

## **Ukrainian Helsinki Human Rights Union**

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Only in English

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### **2011 Human Dimension Implementation Meeting *Session 1, freedom of expression***

#### **Ukraine**

#### **Written submission**

### **Removing local TV companies from air is flagrant violation of freedom of expression in Ukraine**

On 13 September 2011 three Kharkiv TV companies – ATN, Fora and ATVC – were simultaneously removed from air. All three are engaged in independent journalist activities and regularly broadcast criticism of the local authorities and various State bodies. The simultaneous silencing under various pretexts of these three TV companies makes it impossible to doubt the political commissioning of the move.

Over the 18 years of its existence, ATN has become a leader in broadcasting of information in the Kharkiv region. According to public opinion surveys during the last 6 years, more than 50% of all Kharkiv residents prefer to watch ATN news, and of all local TV companies ATN gets the highest confidence rating among viewers. According to a study carried out by GRK, up to 550 thousand Kharkiv residents watch ATN news every day. It is specifically the channels For a and ATVC which broadcast all ATN programmes.

We deem this a flagrant violation of the fundamental right to freedom of expression enshrined in Article 34 of Ukraine's Constitution and Article 10 of the European Convention on Human Rights. Various official reasons for the cutting off of the channels, namely the "lack of a hygiene passport" at ATN, the supposed "systematic failure to pay for services" of the provider in the case of Fora, and the alleged lack of contractual broadcasting obligation in the case of ATVC are nothing more than methods of political pressure.

The reasons for removing the channels from air are unlawful since Article 64 § 1 of the Constitution states that rights may be restricted only in cases envisaged by Ukraine's Constitution. Furthermore Article 92 of the Constitution stipulates that the restriction of rights may only be regulated by laws and not on the basis of subordinate normative acts.

The unlawful nature of these actions is also confirmed by judgments of the European Court of Human Rights. In the case, for example, of *Autronic AG v. Switzerland*, the Court noted that "The Article (art. 10) applies to "everyone", whether natural or legal persons. The Court has, moreover, already held on three occasions that it is applicable to profit-making corporate bodies ... and applies not only to the content of information but also to the means of transmission or reception since any restriction imposed on the means necessarily interferes with the right to receive and impart information"; This in turn means that the right to free transmission of

information may be infringed not only by censorship of the content of the information which is transmitted, but also by imposing restrictions on the technical means of transmission of information.

The removal from air of all independent TV companies in Kharkiv demonstrates a serious onslaught on freedom of speech by the State and poses a grave threat to human rights and democracy in Ukraine.

We demand that the broadcasting be immediately reinstated of ATN, Fora and ATVC, and then any issues in dispute can be resolved.