fire him for his outspokenness and publication of critical articles. Yurii Y. believes that the station did not fire him for fear that the dismissal would cause even greater and more public controversy.<sup>207</sup>

Ivan I. also reported having experienced problems at his station when he began to work with others to find solutions to the censorship they all experienced. He actively participated in the formation of the journalists’ union

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<sup>198</sup> Human Rights Watch interview with Ivan I., station “E,” Kyiv, October 18, 2002.

<sup>199</sup> Ibid.

<sup>200</sup> Human Rights Watch interview with Valentin V., station “F,” November 8, 2002.

<sup>201</sup> Human Rights Watch interview with Vadim V., station “B,” Kyiv, October 11, 2002.

<sup>202</sup> Ibid.

<sup>203</sup> Human Rights Watch interview with Yurii Y., station “A,” Kyiv, October 9, 2002.

<sup>204</sup> Human Rights Watch interview with Denis D., station “A,” Kyiv, October 17, 2002.

<sup>205</sup> Human Rights Watch interview with Anatolii A., station “A,” Kyiv, October 10, 2002.

<sup>206</sup> Human Rights Watch interview with Pavlo P., station “F,” Kyiv, October 19, 2002.

<sup>207</sup> Human Rights Watch interview with Yurii Y., station “A,” Kyiv, October 9, 2002.

and the strike committee. The station leadership gave him an ultimatum, “Your community activities are not accepted by the station. Either you work on the station or in your NGOs.”<sup>208</sup> Fearing similar consequences, very few television newsmakers are among the more than 300 journalists who have signed a public manifesto against censorship. One journalist interviewed by Human Rights Watch who did sign the manifesto reported that his editors had recommended that he not attend certain meetings held by the organizing journalists.<sup>209</sup>

## VI. RECOMMENDATIONS

The Ukrainian government has taken insufficient measures to implement laws banning censorship, protecting journalists, and guaranteeing freedom of expression, despite many requests and proposals by the international community for Ukraine to do so. In light of these circumstances, Human Rights Watch submits the following recommendations:

### To the Ukrainian Government

- End the distribution of temniki or any other form of coercive written or verbal instructions from the Presidential Administration to all media;
- Ensure that censorship by government authorities or private individuals in any form does not continue by enforcing existing laws and obligations that prohibit censorship;
- Ensure compliance with the obligations related to freedom of expression under the European Convention on Human Rights and the International Covenant on Civil and Political Rights;
- Conduct prompt and thorough investigations of government officials and others implicated in censorship or other abuses against members of the media and hold accountable those responsible;
- Consider introducing legislation to guarantee a realistic minimum wage for journalists and a regulatory framework to guarantee legal recourse for journalists facing retaliation in the form of salary cuts, demotion, and firing;
- Consider undertaking a review of current defamation law and practice with a view towards reform that fully protects the media and preserves its diversity. Such a review should consider measures such as creating a reasonable maximum sum on defamation awards and allowing journalists greater leeway in expressing critical views or making errors in accuracy when reporting on persons and matters that are of public interest, such as the performance of public officials;
- Consider amending Article 5 of the Law on the National Council on Television and Radio Broadcasting to ensure transparent appointments and dismissals, the use of objective criteria for licensing decisions, and the unqualified independence of the council;
- Widely publicize the report by the Council of Europe on the state of freedom of expression in Ukraine, referred to in Committee of Ministers decision CM/Del/Act(2002)820 of January 22, 2003, and promptly and effectively implement the recommendations contained therein;
- Extend an invitation to the United Nations Human Rights Commission Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression for a mission to Ukraine to examine media freedoms and assist the Special Rapporteur in discharging his mandate during the mission.

### To the Council of Europe

- Vigorously address through all available means and mechanisms the failures of the Ukrainian government to implement the recommendations regarding media freedoms since the Committee of Ministers Recommendation 1497 (2001) on freedom of expression and the functioning of parliamentary democracy in Ukraine. Mechanisms available for consideration include the Parliamentary Assembly’s monitoring procedure on the honoring of obligations and commitments by member states as well as mechanisms under the Committee of Ministers and the Secretary General’s office;

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<sup>208</sup> Human Rights Watch interview with Ivan I., station “E,” Kyiv, October 18, 2002.

<sup>209</sup> Human Rights Watch interview, with Valentin V., station “D,” November 8, 2002.

- Increase pressure on the Ukrainian government to remedy violations of media freedoms through all available Council of Europe mechanisms;
- Continue to assist the Ukrainian authorities with initiatives outlined in the “Action Plan for the Media in Ukraine” and undertaken in 2001-2002. The Secretariat designed the Action Plan to assist the Ukrainian authorities in establishing a regulatory framework for the media and to promote free, independent, and pluralistic media. Recognizing the Action Plan and its programs as important and beneficial, the Council of Europe should:
  - Extend the Action Plan beyond the end of 2002 and expand the plan to include programs that address the recommendations set out in the December 2002 Parliamentary Assembly Report on Freedom of Expression in the Media in Europe;
  - Evaluate the impacts of the programs and initiatives undertaken in the context of the Action Plan during 2001-2002;
  - Increase assistance to the Ukrainian authorities on the drafting and effective implementation of legislation to eliminate informal political censorship;
  - Increase assistance to the Ukrainian authorities on the drafting and effective implementation of legislation to protect media outlets, editors, and journalists from physical, economic, and legal harassment and retaliation.

**To the Organization for Security and Cooperation in Europe (OSCE)**

- The OSCE Representative on Freedom of the Media should follow up and ensure adequate implementation of the recommendations to Ukraine included in his report on Ukraine in 2000;
- The OSCE Project Coordinator in Ukraine should continue promoting seminars on issues related to media freedoms and to engage the Ukrainian authorities in a structured dialogue to remedy continuing abuses related to freedom of expression.

**To the European Union (E.U.)**

- Condition deepening of E.U.-Ukraine relations in the context of the Partnership and Cooperation Agreement on measurable progress by Ukraine in guaranteeing freedom of expression. The E.U. should insist on sustained and effective measures to prevent and punish censorship, to eliminate arbitrary administrative and legal actions against television stations and other media outlets, and to end harassment of and violence against journalists.

**To the United Nations (U.N.)**

- Address Ukraine’s failure to implement the recommendations related to media freedoms issued by the U.N. Human Rights Committee in 2001 in response to Ukraine’s fifth periodic report;
- The U.N. Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression should request an invitation from the Ukrainian government to conduct a first mission to Ukraine to examine media freedoms.

**To the North Atlantic Treaty Organization (NATO)**

- Emphasize respect for freedom of expression as a central component of the political reforms required by Ukraine in pursuit of its goal of greater Euro-Atlantic integration under the NATO-Ukraine Action Plan.

**To International Financial Institutions**

- The World Bank, the International Monetary Fund, and the European Bank for Reconstruction and Development should make respect for media freedoms an element of their country assistance strategies. Support for a free and independent media should also become an integral part of efforts to eliminate corruption in Ukraine.

## APPENDIX: SAMPLES OF TEMNIKI

### Пресс-релиз

13.09.02 г.

17.00

#### **Внимание!**

Просьба в сегодняшних вечерних выпусках новостей выдержать следующий порядок освещения событий дня:

**1. Начать выпуски с сообщения о том, что в данный момент проходит концерт-реквием памяти жертв трагедии 11 сентября 2001 года. На мероприятии присутствует Президент Л.Кучма.**

**2. Состоялась интернет-конференция Президента Л.Кучмы.**

**Комментарий.** На интернет-конференции Президент сделал ряд важных заявлений. Их основные тезисы:

- Л.Кучма оставит президентский пост в 2004г;
- Л.Кучма убежден, что Украине, а также всему миру, диктатура не нужна;
- Л.Кучма считает, что власть готова к диалогу с общественностью, но к этому не готово общество. "Открытость власти - это дорога двусторонним движением".

**3. Развитие ситуации вокруг планируемых акций 16 сентября.**

*А) вечером 12 сентября Шевченковский местный суд Киева запретил проведение акции, запланированной БЮТ, СПУ и КПУ на 16 сентября, в центре столицы. Решение окончательное и обжалованию не подлежит.*

**Комментарий.** В соответствии с решением суда, участники акций 16 сентября не могут собраться в центре Киева. Очевидно, местом проведения акций КПУ, БЮТ, СПУ, в соответствии с решением киевских властей, станет автодром «Чайка» на окраине Киева. Сторонники Президента проведут митинги на проспекте Глушкова. Что касается "Чайки", то на ней не раз проводились массовые мероприятия. Самое известное из них торжественное богослужение Папы Римского Иоанна Павла II в 2001г. Оно прошло организованно и без эксцессов.

**НВ.** Просьба использовать архивные видеоматериалы богослужения.

Картинка: милиция, скорая помощь, биотуалеты. Указывать количество участников обоих мероприятий.

*Б) 13 сентября областные советы Донецкой, Харьковской Тернопольской областей на внеочередных заседаниях принял обращения по поводу акции 16 сентября,*

**Комментарий.** Событие важное и актуальное.

**НВ.** Тексты обращений будут розданы в ближайшее время.

*В) Президиум Совета Федерации профессиональных союзов Украины на своем заседании принял постановление в котором считает нецелесообразной поддержку акций 16 сентября и не рекомендует председателю ФПУ принимать участие «в этой и других политических акциях» (см. приложение).*

**Комментарий.** Событие важное и актуальное.

**НВ.** Просьба при цитировании текста постановления подчеркнуть, что оно подписано председателем ФПУ А.Стояном, и показать при этом его портрет или видеоряд.

*Г) Львовский областной комитет КПУ заявил, что не будет принимать участия, в акциях 16 сентября в связи с провокационными заявлениями ряда националистически настроенных народных депутатов.*

**Комментарий.** Событие актуальное.

*Д) Глава Администрации Президента В.Медведчук выступил с комментарием по поводу событий 16*

сентября.

**Комментарий.** Событие важное и актуальное.

**НВ.** Просьба цитировать текст в полном объеме.

**4. ГНАУ прокомментировала факт задержания помощника народного депутата А.Турчинова (БЮТ) с крупной суммой наличных денег.**

**Комментарий.** Событие острое и актуальное.

**НВ.** Дополнительно будет роздан видеоряд задержания помощника депутата. Просьба широко осветить.

**5. 11 - 13 сентября Генеральный прокурор Украины С. Пискун пребывал в Страсбурге с официальным визитом по приглашению Генерального секретаря Совета Европы В.Швиммера, С. Пискун встретился с руководителями СЕ, ПАСЕ, «Венецианской комиссии», выступил на заседании Бюро Комитета Министров (см, приложение).**

**Комментарий.** Событие важное и актуальное.

**6. Во Львовской области предотвращен взрыв на шахте. Начальник областного УВД провел пресс-конференцию.**

**Комментарий.** Событие важное и актуальное. По информации Львовского УВД, никакой связи между инцидентом и акциями 16 сентября не имеется.

**НВ.** Дополнительно будет роздан видеоряд с комментариями представителей правоохранительных органов Львовской области. Просьба широко осветить.

**7. 13 сентября в г. Ужгород (Закарпатская область) состоялось выездное заседание коллегии МинЧС с участием министра В.Дурдинца и народного депутата В.Ризака по вопросам ликвидации последствий паводка.**

**Комментарий.** Для сведения редакций.

**8. Депутат Ю.Кармазин заявил, что к нему поступила информация по поводу местонахождения головы Г.Гонгадзе.**

**Комментарий.** Отсутствует.

## Press Release

13.09.02

5:00pm

### **Attention!**

A request to cover the day's events in the following order on today's evening news broadcasts:

**1. Begin broadcasts with the announcement that at this very moment a requiem concert in memory of the victims of the September 11, 2001 tragedy is being held. President L. Kuchma is attending this event.**

**2. President L. Kuchma held an internet conference.**

**Commentary.** At the internet conference the president made a number of important statements. Their basic points:

- L. Kuchma will step down as president in 2004;
- L. Kuchma is convinced that Ukraine does not need a dictatorship anymore than any other country;
- L. Kuchma considers his government ready for dialogue with the public, but society is not ready for this. 'Open government is a two-way street.'

**3. Developments surrounding the demonstrations planned for September 16.**

*A) On the evening of September 12, the Kyiv Shevchenko District Court banned the demonstrations planned by the BUT [Translator's note: The Yulia Tymoshenko Bloc], the SPU [Translator's Note: The Socialist Party of Ukraine], and the KPU [Translator's Note: The Communist Party of Ukraine] for September 16 in the center of the capital. The ruling is final and not subject to appeal.*

**Commentary.** According to the decision of the court, participants in the September 16 demonstrations may not gather in the center of Kyiv. In accordance with the decision of the Kyiv authorities, the location for the demonstration will be the 'Chaika' airfield on the outskirts of Kyiv. The president's supporters will hold a demonstration on prospect Glushkova. As for 'Chaika,' more than one large-scale demonstration has been held there. The most famous of these was the holy service conducted by Pope John Paul II in 2001. It was well organized and without excesses.

**NB.** A request to use archive video material from the holy service. The picture: Police, ambulances, bio-toilets. Indicate the number of participants of both events.

*B) On September 13, in extraordinary sessions, the Donetsk, Kharkov, and Ternopol oblast councils adopted appeals concerning the September 16 demonstrations.*

**Commentary.** The event is important and timely.

**NB.** Texts of the appeals will be distributed shortly.

*C) At their meeting, the Council Presidium of the Ukrainian Trade Union Federation adopted a statement saying that it is not expedient to support the September 16 demonstrations and recommending that the TUF chairman not take part "in these or other political demonstrations." (see attachment).*

**Commentary.** The event is important and timely.

**NB.** A request when quoting the text to emphasize that it is signed by TUF chairman A. Stoian while showing his picture or a video clip.

*D) The Lvov oblast committee of the CPU announced, that it will not participate in the September 16 demonstrations as a result of provocative statements made by nationalist people's deputies [Translator's note: people's deputies are parliamentarians].*

**Commentary.** The event is timely.

*E) Presidential Administration Head Viktor Medvedchuk made a speech commenting on the September 16<sup>th</sup> events.*

**Commentary:** The event is important and timely.

**NB.** A request to quote the text in full.

**4. The State Tax Administration has commented on the detention of an assistant to People's Deputy A. Turchinova (BUT) with a large sum of cash.**

**Commentary.** The event is sharp and timely.

**NB.** A video of the detention of the assistant to the deputy will be distributed additionally. A request to give this broad coverage.

**5. On September 11-13, General Prosecutor of Ukraine S. Piskun was on an official visit to Strasbourg at the invitation of the Secretary General of the Council of Europe V. Schwimmer. S. Piskun met with Council of Europe, PACE, [Translator's note: Council of Europe Parliamentary Assembly], and 'Vienna commission' leaders and made a speech at a Cabinet of Ministers meeting (see attachment).**

**Commentary.** The event is important and timely.

**6. An explosion was averted at a Lvov oblast mine. The head of the oblast Internal Affairs Department held a press conference.**

**Commentary.** The event is important and timely. According to the information of the Lvov Internal Affairs Department, there is no connection between the incident and the September 16 demonstrations.

**NB.** A video with commentary from representatives of Lvov oblast law enforcement agencies will be distributed additionally. A request to give this broad coverage.

**7. On September 13 in Uzhgorod (Zacarpathian oblast), representatives of the Ministry for Emergencies, as well as Minister V. Durdintsa and People's Deputy V. Rizak held a session regarding the elimination of the consequences of the flooding.**

**Commentary.** For the information of the editorial offices.

**8. Deputy Yu. Karmazin has announced that he has received information concerning the whereabouts of G. Gongadze's head.**

**Commentary.** Disregard.

**Дополнительный комментарий**  
**к событиям недели 36**  
**для служебного пользования**

**Тема недели:**

1. Под знаком обсуждения телеобращения Президента Л.Кучмы к украинскому народу начнет новую сессию Верховная Рада Украины.  
ДСП. Просьба по вопросу формирования состава коалиционного правительства брать комментарии не у членов действующего Кабмина, а у представителей фракций, политических партий и общественных организаций.  
Просьба не акцентировать внимание на проекте закона «О выборах народных депутатов Украины», внесенном народными депутатами Ю.Иоффе и Г.Дашутиным.

**Основные темы недели:**

2. Участие Президента Л.Кучмы во Всемирном саммите по вопросу устойчивого развития в Йоханнесбурге (ЮАР).  
ДСП. При освещении двусторонних встреч просьба акцентировать внимание на общении Президента с представителями европейской политической элиты. Встречи с лидерами африканских государств просьба освещать во внешнеэкономическом контексте по дополнительному согласованию.

**Темы для освещения в воскресных телепрограммах:**

4. Реакция общества и политиков на обращение Президента Л.Кучмы к украинскому народу 24 августа 2002 года.  
ДСП. Просьба в газетных материалах использовать текст открытого письма В.Ющенко Президенту и его статьи в «Зеркале недели» (от 31.08.02 г.) для демонстрации противоречивости позиции «Нашей Украины» в отношении телеобращения Л.Кучмы. С одной стороны, «НУ» говорит, что блок давно считал необходимым переход к парламентско-президентской республике, с другой – отмечает, что «сейчас не время» для изменения политической системы, общество и политикум не созрели. С одной стороны, «НУ» – против вмешательства АП в структуризацию парламента, с другой – просит Президента о содействии в формировании большинства на базе «НУ». Каким же высказываниям В.Ющенко верить? Такая невзвешенная и



противоречивая реакция В.Ю. может свидетельствовать о том, что он нервничает из-за того, что видит реальную перспективу потери надежд на президентское кресло.

Позицию СДПУ(О) относительно политической реформы просьба подавать в обычном информационном режиме.

Просьба не акцентировать внимания на инициативах некоторых политиков по проведению референдума о переходе к парламентско-президентской политической системе.

Просьба не освещать конфликт Е.Червоненко и О.Рыбачука.

Просьба не называть количество депутатов, которые якобы согласились войти в парламентское большинство.

Просьба, чтобы призывы к дружбе с «НУ» со стороны политических сил, поддерживающих Президента, озвучивались только высказанные С.Тигипко, а не другими комментаторами.

### Пролонгированные темы:

6. **Оппозиция готовится к проведению уличных акций 16 сентября.**

ДСП. Тема только для печатных и интернет-изданий. Освещение на ТВ просьба исключить.

Информационная работа по т.н. «Форуму демократических сил» будет проводиться по следующей логической схеме:

- «Форум» на самом деле является собранием назначенных представителей партий.
- далеко не все силы, которые собираются участвовать в мероприятии, можно назвать «демократическими» (напр. СНПУ О.Тягнибока).
- Ющенко должен убрать из списка участников людей, далеких от демократии, выработать правила участия в «Форуме». Тогда в нем будут готовы принять участие действительно демократические силы.
- Если В.Ю. этого не сделает, он рискует окончательно дискредитировать «Форум» в глазах общественности;
- Если В.Ю. «вычистит» список и обнаружит порядок его формирования, ожидается, что десятки и десятки различных партий и организаций направят письма с заявками об участии в адрес оргкомитета «форума». В результате появляется возможность «размывания» и забалтывания «форума», мероприятие рискует стать смешным.

Представляется целесообразным «освежить» тему скандала вокруг кладбища «Орлят» во Львове, чтобы направить в иное русло протестный потенциал населения города. Можно брать комментарии у кардинала Любомира Гузара.

7. Генеральная прокуратура Украины продолжает расследование резонансных дел.

ДСП. Просьба тщательно отслеживать информационные поводы, задаваемые Генеральной прокуратурой. Просьба не искажать информацию, предоставляемую Генпрокуратурой, сохранять все официальные формулировки.

9. 1-14 сентября на Яворивском общевойсковом полигоне Западного оперативного командования пройдут совместные украинско-британские батальонные учения «Казачкий експрес-2002» в рамках программы НАТО «Партнерство ради мира» с боевой стрельбой.

ДСП. Просьба не акцентировать внимание на факте проведения боевых стрельб. Необходим показ видеоряда, демонстрирующего военных в привлекательном свете.

### Дополнительные темы:

2 сентября, понедельник

11. В Украине отмечается День знаний.

ДСП. Просьба не злоупотреблять поздравлениями депутатов ко Дню знаний. Просьба показывать официальных лиц правительства, отвечающих за сферу образования.

13. В 10.00 начнется церемония открытия Украинско-венгерского института информационных технологий им. Арпада Гёнца.

ДСП. Просьба проигнорировать.

17. Пройдет торжественное собрание, посвященное началу 2002-2003 учебного года.

ДСП. Порядок освещения будет представлен дополнительно.

18. В 11.00 начнется пресс-конференция на тему: «Вставай, Украина!».

ДСП. Просьба игнорировать.

19. Комиссия по журналистской этике и общественная организация «Хартія-4» возобновляют региональные поездки по Украине. 2-3 сентября представители комиссии посетят Львов.

ДСП. Просьба игнорировать.

20. В 13.00 начнется пресс-конференция издательского дома «Такі справи» на тему: «Налоговики начали конкретные действия, направленные на незаконное присвоение имущества «Таких справ». Они должны ответить за нарушение закона».

ДСП. Просьба игнорировать.

3 сентября, вторник

27. В 15.00 начнется «круглый стол», посвященный обсуждению политической реформы в Украине.

ДСП. Просьба исключить освещение любых тезисов, ставящих под сомнение серьезность инициатив Президента.

32. Исполняется 40 дней со дня авиакатастрофы на аэродроме Скнылив.

ДСП. Просьба проигнорировать попытки ряда политических партий превратить 40 дней трагедии в политическое шоу.

**Additional commentary  
for events of week 36  
for internal use**

**Theme of the week:**

**1. The Verkhovna Rada of Ukraine opens a new session with a discussion of President L. Kuchma's television address to the Ukrainian people.**

**FIU.** A request related to the formation of the composition of a coalition government: take comments not from members of the existing Cabinet of Ministers but from representatives of fractions, political parties, and public organizations.

A request not to draw attention to the legislative project "On the election of people's deputies of Ukraine" put forth by deputies Yu. Ioffe and G. Dashutin.

**Fundamental themes of the week:**

**2. President L. Kuchma's participation in the Global summit on sustainable development in Johannesburg (RSA).**

**FIU.** For presentation of the two sides of the meetings—a request to accent the President's discussions with representatives of the European political elite. A request to portray meetings with leaders of African states in an international economic context based on additional agreement.

**Themes for broadcast in Sunday television programs:**

**4. The reaction of society and politicians to President L. Kuchma's address to the Ukrainian people on August 24, 2002.**

**FIU.** A request for newspaper materials to use the text of V. Yushchenko's open letter to the president and his article in "The Mirror Weekly" (from August 31, 2002) to demonstrate the contradictory position of "Our Ukraine" in relation to L. Kuchma's television address. On the one hand, "OU" says that its bloc has considered a transformation to a parliamentary-presidential republic to be necessary, and on the other hand notices that "now is not the time" for a change of political systems; society and politicians [sic] aren't ready. On the one hand, "OU" is against the interference of the PA [Translator's note: Presidential Administration] in the structuring of parliament, and on the other hand, requests the president's cooperation in forming a majority around "OU." Which of the pronouncements of V. Yushchenko are we to believe? These unbalanced and contradictory reactions of V. Yu. may provide evidence that he is nervous and recognizes the possibility that his hopes for the presidential seat are lost.

A request to present the SDPU(u)'s position on the political reforms in the normal informational regime.

A request not to draw attention to the initiative by a few politicians to hold a referendum on the transformation to a parliamentary-presidential political system.

A request not to present the conflict between E. Chervonenko and O. Rybachuk.

A request not to give the number of deputies who have apparently agreed to join the parliamentary majority.

A request on the call for friendship with "OU" from the side of pro-presidential political powers, to add only the soundtrack of S. Tikipko's statements, not those of other commentators.

**Ongoing themes:**

**6. The opposition is preparing to conduct demonstrations on September 16.**

**FIU:** This theme is only for printing and internet publications. A request to exclude [this topic] from television.

Informational work on the so-called "Forum of Democratic Forces" will go according to the following logical sequence:

- The "Forum" is actually a gathering of selected representatives of parties.
- Far from all the forces intending to participate in the event can be called "democratic" (for example the SNPU of O. Tiagnibok).
- Yushchenko should remove from the list of participants people who are far from democracy and determine the rules for participation in the "Forum." Then more truly democratic forces will be prepared to participate.
- If V.Yu. does not do this, he risks utterly discrediting the "forum" in the eyes of society.
- If V.Yu. "cleanses" the list and brings order to its formulation, dozens and dozens of different parties and organizations are expected to send letters with demands to participate in the "forum's" organizational committee. As a result there will be a chance of a "watering down" and "disruption" of the "forum," and the event risks becoming ridiculous.

It would appear expedient to "revive" the scandal at the "Orliat" cemetery in Lviv in order to redirect the protest potential of the city's people in another direction. Cardinal Liubomir Guzar is available for interview.

#### **7. The general procurator of Ukraine continues investigation of important cases.**

FIU. A request to thoroughly keep track of the informational rationales given by the general prosecutor. A request to not distort information attributed to the general prosecutor's office; remain faithful to all official formulations.

#### **8. On September 1-14, within the framework of the NATO "Partnership for Peace" program, joint Ukraine-British battalion live fire exercises "Kazatskii express-2002" will take place on the Western operating command's Yavorivsk combined command training grounds.**

FIU. A request not to draw attention to the fact that a live fire exercise will take place. It is necessary to show video presenting military personnel in an attractive light.

#### **Additional themes:**

#### **September 2, Monday**

#### **11. Ukraine celebrates the Day of Knowledge.**

FIU. A request not to spend too much time with Day of Knowledge congratulatory remarks of deputies. A request to show government officials who are responsible for education.

#### **13. A ceremony for the opening of the Arpad Gense Ukrainian-Hungarian Institute for Informational Technology will begin at 10.00.**

FIU. Request to ignore.

#### **17. A gala celebration marking the start of the 2002-2003 school year will take place.**

FIU. The order for presentation will be presented additionally.

#### **18. A press conference on the theme "Rise up Ukraine" begins at 11.00.**

FIU. Request to ignore.

#### **19. The commission for journalistic ethics and the non-governmental organization "Charter-4" are resuming their trip through Ukraine. On September 2-3 representatives of the commission will visit Lviv.**

FIU. A request to ignore.

#### **20. A press conference held by the publishing house "Taki spravi" will begin at 13.00 on the theme: "The tax police began concrete actions directed towards the illegal seizure of 'Taki spravi' property. They should answer for their violations of the law."**

FIU. A request to ignore.

#### **September 3, Tuesday**

#### **27. A "round table" discussion of political reforms in Ukraine begins at 15.00.**

**FIU.** Request to exclude from broadcasts any theses placing under doubt the seriousness of the president's initiatives.

**32. Forty days have passed since the airplane accident at the Skniliv airfield.**

**FIU.** A request to ignore the attempts of political parties to turn the fortieth day of the tragedy into a political show.

## **Acknowledgements**

This report is based on research conducted in Ukraine in October 2002 by Jane Buchanan, Michael Bloomberg fellow researching in the Europe and Central Asia division of Human Rights Watch, and Diederik Lohman, senior researcher for Europe and Central Asia. It was written by Jane Buchanan. It was edited by Rachel Denber, deputy director of the Europe and Central Asia division, Joseph Saunders, deputy program director, and Dinah PoKempner, general counsel. Veronika Leila Szente Goldston, advocacy director for the Europe and Central Asia division also edited this report. Invaluable assistance was provided by Leslie Smith, associate for the Europe and Central Asia division and Yana Chernova, Lidiya Nychuk, and Maria Sonevytsky, interns with the Europe and Central Asia division of Human Rights Watch.

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*Human Rights Watch  
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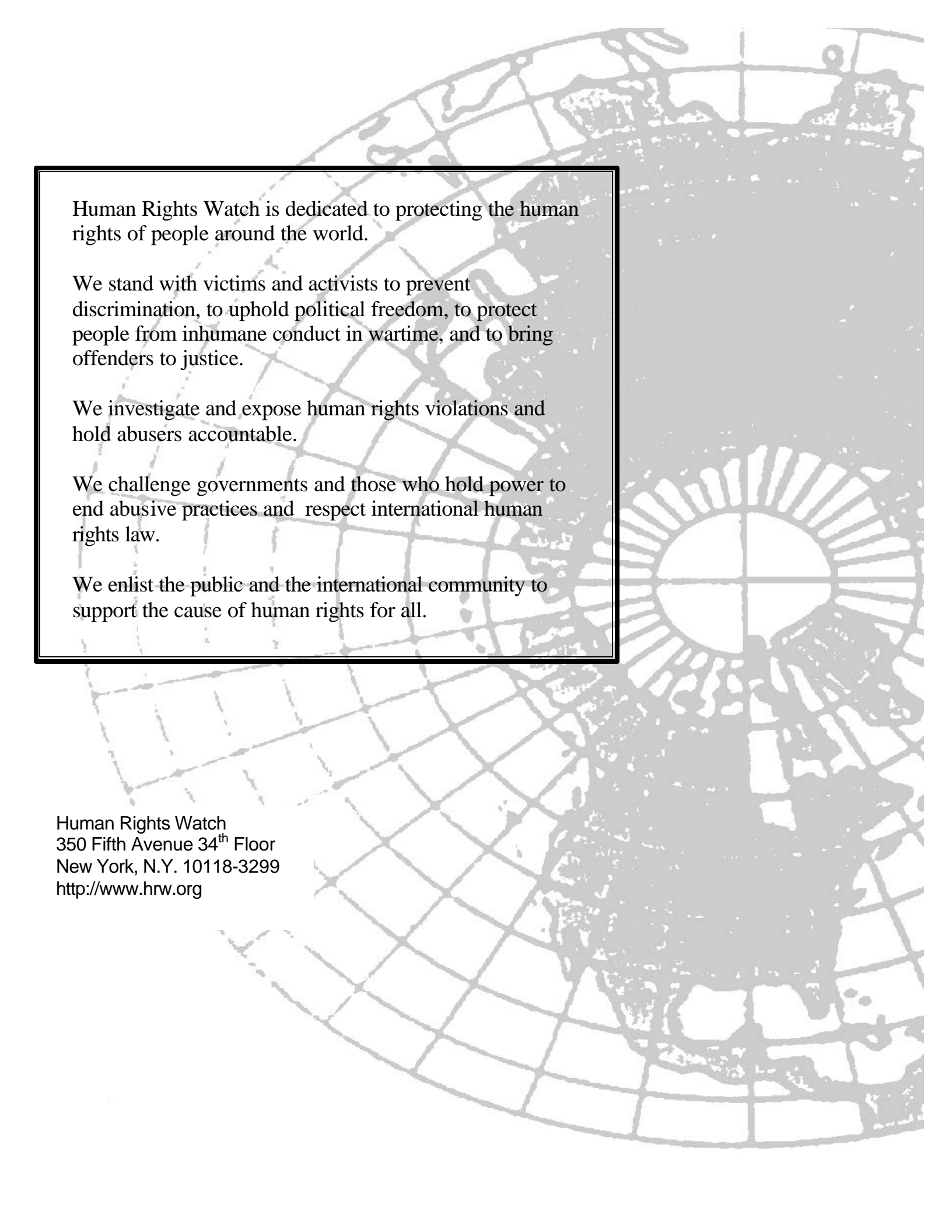
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