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**LANGUAGE USE IN  
LATVIAN RADIO AND  
TELEVISION: LEGISLATION  
AND PRACTICE**

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## EXECUTIVE SUMMARY

When Latvia regained independence, one of its major tasks was to strengthen the position of Latvian as its state language. Restrictions were placed on the use of languages other than Latvian in commercial and public broadcasting.

The Law on Radio and Television limited the amount of time that commercial radio and television broadcasters could allocate to broadcasts in other languages to 25%.<sup>1</sup> Hence, news and entertainment for those who speak Russian, Ukrainian, Polish, Lithuanian, Roma and English were limited to a maximum of 25% of the total airtime. Stations that wished to broadcast in those languages were required to reserve 75% of their airtime for programs in Latvian.

On June 5, 2003, the Constitutional Court invalidated the provision of the law that restricted use of foreign languages in the programs of commercial broadcasters.<sup>2</sup> It ruled that the language restrictions applied to commercial broadcasting organizations did not conform with Article 100 of the Constitution pertaining to freedom of expression, and that in a democratic society such restrictions were neither necessary nor appropriate.

Policymakers must now keep in mind that restrictions on language use in commercial broadcasting organizations are not permissible. However, it is possible to apply other methods of regulation based on accessibility of information and not on language-use restrictions. For example, when monitoring the work of commercial broadcasting organizations, the National Radio and Television Council (NRTC) should make sure that these radio and television stations include more news and programs about current events in Latvia, as well as prevent the illegal retransmission of foreign stations.

With respect to public broadcasting, restrictions on the use of foreign languages are still in force for Latvian Radio and Latvian Television. The law states that the right to

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<sup>1</sup> Law on Radio and Television, Section 19, Paragraph 5.

<sup>2</sup> See Appendix 1: Constitutional Court judgement on the incompatibility of language restrictions on commercial broadcasting organizations with the Constitution.

broadcast on the first and second nationwide radio and television broadcasting network is allocated to the public broadcasters. The law makes a distinction between the first and the second broadcasting network of public radio and television. The first network is limited to programs in Latvian only, but the second network may allocate up to 20% of its broadcasting time to broadcasts in the languages of the national ethnic minorities.<sup>3</sup>

The official purpose of the second public broadcasting network is to promote integration and produce programs that support the interests of ethnic minorities and assist them to preserve and develop their cultures. It is difficult to carry out these functions if this must be done in only 20% of broadcasting time.

In essence, the current language policy devotes all its attention to form and not to content. It continues to restrict the languages in which news and entertainment may appear instead of concentrating on the topics and substance of the broadcasts themselves.

Although the Latvian language skills of the ethnic minorities have improved, the popularity of Latvian-language television and radio programs among these audiences has not increased. The number of ethnic minority viewers of Latvian-language television programs has declined by 6% since 1999, and the number of radio listeners by 7% since 1998.<sup>4</sup>

Knowledge of the Latvian language is not enough to attract ethnic minority audiences to Latvian-language programs or to generate a shared understanding of Latvian current affairs. Policymakers should ensure that information is presented in a way that is accessible and understandable to the audiences – in the language in which they would like to receive it.

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<sup>3</sup> Law on Radio and Television, Section 62, Paragraph 3.

<sup>4</sup> Baltic Social Science Institute (BSSI). “Valoda [Language]” survey, November 2001 – January 2002, p. 10.

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## INTRODUCTION

With adoption of the National Program for the Integration of Society in Latvia,<sup>5</sup> integration policy became one of the priorities of Latvia's domestic policy. Integration is a process in which different ethnic groups become an integral part of a united body politic or political culture, which, in turn, guarantees the preservation and development of the national culture of each individual group.

An important role in this process is played by the mass media, which contribute to the development of a common system of values and strengthen the national identity of the population. The media also provides opportunities for intercultural communication, which helps to overcome alienation, segregation and distrust among ethnic groups. These aspects are particularly important because Latvia has a complicated ethnic structure characterized by a relatively high percentage of ethnic minorities: approximately 42% of the population. The largest group is made up of Russians (29.0%), Belarussians (4.0%), Ukrainians (2.6%), Poles (2.5%), followed by other, smaller ethnic groups: Lithuanians, Jews, Estonians, Roma and others.<sup>6</sup>

The focus of the study will be on the electronic mass media – in this case, radio and television.<sup>7</sup> There are three main reasons for this. 1) Other studies show that society in Latvia trusts primarily schools, television and radio.<sup>8</sup> 2) As opposed to the printed media, this is an area in which, through legislation, the Latvian government has introduced

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<sup>5</sup> Approved by the Cabinet of Ministers on February 6, 2001.  
<http://www.integracija.gov.lv/index.php?id=948&sadala=40> Last accessed on May 21, 2003.

<sup>6</sup> Department of Citizenship and Migration Affairs Population Registry data, July 1, 2001.  
<http://www.np.gov.lv/fakti/index.htm> Last accessed on April 30, 2003.

<sup>7</sup> This study will not examine the development trends of Internet media, since the Internet is currently not covered by Latvian legislation. Satellite and digital television are not included in the study either, since they are still in the early stages of development in Latvia.

<sup>8</sup> As in 1997, in 2000 the majority of the respondents said that they mainly trusted schools (83% citizens, 76% non-citizens), television (82% citizens, 67% non-citizens) and radio (81% citizens, 62% non-citizens). The press ranked fourth, trusted by 68% citizens and 57% non-citizens. "On the Way to a Civic Society" program. Report 2001, p. 69.

stricter control and supervision. It is also an area that the government has included in its policy planning. 3) Relatively little attention has been paid so far to the role of Latvian radio and television broadcasting organizations in the integration of society.

The current policy in regard to radio and television is based on the very real need in the early 90s to strengthen the position of the Latvian language in the public sector and create common sources of information in the Latvian language. To achieve this goal, restrictions on the use of foreign languages by both public and commercial broadcasting organizations were included in the Law on Radio and Television: Latvian Radio and Latvian Television may allocate 20% of total broadcasting time on their second broadcasting networks to programs in the languages of the ethnic minorities, but foreign-language programs on commercial or private radio and television stations may not exceed 25% of total broadcasting time within a 24-hour period. In June 2003, the Constitutional Court ruled that the 25% limit on use of foreign languages by commercial broadcasting organizations was incompatible with the Constitution and invalidated this provision of the law.

Ten years have passed since this policy on the electronic media was introduced, and it is therefore important to determine the extent to which it has contributed to the accessibility of information, the development of a common system of values, and to opportunities for intercultural communication. One of the facts that testify to a lack of success in attracting ethnic minority audiences and to segregation in radio and television is the fact that a great part of the Russian-speaking population chooses to watch Russian television channels, which are available via cable and satellite.<sup>9</sup>

This study will analyze two problems. First, it will examine the effect of language restrictions on the establishment of Latvian Radio and Latvian Television stations in the languages of the ethnic minorities. Then it will examine the effect that the 25% foreign-language limit imposed on commercial broadcasting organizations has had on attracting ethnic minority audiences to Latvian sources of information.

These problems will be analyzed with two principles in mind:

- One of the functions of the public broadcasting organizations is to create radio and television stations intended for ethnic minority audiences, which contribute to the development of ethnic minority languages and culture.
- One indicator of the integration of society is the habits of viewers and listeners in regard to local television and radio stations.

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<sup>9</sup> In comparison with 1997, in 2000 the number of viewers who watched Russian television channels had particularly increased among non-citizens. Three quarters of the non-citizens in Latvia regularly watch Russian TV and ORT. "On the Way to a Civic Society" program. Report 2001, pp. 40–41.



## 1. LANGUAGE, THE MEDIA, AND INTEGRATION POLICY

The basis of a democratic and integrated society is a dialogue between the state and the individual, and between individuals. In Latvia's situation, dialogue is particularly important in promoting a relationship that is based on mutual trust between the Latvians and the ethnic minorities living in Latvia. Independent and diversified functioning of the media is one of the key prerequisites for such a dialogue. Radio and television must provide not only entertainment, but also a forum for open discussions and exchanges of opinions. From the aspect of democracy and diversity, it is important that all individuals be able to participate in such discussions.

Undoubtedly, language plays a significant role in communication through the media. For this reason, before taking a closer look at language restrictions, it is important to touch on the connection between the language situation in Latvia and radio and TV audiences, in order to determine what people in Latvia want to see and hear. It is also important to examine how the role of radio and television is interpreted in the context of Latvia's integration policy.

### 1.1. The language situation in Latvia

Language is one of the major issues in the question of inter-ethnic relations in Latvia. A popular phrase is "integration on the basis of the Latvian language." The Latvian language as the only state language is declared to be the government's political goal in the National Program for the Integration of Society in Latvia. At the same time, the program underlines the need to respect the languages of the ethnic minorities: "The cornerstone [of integration] is readiness to voluntarily accept the Latvian language as the state language and regard for the language and culture of the Latvians and the ethnic minorities living in Latvia." For the development of a tolerant and democratic society it is important not only that all people living in Latvia know the state language, but also that ethnic minorities be able to freely, without any restrictions, use their native languages in everyday communication and in their private lives.

According to the results of the 2000 census, the native language of 60.5% of Latvia's population is Latvian. For 37.3% it is Russian; for 0.6%, Belarussian; for 0.6%, Ukrainian; for 0.4%, Lithuanian; for 0.3%, Polish; for 0.2%, Roma and for 0.1%, some other language.<sup>10</sup> Surveys on native languages show that 96% Latvians consider their native language to be Latvian, and for 99% Russians the native language is Russian. On the other hand, about half (55%) of those who belong to other nationalities consider Russian to be their native language, 8% claim that Latvian is their native language, but 37% name some other language.<sup>11</sup> This suggests that there are two major languages in Latvia: Russian and Latvian. However, it should not be forgotten that Latvia's language environment is enhanced by Belarussian, Ukrainian, Lithuanian, Polish, Roma and other languages. Discussions about the language situation in Latvia pay insufficient attention to these other languages.

Far too often, it is argued that the Latvian language is endangered and that it is necessary to protect it by supporting its position with respect to Russian. This creates the impression that the use of other languages is a threat to Latvian. It is important to note the recent data on Latvian language proficiency. About 82% of the population understand Latvian.<sup>12</sup> Among ethnic minorities, the percentage that knows Latvian increases each year. From 1996 to 2002, the number claiming knowledge of Latvian at both fluent and rudimentary levels increased by four percent annually, and the number of people with no Latvian at all declined from 22% to 12%.<sup>13</sup>

These figures indicate that the position of the Latvian language, undermined during the years of Soviet rule, has improved each year. Only 4% of the young people who belong to ethnic minorities do not speak Latvian. About one-third report understanding Latvian at the middle level of competence, and 17% report that their Latvian is fluent.<sup>14</sup> In addition, in the past few years, the percentage of persons belonging to various nationalities who feel that all people in Latvia should know Latvian has consistently exceeded 90%.<sup>15</sup> This positive trend is likely to continue.

Although the number of Latvian-speakers increases each year, surveys show that the number of persons belonging to ethnic minorities and taking advantage of the Latvian-

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<sup>10</sup> Central Bureau of Statistics. *Provisional Results of the 2000 Census*. Riga (2001), p. 39.

<sup>11</sup> Baltic Social Science Institute. "Valoda [Language]" survey, November 2001 – January 2002, p. 4.

<sup>12</sup> Central Bureau of Statistics. *Provisional Results of the 2000 Census*. Riga (2001), p. 40.

<sup>13</sup> Baltic Social Science Institute. "Valoda [Language]" survey, November 2001 – January 2002, p. 5.

<sup>14</sup> *Ibid.*, p. 6.

<sup>15</sup> *Ibid.*, p. 11.

language mass media is declining. In comparison with 1999, in 2002 the number of persons belonging to ethnic minorities and watching Latvian-language television channels declined by 6%; the number listening to Latvian radio declined by 7%.<sup>16</sup> Generally, one can say that Latvian language proficiency is not the factor that determines whether or not people whose native language is not Latvian will watch or listen to programs in Latvian.

## 1.2. Radio and television audiences

Although language does not determine choice of radio and television stations in Latvia, analysis of radio and TV ratings shows that Russian-language stations are more popular among ethnic minority audiences. Unfortunately, the only local station that broadcasts in other ethnic minority languages is the Latvian Radio station “Doma laukums [Dome Square]” which features programs produced by ethnic minority organizations. The work of commercial radio and TV stations is dictated by media market demand and audience ratings, but only a small share of viewers and listeners would like to have programs in Belarussian, Ukrainian, Lithuanian, Polish and other languages.

The language-use restrictions laid down in the Law on Radio and Television, which require that “broadcasting time in foreign languages shall not exceed 25% of a broadcasting organization’s stations’ total volume of broadcasting time within a 24-hour period,” apply to both commercial radio and commercial television stations. However, the current situation suggests that application of this provision to radio allows individual radio stations to broadcast mainly in foreign languages. Radio stations can take advantage of a loophole that makes it possible to include the music part of the program in the total broadcasting time in the state language. One radio broadcasting organization in Latvia, Radio SWH, has taken advantage of another possibility and set up several radio stations, of which one (SWH+) can then broadcast mainly in Russian. This interpretation of the provision on language proportions is not possible for commercial television stations because: 1) the language of a television program is determined by the amount of spoken text, and 2) the costs of setting up television stations are too high to allow a broadcasting organization to maintain several television channels.

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<sup>16</sup> In 2002, in answer to the question “Do you watch any Latvian-language television programs?” 70% of the ethnic minority respondents gave a positive answer. In answer to the same question about radio programs, 32% answered positively. It should be pointed out, however, that these answers provide no information about how often and for how long the respondents tune in to these programs.

Baltic Social Science Institute. “Valoda [Language]” survey, November 2001 – January 2002, p. 12.

Table 1. Distribution (%) of radio audiences in Latvia (October 2002–February 2003)

Radio stations	Latvia	Riga	Vidzeme	Kurzeme	Zemgale	Latgale
Latvian Radio 2	25	10	36	38	29	20
Latvian Radio 1	15	13	18	14	20	12
Other radio stations	12	2	8	14	8	47
Radio SWH	9	10	10	10	8	5
SWH+	7	15	6	0	3	1
Latvian Radio 4	6	8	2	8	2	8
“Doma laukums”						
Star FM	5	4	4	9	5	4
Radio 100 FM (Pik)	5	11	3	0	7	0
Super FM	5	5	5	3	8	0
Radio 102.7 MIX-FM	4	8	2	2	5	1
Radio Skonto	3	7	2	0	3	0
SWH Rock	1	2	1	0	1	0
Radio Nova	1	3	0	0	0	0
Christian radio	1	1	2	1	1	1
Latvian Radio 3	0	1	1	0	0	0

Source: BMF Gallup Media. <http://www.bdh.lv> Last accessed on April 30, 2003.

These figures show that the most popular radio stations in Latvia are Latvian Radio 1 and Latvian Radio 2, which broadcast in Latvian. A large percentage of audiences tunes in to the small local and regional radio stations, which are included in the table under “other radio stations.” The most popular of the commercial radio stations are the two Radio SWH stations: the Latvian-language station has an audience of 9%, but the Russian-language Radio SWH+ has 7%. The Latvian Radio station “Doma laukums,” which broadcasts mainly in Russian, is also relatively popular. Star FM and Radio 100 FM (Pik), whose target audiences are Russian-speakers and which can be heard in Riga and the Riga District, have an equal share of listeners. In Riga, the most popular station is the Russian-language SWH+, followed by Latvian Radio 1 in second and Radio 100 FM in third place. In Latgale, 47% of radio audiences tune in to local radio stations that broadcast primarily in Russian. The explanation for these figures is the high percentage of ethnic minorities in Riga and in Latgale.

Table 2. Nationality of radio audiences (%)

Radio stations	2001		2002	
	Latvian	Other	Latvian	Other
Latvian Radio 1	28	4	22	2
<b>Latvian Radio 4 “Doma laukums”</b>	<b>1</b>	<b>8</b>	<b>1</b>	<b>14</b>
Latvian Radio 2	22	5	36	6
Latvian Radio 3 (Classics)	0	0	1	0
Radio SWH	15	4	12	2
<b>Radio SWH+</b>	<b>2</b>	<b>13</b>	<b>1</b>	<b>17</b>
Radio Amadeus	0	0	–	–
Radio SWH Rock*	–	–	0	2
Star FM	6	3	6	3
<b>Bizness&amp;Baltija**</b>	<b>2</b>	<b>17</b>	–	–
Christian Radio	1	0	2	1
<b>Radio Mix FM</b>	<b>1</b>	<b>6</b>	<b>1</b>	<b>10</b>
<b>Radio 100 FM (Pik)</b>	<b>1</b>	<b>9</b>	<b>1</b>	<b>13</b>
Radio Skonto	4	3	4	2
Super FM	6	5	5	4
Other radio stations (regional and local)	11	23	7	21

Source: BMF Gallup Media. <http://www.bdh.lv> Last accessed on April 30, 2003.

\* Radio SWH Rock started transmitting on November 15, 2001, replacing Radio Amadeus.

\*\* Stopped transmitting on March 13, 2002.

Note: The radio stations marked in bold broadcast primarily in Russian.

These data on the most popular radio stations in 2001 and 2002 among Latvians and other nationalities also show that the ethnic minorities favor radio stations that broadcast in Russian. The most popular radio stations among ethnic minority listeners in 2001 were Bizness&Baltija, Radio SWH+, Radio 100 FM (Pik), Latvian Radio 4 “Doma laukums,” and Radio Mix FM. In 2002, after Radio Bizness&Baltija stopped transmitting, the station’s ethnic minority audiences were distributed proportionally among the other stations: the size of the SWH+ audience increased to 17%; the “Doma laukums” audience to 14%; Radio Mix FM to 10%; and Radio 100 FM (Pik) to 13%.

A significant role in the choice of radio stations can be attributed not only to the language used, but also to the type of programs. For example, in 2001, 2% of Latvian audiences

tuned in to Radio SWH+ and the Bizness&Baltija station Russkoje Radio, which broadcast primarily in Russian, but 6% and 4% of the ethnic minority audiences listened to Latvian Radio 2 and Radio Super FM, respectively.

**Table 3. Distribution (%) of TV audiences in Latvia (January 2002–February 2003)**

TV channels	Latvia	Riga	Vidzeme	Kurzeme	Zemgale	Latgale
LNT	25.4	14.2	33.2	31.6	27.5	27.7
LTV1	13.3	8.4	21.6	13.9	14.4	8.5
LTV7	4.1	3.6	4	5.3	4.1	4.4
Baltic Channel 1	8.9	15.4	3.8	6.8	4.5	10.2
TV3	14.5	11.2	15.3	19.2	21.1	9.5
TV5-Riga	2.4	4.7	2.3	0	2.9	0
Video	2.6	2	4.6	0.6	3.2	1.3
Other channels*	28.7	40.1	15.3	22.5	22.2	38.5

Source: BMF Gallup Media. <http://www.bdh.lv> Last accessed on April 30, 2003.

\* The category “other channels” includes TV channels available via cable and satellite.

These figures show that, with the exception of Riga, in the rest of Latvia the most popular TV channel is LNT (25.4%), followed by TV3 (14.5%) and LTV1 (13.3%). In Riga, the most popular TV channel is Baltic Channel 1, which started transmitting in Latvia in September 2002, essentially replacing the Russian Public Television station. The table shows that both in Latvia generally and in Riga and Latgale specifically, the latter being areas with a high percentage of ethnic minorities, Russian cable television stations are extremely popular.

**Table 4. Nationality of TV audiences (%)**

TV channels	2000		2001		2002	
	Latvian	Other	Latvian	Other	Latvian	Other
LNT	34.7	16.1	35	16.7	34.7	11.7
LTV1	22.3	2.8	21.6	4.1	19.6	3.9
LTV2	5.2	2.2	3.7	3.5	4.8	3.1
TV3	10.5	7.2	13.8	9.6	17.5	10.0

ORT (TEM)	2.2	16.6	3	16.3	2.4	18.6
TV5-Riga*	—	—	0.4	0.6	2.2	2.7
Video	3.3	2.9	2.7	2.6	2.9	2.1
Other channels**	21.8	52.1	19.8	46.4	15.9	47.7

Source: BMF Gallup Media. <http://www.bdh.lv> Last accessed on April 30, 2003.

\* TV5-Riga started transmitting in October 2001.

\*\* The category “other channels” includes TV channels available via cable and satellite.

A comparison of the distribution of television audiences by nationality in the years 2000, 2001 and 2002 shows that Latvians prefer to watch LNT and LTV1. However, a large part of the Latvian audience chooses programs that are available through cable and satellite (21.8% in 2000; 19.8% in 2001; 15.9% in 2002). Ethnic minority audiences choose primarily cable and satellite channels, which in 2000 captured a 52.1% share of the ethnic minority audience. In 2001, the viewership of cable television channels dropped to 46.4%. One of the reasons for this could be that, in October 2001, TV5-Riga, which offers informative programs in Russian, started transmitting in the Riga region. In its first year, this channel was chosen by only 0.6% of the ethnic minority audience, but in 2002, the figure had risen to 2.7%. The popularity of the Russian television channel ORT had increased from 16.6% in 2001 to 18.6% in 2002. In Latvia, this channel is available through the cable network. A relatively large part of the ethnic minority audience watches LNT and TV3.

Of course, not only the language determines choice of television channels, but also the quality of the programs. Television companies in other countries, including Russia, have greater financial resources to produce programs that a certain part of the audience finds more interesting. This is one of the reasons why a large part of the television audience chooses to watch programs on cable or satellite television.

### 1.3. Integration policy and the media

On February 6, 2001, the Cabinet of Ministers approved the National Program for the Integration of Society in Latvia. One section of the program lays down the goals of the integration policy and the principal courses of action in regard to the media (see Appendix 2: National Program for the Integration of Society in Latvia. Subsection “Mass Media”).

The goal of the program is “to promote a free flow of information and guarantee the right of all persons living in Latvia to receive objective and all-round information,

enabling them to understand the country's political and social processes and take part in the exchange of information, fully understanding the issues at hand."<sup>17</sup> However, the text makes no mention of the fact that, to guarantee the rights of all persons living in Latvia to receive information, it is necessary that this information be available in a language that is understood, i.e., in the languages of Latvia's ethnic minorities as well.

The second goal of the program is declared to be the need "to draft and implement an information policy which, based on the freedom of expression, freedom of the press and other democratic freedoms, encourages an open dialogue between state and society, and between different parts of society, thus promoting the integration of state and society, transparency of government and local government, and creating a climate of trust in relations between state and society."<sup>18</sup>

Such goals place the focus on the role of the media in the relationship between state and society. They do not take into account an essential need dictated by Latvia's ethnic situation – the need to use the mass media to develop a dialogue between the state and the national minorities, and also between Latvians as the majority and members of the ethnic minorities in Latvia. The program also fails to specify which government institution shall be responsible for drafting and implementing the information policy.

The section on principal courses of action underlines that "the government must promote the development of public radio and television and, at the same time, ensure their independence from the undemocratic influence of any groups or persons whatsoever." Unfortunately, the program does not mention that from the aspect of integration it is important that public broadcasting organizations provide information in Latvian about the minorities and produce programs in the languages of these minorities.

Another problem connected with the work of public broadcasting organizations is the accessibility of the Latvian Television and Latvian Radio stations to all people in Latvia. Although the program underlines that "the technical capacity of Latvian Radio and Latvian Television must constantly be improved to ensure that their broadcasts can be received in the whole territory of Latvia," this problem has not yet been resolved. Currently, it is not possible for everyone living in Latvia to receive both LTV channels. A look at the transmission range of LTV1 (see Appendix 3: LTV transmission ranges) makes it clear that there are a number of populated areas along the Latvian border

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<sup>17</sup> National Program for the Integration of Society in Latvia (Subsection "Mass Media"). Naturalization Board. Riga (2001), p. 87.

<sup>18</sup> Ibid.



(around Ainaži, Viļaka, Dagda, Auce and Priekule) that cannot get either LTV1 or LTV7. The LTV7 channel is also difficult to receive in populated areas around Jēkabpils and Viesīte. The situation with Latvian Radio is similar. Although Latvian Radio 1 can be heard in almost the whole territory of Latvia, other stations are not available to the whole population (see Appendix 4: Latvian Radio transmission ranges). This means that in certain populated parts of the country the public broadcasting organizations do not fulfill their function of consolidating the status of the Latvian language, but in some areas along the border, transmission of programs in Latvian is limited.

In regard to the language-use restrictions imposed on radio and television stations, the program says that “airtime for radio and television broadcasts in Latvian and other languages must be allocated flexibly, taking into account the actual language situation in a specific region, with the aim of making information accessible to audiences.” The program does not specify, however, that in the current situation it is not possible to “flexibly” distribute broadcasting time by language because the Law on Radio and Television anticipates rigid restrictions on the use of foreign languages by both public and commercial broadcasting organizations.

## 1.4. Conclusions

- The current language situation in Latvia indicates that the positions of the Latvian language, undermined during the years of Soviet rule, continue to improve, and there is no longer any reason to fear for the further existence of the Latvian language.
- Analyses of radio and television audiences show that the popularity of radio and television stations that broadcast in Latvian is not particularly high among ethnic minorities. With each year, the number of people belonging to ethnic minorities who listen to or watch radio or television programs in Latvian declines. Over half of the ethnic minority audiences do not watch local television programs, choosing, instead, cable or satellite stations – mainly the Russian channels. This, of course, does not promote the information levels of this part of the population or their understanding of current affairs in Latvia – one of the prerequisites for the integration of society. In sum, the number of people speaking Latvian is increasing, but the number of people listening to and watching Latvian language programs is declining.
- The National Program for the Integration of Society in Latvia does not devote sufficient attention to the potential of local radio and television stations to attract ethnic minority audiences. The recommendation that broadcasting time should be

distributed among the languages with consideration for the language situation in each region contradicts the Law on Radio and Television, which does not allow commercial broadcasters to allocate more than 25% of total broadcasting time within a 24-hour period to programs in foreign languages. Thus, administrative and legislative goals have not been consistently coordinated.

## 2. THE ROLE OF PUBLIC BROADCASTING ORGANIZATIONS IN THE INTEGRATION OF SOCIETY

Public broadcasting organizations have a special role in a democratic society. They cater to the interests of society as a whole, they educate, entertain and make objective information available to the broadest spectrum of society, including the country's ethnic minorities. The function of public radio and television in transition societies is to contribute to education, preservation of language and culture, and shaping of a national identity.<sup>19</sup> This makes public broadcasting an important element of integration.

In Latvia, there are two public broadcasting organizations: Latvian Radio and Latvian Television. The functions of these broadcasters are governed by the Law on Radio and Television, which was adopted by the Saeima on August 24, 1995. Pursuant to this law, the work of Latvian Radio and Latvian Television is controlled by the National Radio and Television Council (NRTC).

This section analyzes the parts of the Law on Radio and Television that apply to Latvian Radio and Latvian Television. It also examines the national remit mechanism and the way that it functions in regard to Latvian Radio and Latvian Television. It also evaluates the current role of public broadcasting organizations in supporting intercultural communication.

### 2.1. The principles of public broadcasting organizations

In its definition of the principles of public broadcasting organizations, Section 5 of the Law on Radio and Television says that "public broadcasting organizations shall ensure a variety of broadcasting stations for all groups of society, which provide informative,

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<sup>19</sup> European Institute for the Media. *Public Service Broadcasting in Transition: a Documentary Reader*; *Public Service Broadcasters around the World: a McKinsey Report for the BBC*. McKinsey & Company (1999).

educational and entertaining broadcasts, and ensure freedom of information and expression, and the impartiality and diversity of programs.” With this, the law lays down the principle that one of the functions of public broadcasting organizations is to set up broadcasting stations intended for members of the ethnic minorities living in Latvia.

At the same time, the Law on Radio and Television restricts the choice of languages used by such radio and television stations. The law prescribes that the language used by Latvian Radio and Latvian Television stations transmitting on the first broadcasting network must be the state language.<sup>20</sup> The stations transmitting on the second broadcasting network must also primarily use the state language. These stations may allocate 20% of their broadcasting time to programs in the languages of the ethnic minorities. Films and theatrical performances that are subtitled in the state language must be included in this broadcasting time.<sup>21</sup> In regard to public broadcasters, the law uses the term “languages of the ethnic minorities” and not the term “foreign languages” that is used in regard to the commercial broadcasters. The use of this terminology creates problems, since the languages of the ethnic minorities have not been defined in Latvian legislation. Use of the term “broadcasts in the languages of the ethnic minorities” creates a situation where LTV is not permitted to broadcast programs in, for example, English, with subtitles in Latvian. Pursuant to the Law on Radio and Television, all that Latvian Television may broadcast in a foreign language that is not an ethnic minority language are films, since Section 19, Paragraph 3 of the law says that “the films that are shown shall be dubbed in the state language or with the original soundtrack and subtitles in Latvian....”

Given the specific language situation in Latvia and the principles of the national language policy, one of the main functions of public broadcasting organizations is to ensure development and use of the Latvian language. This is anchored in the Law on Radio and Television, with the stipulation that Latvian Radio 1 and LTV1 may broadcast only in Latvian, but the stations transmitting on the second broadcasting network may allocate 20% of their broadcasting time to programs in other languages.

From the aspect of minority rights in Latvia, consideration must be shown for the right of the ethnic minorities to use their native languages in the mass media. Minority and language rights expert Fernand de Varennnes has this to say about the use of minority languages: “Minorities have the right to have their language used by public media when public authorities are involved in this area to the degree that is justified and reasonable in light of the number of speakers of a minority language in application of the

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<sup>20</sup> Law on Radio and Television, Section 62, Paragraph 2.

<sup>21</sup> *Ibid.*, Section 62, Paragraph 3.

sliding-scale approach.”<sup>22</sup> The application of this principle in Latvia would mean that the public broadcasting organizations transmitting on the second broadcasting network would have to allocate 40% of their broadcasting time to programs in the languages of Latvia’s ethnic minorities. It must be underlined that the status of the ethnic minorities has not been defined in Latvian legislation. Experts from the European Commission against Racism and Intolerance have also pointed out the need to take into account the large proportion of the population whose native language is not Latvian in regard to the distribution of languages in the programs of public broadcasting organizations. In their report on Latvia, which was published in July 2002, the Commission recommends that 20% of airtime in the languages of the ethnic minorities should not be set as a limit that may not be exceeded, but as the compulsory share of time that must be allocated to airtime in these languages.<sup>23</sup>

## 2.2. The national remit

To date, the national remit has played a significant role in the work of the public broadcasting organizations. The Law on Radio and Television understands the national remit to be the totality of broadcasting stations and programs that have been approved by the National Radio and Television Council and that meet a number of requirements and fulfill certain functions.

### Box 1.

#### The functions of the national remit (Law on Radio and Television, Section 54)

The national remit:

- ensures free distribution of comprehensive information on events in Latvia and abroad;
- ensures development of the Latvian language and culture by promoting the consolidation of a single-nation state;
- in accordance with bilateral agreements, ensures publicity for the work of the Saeima, the President, the Cabinet of Ministers and the local governments;

<sup>22</sup> de Varennes, F. A Guide to the Rights of Minorities and Language. COLPI/OSI (November 2001), p. 38.

<sup>23</sup> [http://www.coe.int/T/E/human\\_rights/Ecri](http://www.coe.int/T/E/human_rights/Ecri) Last accessed on May 22, 2003.

- satisfies the needs of society for educational (incl. religion-oriented), cultural, scientific, entertainment, children's, sports and other programs (also translated into sign language);
- promotes the production of programs on the life and culture of the ethnic minorities living in Latvia;
- provides pre-election campaigning opportunities in accordance with the law.

Although the functions of the national remit include the production of programs on the life and culture of the ethnic minorities, there is no mention of the need to produce programs in the languages of the minorities. Thus, the law does not devote sufficient attention to ensuring that the ethnic minorities living in Latvia have access to information and are able to develop their culture with the help of radio and television. Each year, in the period from 1996 to 2001, NRTC approved the programs produced by Latvian Radio and Latvian Television stations in accordance with the functions of the national remit set out in the law.

At the beginning of 2002, NRTC introduced a new mechanism for approving the national remit. Two agreements were signed, each for a period of five years: one between NRTC and Latvian Television, and the other between NRTC and Latvian Radio. These agreements incorporate the principles that public broadcasting organizations must observe in regard to their radio stations and television channels. The agreement says that Latvian Radio must set up the Integration Radio Station "Doma laukums." Contrary to previous practice, the new agreement with Latvian Radio anticipates programs in the languages of the ethnic minorities – the "Doma laukums" programs are not only in Russian, but also in the languages of 12 other ethnic minorities living in Latvia.

In regard to Latvian Television, the agreement says: "LTV2 (in January 2003, the name was changed to LTV7) addresses a number of narrow (ethnic minority) target groups in this audience. LTV2 shall include programs in foreign languages in accordance with the limits set by the Law on Radio and Television." Although the agreement anticipates that LTV2 is intended for a number of target groups, including ethnic minorities, it does not make the production of programs in the native languages of the ethnic minorities a requirement. In the case of LTV, it would be particularly important to produce programs not only in Russian but also in the languages of Latvia's other ethnic minorities. So far, this has not been the case.

## 2.3. The work of public broadcasting organizations

### 2.3.1. Latvian Television

It is possible to get an idea of how the national remit functioned in the case of Latvian Television up to the year 2002 by analyzing the NRTC decision to approve the national remit<sup>24</sup> and the LTV report on execution of the national remit in the year 2000.<sup>25</sup> In the description of the national remit in the appendix to the NRTC decision, it is underlined that the national remit for LTV2 has two parts. The first part includes the “integration block” (one hour on workdays, 1.5 hours on holidays), which includes: 1) a daily 15-minute newscast in Russian and the weekly analytical and informative program “8. stāvs [8th floor]”; programs in Russian, including joint productions (e.g., “Varas viedoklis [The views of those in power]”). This document also underlines that “the aforementioned block shall contribute to the integration of society and provide the Russian-speaking audience with [information on] the broadest spectrum of Latvia’s economic, political, public and social affairs.” The second part of the LTV2 programs is made up of sports programs and live broadcasts.

“Observance of minority rights, encouragement of the integration process” is named as one of the main principles for the work of Latvian Television. In regard to audiences, the description of the national remit points out that “the problem of increasing the size of the audience is to a great extent connected with the problem of attracting non-Latvian viewers to LTV, and, here, the program policy of LTV2 has a special role. LTV1 is focused on achieving the integration of society on the basis of the Latvian language. However, if programs in other languages, which are allowed by the 20% limit laid down in the Law on Radio and Television, are purposefully balanced against well-considered and high-quality sports and entertainment programs, it is possible to achieve the desired effect – an increase in total LTV viewership.”

However, the report submitted by Latvian Television on execution of the national remit, with a listing of each month’s main programs and live broadcasts on LTV2 in the year 2000, mentions mainly sports programs. There are only two programs that are intended for Russian-speaking viewers: in January, the series on Russian Orthodox Christmas church services “Kristietības vēsture [The history of Christianity],” and in April, the Russian Orthodox Easter church service. In the TV ratings, the top ten

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<sup>24</sup> National Radio and Television Council decision No. 106, September 16, 1999.

<sup>25</sup> April 23, 2001 letter from the Latvian Television general director to the National Radio and Television Council.

positions are also occupied by entertainment and sports programs in Latvian. The newscasts in Russian and the weekly informative programs do not even show up in the ratings, which include a total of 66 LTV programs. The Russian-language “Šokējošais šovs [Shocking show]” is in 19th place.

In regard to the LTV2 audience, the report mentions that, in 2000, the second channel’s “total viewership reached 97% of the population, or 2,291,800 viewers [...] of which 77% were Latvians and 23% other nationalities.”<sup>26</sup> The report also mentions the fact that LTV2 had attracted an increasing number of viewers belonging to other nationalities during the autumn and winter months: “If, at the beginning of the year, 16–18% people of other nationalities watched LTV2, in December this figure had risen to 42%.” However, the report does not mention the reasons for this increase. It would be important to take these into account in order to attract ethnic minority audiences to Latvia’s public television and carry out the integration of society functions that are laid down in the description of the national remit.

An analysis of data obtained from a survey on the most popular TV channels, which was carried out among citizens and non-citizens in mid-November 2000, shows that for non-citizens the most popular channel was LNT, which 82% of the non-citizens watched at least once a week, followed by ORT and Russian Television, which had a viewership of 77% of the non-citizens, and TV3 with 62%. Among the non-citizens, LTV2 ranked only 5th and was watched at least once a week by 61%.<sup>27</sup>

In the period from 2000 to 2002, the percentage of LTV2 programs in foreign languages fluctuated from 13% to 15%, but never exceeded the 20% limit set by the Law on Radio and Television.<sup>28</sup> Keeping in mind the aforementioned facts, it is possible to conclude that in previous years the national remit mechanism has not been able to guarantee a sufficient number of programs for ethnic minority audiences produced by LTV’s 2nd channel.

More recently, LTV’s green light for the production of two new Russian programs for its second channel (“Process” and “Native Habitat”) suggests a positive trend.

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<sup>26</sup> This type of calculation does not provide an accurate picture of the number of Latvians or members of ethnic minorities who watch LTV2 (author’s comment).

<sup>27</sup> “On the Way to a Civic Society” program. Report 2001, pp. 40–41.

<sup>28</sup> Interview with the program editor of the LTV2 channel, Elita Korņilova, March 3, 2003.



### 2.3.2. Latvian Radio

Compared with Latvian Television, Latvian Radio has had more success with programs aimed at integration. In October 1990, Latvian Radio launched its “Doma laukums” morning programs for Russian-speaking listeners. In 2001, it set up a separate radio station, Latvian Radio 4 – “Doma laukums.” This station broadcasts mainly in Russian, but also in the languages of other ethnic minorities living in Latvia.

Since Latvian Radio has a total of five stations, the 20% foreign language limit that is prescribed for public broadcasters by the Law on Radio and Television does not prevent Latvian Radio from maintaining one station that broadcasts primarily in foreign languages. Nevertheless, the information provided by Latvian Radio shows that, in the period from 1998 to 2001, “Doma laukums” airtime did not exceed 14.5% of total Latvian Radio airtime (see Table 5: Information on the Latvian Radio station “Doma laukums”).

Table 5. Information on the Latvian Radio station “Doma laukums”

Year	Total airtime (hours)	% of total LR airtime	Costs (LVL)	Costs covered by government subsidies	
				(LVL)	% of government subsidy total
1998	2,190	10.3	148,620	139,154	6.3
1999	2,190	9.7	172,048	157,826	6.7
2000	2,196	9.7	155,987	141,169	6.0
2001	3,285	14.5	184,537	171,727	7.3

Note: Costs do not include expenses that are paid centrally (electricity, heating, news agencies, capital acquisitions, running costs, renovations and other expenses connected with the maintenance of equipment and commercial operations).

Information provided by V. Ģērmane, Latvian Radio head accountant.

In 2002, “Doma laukums” transmitted daily: 6 hours in Liepāja, Valmiera and Ventspils, and 24 hours in Riga, Daugavpils and Rēzekne. It is important to note that, currently, “Doma laukums” cannot be heard in the whole territory of Latvia (see Appendix 4: Transmission ranges of Latvian Radio). As can be seen from the maps showing transmission ranges, the other four Latvian Radio stations are also not heard in all populated areas in Latvia.

The “Doma laukums” radio station offers information – primarily in Russian – on the country’s political, economic, social and cultural current affairs. The programs of the national cultural societies, which are broadcast in 12 languages of Latvia’s ethnic minorities, for example, Polish, Jewish, Georgian, German, Belarussian, Estonian, Armenian, Lithuanian, play an important role.

The report submitted by Latvian Radio to NRTC on execution of the national remit in the year 2001 points out that “being the only Russian-language public radio station in this country, “Doma laukums” has done a lot to promote the dialogue between different parts of society.” The upward trend of the station’s ratings shows that the efforts of its journalists are being appreciated by listeners. According to BMF Gallup Media, in the winter of 2000, Latvian Radio 4 – “Doma laukums” had 164 thousand listeners, but by the autumn of 2001, 249 thousand. Survey data for June 2000 show that 19.8% of the ethnic minority audience and 2.8% of the Latvian audience tuned in daily to the “Doma laukums” programs.<sup>29</sup>

The “Doma laukums” radio station is negatively affected by the ban on use of more than one language in a program, which is laid down in Section 19, Paragraph 1 of the Law on Radio and Television: “Each broadcast shall be in one language – the language of the broadcast. Fragments of a broadcast which are in other languages shall be provided with a translation (dubbed, voiced-over or subtitled). This provision is not applicable to language instruction programs or musical performances.” At present, this provision of the law prevents “Doma laukums” from broadcasting programs in which both Latvian and Russian are used.<sup>30</sup> Such programs could be a good way of promoting the dialogue between Latvians and ethnic minorities. This provision of the law is not as great a problem for Latvian Television programs because it is possible to use subtitles. However, the ban on using more than one language in a program could create problems if LTV7 started producing interactive live discussion programs with active viewer participation, where it would be important to allow participants to express themselves freely, without restrictions on the choice of language.

## 2.4. Conclusions

- The Law on Radio and Television says that one of the functions of public broadcasting organizations is to set up broadcasting stations that are intended for the

<sup>29</sup> SKDS. “Sabiedrisko raidorganizāciju programmas struktūras novērtējums [Assessment of the program structure of public broadcasting organizations].” Sociological survey, June 2000.

<sup>30</sup> This view was expressed by “Doma laukums” program director I. Madesova at the conference “The Electronic Mass Media and the Integration of Society,” November 22, 2002.

ethnic minorities living in Latvia. However, in regard to the use of language, which is an extremely important aspect in this context, the law says that only 20% of broadcasting time on the public broadcasting organizations' second broadcasting network may be allocated to programs in the languages of the ethnic minorities. This provision conflicts with minority rights, since ethnic minorities have the right to demand use of their language in the public media in direct proportion to the number of persons who speak the language.

- In the period from 1996 to 2001, in accordance with the national remit mechanism, the volume of Latvian Radio and Latvian Television programs in Russian and in other minority languages was dependent on the program policy chosen by the public broadcasting organizations and on the decisions of the National Radio and Television Council. Neither Latvian Radio nor Latvian Television have come even close to reaching the 20% limit that is permitted by the law. Latvian Radio has had 9.7% to 14.5% programs in ethnic minority languages, and the 2nd Latvian Television channel has had 13% to 15% programs in Russian.
- The agreement on the national remit that was signed at the beginning of 2002 between NRTC and Latvian Radio guarantees the production of programs in ethnic minority languages for the “Doma laukums” radio station, but a similar agreement between NRTC and LTV2 leaves the production of such programs to the discretion of Latvian Television management.
- Latvian Radio's efforts to create a special radio station for integration (“Doma laukums”) that has programs not only in Russian, but also in the languages of 12 other ethnic minorities living in Latvia, are a positive example. However, thought should also be given to increasing airtime for these programs. The main problem is that “Doma laukums” cannot currently be heard throughout Latvia.
- A special integration channel for Latvian Television has not been possible due to the enormous costs. The second channel has produced relatively few programs in Russian, and there have been no programs in the languages of the other ethnic minorities. Only 15 minutes per day have been allocated to newscasts, which are the main source of information about Latvia's social, economic and political current affairs.
- The function of LTV1 is to ensure development of the Latvian language and culture, but the focus of the second channel should be on programs in the languages of the ethnic minorities. Execution of these functions is hampered by the fact that both LTV channels are currently not available to all people living in Latvia (see Appendix 3: Transmission ranges of Latvian Television). The Latvian Radio stations that transmit in Latvian are also not received everywhere in Latvia.

- The provision of the Law on Radio and Television which stipulates that broadcasts must be in a single language, but fragments of broadcasts in other languages must be provided with a translation, makes it impossible for “Doma laukums” to broadcast programs in which both Latvian and Russian or some other language are used. In the case of Latvian Television, this provision poses problems for live broadcasts in which discussions take place in both Latvian and Russian.

### 3. LANGUAGE RESTRICTIONS ON COMMERCIAL BROADCASTING ORGANIZATIONS

This section analyzes the language restrictions on commercial broadcasting organizations incorporated in the Law on Radio and Television, which were in force until June 5, 2003, when the Constitutional Court ruled that the restrictions were not conform with the Latvian Constitution. Several aspects of these restrictions are examined: 1) the principles of democracy and international human and minority rights standards; 2) policy implementation, with an assessment of the efficiency of NRTC monitoring of language use from 1995, when the Law on Radio and Television took effect, until 2001; 3) the specifics of the work of commercial broadcasters; 4) the situation in other countries.

#### 3.1. Legislation

The rules for commercial broadcasters and the procedure for their supervision are also incorporated in the Law on Radio and Television that was adopted by the Saeima on August 24, 1995.<sup>31</sup> Unlike the printed press, where language use is not regulated by law, commercial broadcasters must follow precise regulations on the use of language, as required by the Law on Radio and Television.

At the beginning of the 1990s, Russian television channels were still operating in Latvia, which is why only about 17% of television broadcasting time was in Latvian. Even in 1994, only 54% of the television programs transmitted in the Riga region were in Latvian. The experts who were involved in drafting the Law on Radio and Television admit that this situation prescribed the need to impose the language restrictions. The main objective was to strengthen the position of the Latvian language in radio and television and restrict use of the Russian language.<sup>32</sup> The authors of the law felt that this would contribute to achieving the policy goal of Latvian as the sole state language.

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<sup>31</sup> The 1995 Law on Radio and Television replaced the 1992 Law on Radio and Television (*Ziņotājs* No. 22/23, 1992; No. 8/9, 1993; No. 13, 1994).

<sup>32</sup> Interview with I. Slaidiņš (April 8, 2002), A. Berķis (March 26, 2002), O. Rubenis (April 17, 2002).

Section 19 of the Law on Radio and Television addresses language use in the programs of commercial broadcasters. Paragraph 1 says: “Each broadcast shall be in one language – the language of the broadcast. Fragments of a broadcast, which are in other languages, shall be provided with a translation (dubbed, voiced-over or subtitled). This provision is not applicable to language instruction programs or musical performances.” This provision of the law prevents the production of bilingual programs. In view of the fact that the majority of Latvians and members of the ethnic minorities speak both Latvian and Russian,<sup>33</sup> such programs could make a positive contribution to promoting the dialogue between Latvians and members of the ethnic minorities. This provision of the law also fails to take into account interactive live broadcasts – with questions from viewers and listeners – for which it is not possible to provide translations. Such programs are produced, for example, for TV5 and are more closely examined in subsection 3 of this section. And this provision of the law also restricts the use of Latvian: the audience may not ask questions in Latvian if a broadcast is in Russian.

In regard to commercial television stations, Section 19, Paragraphs 3 and 4 of the law stipulate that: “(3) Films that are shown shall be in the state language or with the original soundtrack and subtitles in Latvian, but films intended for children shall be dubbed or voiced-over in Latvian. (4) Television broadcasts in foreign languages, with the exception of live broadcasts, re-transmissions, broadcasts to foreign countries, newscasts and language-instruction programs, shall be subtitled in Latvian.” Subtitling of programs and films is considered to be conducive to the learning of languages. However, the question is whether strict requirements in regard to translations do not negatively affect the production of programs in the languages of the ethnic minorities.<sup>34</sup> These problematic provisions are still in effect and must be reviewed.

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<sup>33</sup> Surveys on the language proficiency of Latvia’s population show that almost half (48%) of those whose native language is not Latvian know the language at the elementary level, every fourth person (27%) assessed his language proficiency at the medium level, and 13% at the highest level. Only 12% knew no Latvian at all. Of those whose native Language is Latvian, more than half (58%) knew Russian at the highest level and 28% at the medium level. Only 2% do not know the language.

Baltic Social Science Institute. “Valoda [Language]” survey, November 2001– January 2002, pp. 5–6.

<sup>34</sup> In regard to similar legislation in Estonia, the Advisory Committee on the Council of Europe’s Framework Convention on National Minorities writes in its report that “it is often advisable, and fully in the spirit of the Framework Convention, to accompany minority language broadcasting with subtitles in the state language. However, the Advisory Committee considers that, as far as private broadcasting is concerned, this goal should be principally pursued through incentive-based, voluntary methods, and that the imposition of a rigid translation requirement mars the implementation of Article 9 of the Framework Convention by causing undue difficulties for persons belonging to a national minority in their efforts to create their own media. Advisory Committee on the Framework Convention for the Protection of National Minorities. Opinion on Estonia, adopted on September 14, 2001. CM(2001)159, October 29, 2001. [http://www.coe.int/T/E/human\\_rights/minorities](http://www.coe.int/T/E/human_rights/minorities) Last accessed on April 30, 2003.

Unlike the provisions on language use in the programs of commercial broadcasters, the requirements that were set out in Section 19, Paragraph 5, but invalidated by a ruling of the Constitutional Court, placed rigorous restrictions on language use: “Broadcasting time in foreign languages shall not exceed 25% of a broadcasting organization’s stations’ total volume of broadcasting time within a 24-hour period. This provision is not applicable to Latvian Television, Latvian Radio, cable television, cable radio, satellite television and satellite radio.”<sup>35</sup> The language of a radio or television station is determined by the language used in its programs. By prescribing that broadcasting time in foreign languages may not exceed 25% of the total broadcasting time of all the broadcasting organization’s stations and not that of each individual station, the law allowed one broadcasting organization to have, for example, two stations: one that transmitted in Latvian and the other in a foreign language. Radio SWH took advantage of this possibility and had two radio stations (SWH and SWH Rock) that transmitted in Latvian and one (SWH+) that transmitted primarily in Russian.

In addition to Section 19 of the Law on Radio and Television, Section 18, Clause 1, which lays down special regulations for setting up radio and television stations, also addresses language use in the programs of commercial broadcasters: “(1) All broadcasts of visual programs produced by a broadcasting organization (with the exception of news, sports events, games, commercials, teletext services and teleshops) shall be in the following proportions of total weekly broadcasting time: 1) no less than 51% allocated to European audiovisual productions; 2) of the European audiovisual productions, no less than 40% allocated to programs produced in Latvian.” Since this part of the law speaks only of “visual programs,” it applies only to commercial and public television stations.

Now, let us take a look at how the Law on Radio and Television, which restricts the use of foreign languages by commercial radio and television stations, complies with overall human rights standards. In accordance with international human and minority rights standards, language use by commercial broadcasters is seen in conjunction with the rights of every individual to freedom of expression.

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<sup>35</sup> Up until October 21, 1998, when the law was amended, the permitted amount of broadcasting time in foreign languages was 30%. This was reduced following the final report of the 6th Saeima’s Parliamentary Investigation Committee for Evaluation of the Legality and Compliance with Public Interests of the Work of NRTC. In this report, NRTC was accused of failing to monitor language use. One of the recommendations made in this document for amendments to the Law on Radio and Television is: “7. To replace the words “30 percent” in Section 19, Paragraph 5 with the words “25 percent.”” Copy of document No. 4775, dated October 15, 1998, submitted by the chairman of the parliamentary investigation committee P. Tabūns to the Saeima Presidium for review by the 6th Saeima.

The protection of human rights in Latvia is guaranteed by the Constitution and by international agreements that are binding on Latvia. Article 89 of the Constitution states that “the State shall recognize and protect fundamental human rights in accordance with this Constitution, laws, and international agreements binding upon Latvia,” but Article 91 states that “human rights shall be exercised without discrimination of any kind whatsoever.” The right to freedom of expression is guaranteed by Article 100 of the Constitution: “Every person has the right to freedom of expression, which includes the right to freely receive, possess and impart information, and to express personal views. Censorship is prohibited.” Article 116 of the Constitution anticipates that the right to freedom of expression that is guaranteed in Article 100 “may be subject to restrictions in cases provided for by law in order to protect the rights of others, the democratic system, public safety, welfare and morals.” Excerpts from the Constitution and international agreements that are binding on Latvia are summarized in Table 6.

**Table 6. The Constitution, international and European human rights standards for freedom of expression**

The Constitution of the Republic of Latvia	<p>Article 100 “Every person has the right to freedom of expression, which includes the right to freely receive, possess and impart information, and to express personal views. Censorship is prohibited.”</p> <p>Article 116 The rights that are guaranteed in Article 100 “may be subject to restrictions in cases provided for by law in order to protect the rights of others, the democratic system, public safety, welfare and morals.”</p>
UN Universal Declaration of Human Rights (December 10, 1948)	<p>Article 19 “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”</p>
UN International Covenant on Civil and Political Rights (December 16, 1966)	<p>Article 19</p> <ol style="list-style-type: none"> <li>1. Everyone shall have the right to hold opinions without interference.</li> <li>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.</li> <li>3. The exercise of the rights provided for in Paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:             <ol style="list-style-type: none"> <li>a) for respect of the rights or reputations of others;</li> <li>b) for the protection of national security or of public order (<i>ordre public</i>), or of public health or morals.”</li> </ol> </li> </ol>



<p>Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms (November 4, 1950)</p>	<p>Article 10  “1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring licensing of radio broadcasting, television or cinema enterprises.  2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”</p>
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Interpretation of these provisions makes it clear that the principle of freedom of expression applies not only to the content of information, but also to the form, i.e., the language in which it is presented. For example: in the case *Autronic AG vs. Switzerland*, the European Court of Human Rights was required to deal with the question of whether or not a private company had the right to re-transmit Russian television programs with the aid of satellite. The court ruled that the issue fell under Article 10 (freedom of expression) of the Council of Europe’s Convention for the Protection of Human Rights and Fundamental Freedoms.<sup>36</sup> Experts from the UN Committee on Human Rights have also in their comments on country reports on the implementation of the International Covenant on Civil and Political Rights found that restrictions on the use of minority languages by private broadcasting companies are a violation of the freedom of expression. For example, in its comments on the Dominican Republic, the Committee says: “The Committee expresses its concern over the inadequate protection of the rights of ethnic, religious and linguistic minorities in the Dominican Republic. In this regard, the Committee notes that the prohibition of broadcasting in a language other than Spanish is not in conformity with article 19 of the Covenant.”<sup>37</sup> In his analy-

<sup>36</sup> European Court of Human Rights. Case No. 00012726/87, May 22, 1990. For other cases adjudicated by the European Court of Human Rights see: Raihmans, L. “Mediju likumdošana, mazākumtautību jautājumi un Latvijas gadījuma izpēte [Media legislation, ethnic minority issues and a Latvian case study].” Riga (2003), pp. 10–12.

<sup>37</sup> Human Rights Committee. Comments on Dominican Republic, U.N. Doc. CCPR/C/79/Add.18 (1993). <http://www1.umn.edu/humanrts/hrcommittee/G9216327.htm> Last accessed on April 30, 2003.

sis of the provisions of international human rights standards, language rights expert Fernand de Varenes comes to the conclusion that “restricting or prohibiting the use of minority languages by the private media and broadcasting is an extremely serious violation of human rights since it is clearly in conflict with one of the most fundamental components of democracy, international law and European standards: freedom of expression and of the press.”<sup>38</sup>

In regard to the rights of ethnic minorities to use their native languages, Article 114 of the Latvian Constitution says that “persons belonging to ethnic minorities have the right to preserve and develop their language and their ethnic and cultural identity.” Section 1 of the Law on Free Development and Right to Cultural Autonomy of Latvia’s National and Ethnic Groups, which was adopted by the Supreme Council of the Republic of Latvia in 1991, states that “the people of the Republic of Latvia, regardless of their ethnic affiliation, are guaranteed equal rights that conform with international standards.” Section 13 of this law guarantees that “ethnic organizations, their unions and associations, have the right to use the national mass media and to create their own media.”

The main principle of international law as regards the use of minority languages is that the state may not interfere with language use in the private sphere. This principle is set forth in Article 27 of the UN International Covenant on Civil and Political Rights and Article 9 of the Council of Europe’s Framework Convention on National Minorities (see Table 7: International and European human rights standards for the use of minority languages). Latvia signed the Council of Europe’s Framework Convention on National Minorities in 1995 and is currently the only EU candidate country that has not yet ratified the convention. Restrictions on language use by commercial radio and television stations are in conflict with Article 9, Paragraph 1 of the Convention. This not only guarantees every person belonging to an ethnic minority the right to freedom of expression, which includes the freedom to hold opinions and to receive and impart information and ideas in the minority languages, without interference by public authorities and regardless of frontiers, but also prohibits the discrimination of national minorities in their access to the media. Restrictions on the right to choose the language used by radio and television stations also places restrictions on the right of minorities to create and use their own media, which is prescribed by Article 9, Paragraph 3 of the Convention.

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<sup>38</sup> de Varenes, F. *A Guide to the Rights of Minorities and Language*, p. 17.

Table 7. International and European human rights standards for the use of minority languages

UN International Covenant on Civil and Political Rights (December 16, 1966)	<p>Article 27</p> <p>“In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”</p>
Council of Europe Framework Convention for the Protection of National Minorities (November 11, 1994)	<p>Article 9</p> <p>“1. The Parties undertake to recognize that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.</p> <p>2. Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.</p> <p>3. The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of Paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.</p> <p>4. In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.”</p>

On December 12, 2002, 24 deputies from the parliamentary For Human Rights in a United Latvia faction submitted a complaint to the Constitutional Court, disputing the conformity of Section 19, Paragraph 5 of the Law on Radio and Television with Articles 89, 91, 100 and 114 of the Constitution and with the aforementioned international standards – Article 10 (freedom of expression) and Article 14 (prohibition of discrimination) of the Council of Europe’s Convention for the Protection of Human Rights and Fundamental Freedoms and Articles 19 and 27 of the United Nations International Covenant on Civil and Political Rights. The Constitutional Court accepted the case on April 11, 2003. The judgement on the conformity of Section 19, Paragraph 5 of the Law on Radio and Television with Articles 89, 91, 100 and 114 of the Constitution of the Republic of Latvia, Articles 10 and 14 (in conjunction with

Article 10) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, and Articles 19 and 27 of the International Covenant on Civil and Political Rights was pronounced on June 5, 2003. In this judgement, the 25% limit set out in the Law on Radio and Television, which restricts the volume of foreign-language broadcasting time for commercial broadcasters, was found to be incompatible with the Constitution and, therefore, invalid. The Constitutional Court found that the disputed provision was in contradiction with Article 100 of the Constitution, which guarantees the right to freedom of expression. It is underlined in the judgement that, although the restrictions on freedom of expression set out in Section 19, Paragraph 5 have a legitimate goal – strengthening the position of the Latvian language – when assessing whether or not such restrictions on freedom of expression are necessary in a democratic society and whether or not they may be used to achieve legitimate goals, the court concluded that 1) “implementation of the disputed provision has not achieved greater use of the state language or speeded up the integration of society,” and that 2) in order to ensure greater use of the Latvian language in radio and television broadcasting, only such measures may be applied which do not result in disproportionate restrictions on freedom of expression. The Constitutional Court ruled that “in a democratic society, language restrictions cannot be considered either necessary or proportionate” and concluded that it is possible to apply other measures, which have a less restrictive impact on personal rights.

## 3.2. Policy implementation

This section examines whether or not the policy of imposing language-use restrictions on commercial broadcasters has achieved the declared goals. NRTC is in charge of the implementation of the Law on Radio and Television. Pursuant to this law, NRTC is an independent institution, which defends public interests where the electronic mass media are concerned, controls whether commercial broadcasters operate in accordance with the law, and ensures that freedom of expression and information are observed.

### 3.2.1. National Radio and Television Council

The nine members of NRTC are appointed by the Saeima in accordance with the parliament’s Standing Orders. These persons are prominent members of society. The Law on Radio and Television says that NRTC may have no more than three members from one political party. From 1995, when the first NRTC was appointed, to the present day, not a single member of an opposition party has had a seat on the council. The participation of representatives of the ethnic minorities in institutions that monitor the

electronic mass media is held to be desirable.<sup>39</sup> The traditional opinion is that some of the current opposition parties, for example, PCTVL, represent the interests of the Russian-speaking minority.

Legislation in almost all of the EU candidate countries either anticipates representation of the minorities in such institutions, or ensures that candidates are not proposed by the parliament alone. Different principles are applied to ensure minority representation: direct minority representation, appointment of representatives from all parliamentary political parties, or a combined model, where some of the representatives are elected by the parliament and others appointed by the president.

The Turkish law stipulates that four of the nine council members must be chosen from a list submitted by the opposition parties.<sup>40</sup> In Bulgaria, five of the nine council members are elected by the parliament, and four appointed by the president.<sup>41</sup> In Poland, of the nine council members, who must all have good knowledge of and experience with the mass media, four are appointed by the Lower House, two by the Upper House, and three by the president.<sup>42</sup> In Slovenia, the parliament elects five of the 25 members of the council proportionally from all parliamentary parties, and one member which is chosen from the Italian and Hungarian national communities.<sup>43</sup> The Hungarian council must have at least five members who are elected by the parliament; the others are delegated by the parliamentary factions (one from each faction). If the government or the opposition is made up of only one faction, it is entitled to delegate two representatives.<sup>44</sup> In Lithuania, four of the 12 council members are appointed by the president

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<sup>39</sup> Advisory Committee on the Framework Convention for the Protection of National Minorities. Opinion on Estonia, adopted on September 14, 2001. CM (2001)159, October 29, 2001.

Advisory Committee on the Framework Convention for the Protection of National Minorities. Opinion on Croatia, adopted on April 6, 2001.

<sup>40</sup> Turkish Law on the Establishment of Radio and Television Enterprises and their Broadcasts. Law No. 3984, April 20, 1994. <http://www.rtuk.org.tr/ying3984.htm> Last accessed on April 30, 2003.

<sup>41</sup> Bulgarian Law on Radio and Television. [http://www.riga.lv/minelres/NationalLegislation/Bulgaria/Bulgaria\\_RadioTV\\_excerpts\\_English.htm](http://www.riga.lv/minelres/NationalLegislation/Bulgaria/Bulgaria_RadioTV_excerpts_English.htm) Last accessed on April 30, 2003.

<sup>42</sup> Polish Law on Radio and Television, Section 7. <http://www.krrit.gov.pl/stronykrrit/english.htm> Last accessed on April 30, 2003.

<sup>43</sup> Slovenian Law on Radio and Television (1994), Section 16. [http://www.riga.lv/minelres/NationalLegislation/Slovenia/Slovenia\\_TVRadio\\_excerpts\\_English.htm](http://www.riga.lv/minelres/NationalLegislation/Slovenia/Slovenia_TVRadio_excerpts_English.htm) Last accessed on April 30, 2003.

<sup>44</sup> Hungarian Law on Radio and Television (1996). <http://www.meh.hu/nekh/Angol/6-7.htm> Last accessed on April 30, 2003.

and four – two of whom must be chosen from the opposition factions' list of candidates – by the parliament.<sup>45</sup>

When compared with the way that NRTC members are appointed – basically by the ruling coalition – the methods applied in other countries ensure greater diversity and broader representation of public interests. In view of NRTC's key role in shaping policy on the electronic mass media, it is important to make sure that the interests of the ethnic minorities are represented in this institution. Resolution of the problem requires broader analysis and evaluation, but even now, it is possible to suggest a number of possible solutions. One would be to widen political representation by stipulating that a certain number of NRTC members must be chosen from the candidates put forth by opposition parties. Another would be direct ethnic minority representation – delegation of ethnic minority representatives connected with the media to NRTC. The third possibility, taking into account the large proportion of Russian-speakers among the ethnic minorities, would be to ensure their representation by broadening the political spectrum represented in NRTC: including members of the opposition parties and appointing representatives of the smaller minorities, choosing them from a list of candidates proposed by ethnic minority organizations.

### 3.2.2. Monitoring of language restrictions

NRTC is responsible for monitoring the way in which commercial broadcasters observe the rules on language restrictions. Sanctions are imposed in accordance with Section 46, Paragraph 9 of the Law on Radio and Television, which provides for various types of sanctions.

#### **Box 2.**

#### **NRTC sanctions**

(Law on Radio and Television, Section 46, Paragraph 9)

The Council shall examine materials on violations of the law involving the electronic mass media and, depending on the gravity and frequency of the violations and the threat that they pose, take one of the following decisions:

- to caution the broadcasting organization;
- to prepare a report on the administrative violation and submit the report to a district (city) court or other competent institution;

<sup>45</sup> Lithuanian Law on Radio and Television (1996). <http://www.lrt.lt/eng/laws/> Last accessed on April 30, 2003.

- to annul the broadcasting permit, the re-transmission permit, the special permit (license) for cable television or cable radio (radio transmission) operations, or to suspend the operations of the broadcasting organization;
- to file an action in court to terminate the operations of the broadcasting organization; or
- to forward the materials to law enforcement institutions so that criminal charges may be brought.

NRTC obtains information about violations of the law, including failure to observe language restrictions, by carrying out regular quality and content controls, which are documented. Another source is complaints from the population.

NRTC began monitoring broadcasters in 1996. Up to the end of 2001, 270 reports had been filed, of which 72 were on failure to observe the language provisions of the Law on Radio and Television. The **majority (42)** were on violations of Section 19, Paragraph 5 (proportional use of language).<sup>46</sup> During this period, NRTC had received approximately 340 complaints, of which approximately 20 involved use of incorrect language in broadcasts. There were 62 complaints about failure to observe language proportions and failure to meet the requirements of the law on dubbing and subtitling in the state language.

From 1996 to 2002, NRTC imposed sanctions in approximately 160 cases, of which 41 were for failure to observe the provisions of the law on language use.<sup>47</sup> In 20 cases, NRTC imposed sanctions for failure to observe language proportions: in 12 cases, the offenders were cautioned; in eight cases, operations of the broadcaster were suspended for a period of one to seven days. A seven-day suspension was imposed three times (see Table 8: NRTC sanctions for disregard of language proportions).

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<sup>46</sup> Data on the work of NRTC was obtained from documents provided by the NRTC secretariat: reports, decisions, complaints.

<sup>47</sup> In 24 cases, NRTC cautioned the offenders; in 8 cases, it drew up reports on administrative offenses; in 8 cases, NRTC suspended the operations of the broadcaster, and in one case it filed an action in court to terminate the operations of the broadcasting organization.

Table 8. NRTC sanctions for disregard of language proportions (1996–2002)

Sanctions	Number
Offenders cautioned	12
Operations suspended:	
for one day	3
for three days	1
for four days	1
for seven days	3
<b>Total</b>	<b>20</b>

The broadcasters upon whom the majority of the sanctions were imposed are located in the cities with the highest percentage of ethnic minorities – in Riga and in Daugavpils.

For example, the last time that sanctions were imposed on TV Riga was in March 2000. NRTC based its decision not on the broadcaster's failure to observe the 25% limit, but on disregard for the requirement that films must be either dubbed or with subtitles in Latvian. In October 2000, this television station was closed down and has now been replaced by TV5.

Analysis of the aforementioned data permits the conclusion that NRTC has not been successful in controlling the observance of language restrictions since individual broadcasters regularly exceed the 25% limit. In its Framework Document on Development of the Electronic Mass Media 2000–2002, NRTC admits that this provision of the law is ignored in certain parts of Latvia: "In places where there is a high percentage of people of other nationalities, especially in Daugavpils and in Riga, this [language proportion] requirement is formally fulfilled by including music programs in the Latvian-language part of the broadcast [...] Even in Daugavpils, the city with the highest percentage of residents who do not speak Latvian, where there are two [commercial radio] stations that address Russian-speaking audiences, now there are three stations that transmit only in Latvian: Radio Riga, Radio SWH and Latvian Radio 1."<sup>48</sup> It is also important to note that the control mechanism provided by the law does not anticipate the kind of program monitoring that would make it possible to regularly obtain a complete picture of the languages used in radio and TV programs. Furthermore, NRTC does not have a mechanism for imposing sanctions that is sufficiently potent to keep broadcasters from ignoring language restrictions.

<sup>48</sup> NRTC. Framework Document on Development of the Electronic Mass Media 2000–2002, p. 7.



In the new Framework Document on Development of the Electronic Mass Media 2003–2005, adopted at the beginning of 2003, NRTC admits the need to analyze the expediency of restrictions on the use of foreign languages and to assess Section 19 of the Law on Radio and Television and prepare amendments.

**Box 3.**

**Excerpt from the NRTC Framework Document  
on Development of the Electronic Mass Media in Latvia  
2003–2005**

In accordance with policy on the integration of society, the National Radio and Television Council will analyze the use of foreign languages in the programs of radio and television broadcasters. After analyzing the expediency of the restrictions on the use of foreign languages prescribed by the Law on Radio and Television, particularly in places with a high percentage of people belonging to other nationalities, the National Radio and Television Council will propose discussions on ways to promote the interest of those who are not Latvians in accessing Latvian sources of information. For two reasons, it will be important to deal with this issue in the very near future:

1. A number of commercial broadcasters have drawn the attention of the National Radio and Television Council to the fact that restrictions on the use of foreign languages hinder the development of radio and television broadcasting organizations.
2. The possible ratification of the Council of Europe's Framework Convention for the Protection of National Minorities by the 8th Saeima will create a conflict with the Law on Radio and Television: Article 9 of the Convention anticipates the right of every person belonging to a national minority to receive and impart information and ideas in the minority language, without interference by public authorities, but Section 19, Paragraph 5 of the Law on Radio and Television says that broadcasting time in foreign languages may not exceed 25% of a broadcasting organization's total volume of broadcasting time within a 24-hour period.

For this reason, the Radio and Television Council finds it necessary to reassess Section 19 of the Law on Radio and Television and prepare amendments. However, before such amendments are made, it is important to carry out a wide-scale sociological survey to establish the views of the public in Latvia.

Although the Constitutional Court has invalidated Section 19, Paragraph 5 of the Law on Radio and Television, NRTC must still reassess the remainder of Section 19 and

define future language policy in regard to commercial broadcasters. This policy cannot be based on restrictions pertaining to language choice.

### 3.3. The work of commercial broadcasting organizations

This section examines the impact of language restrictions on the work of commercial broadcasters in the period from 1996 to 2002, with special focus on individual cases. It also analyzes the impact of cable television on the development of information sources in Latvia.

The number of cable radio and television broadcasters has not significantly changed in the past three years (see Table 9: Licensed broadcasters 1996–2002).

Table 9. Licensed broadcasters 1996–2002

Broadcaster	1996*	1997	1998	1999	2000	2001	2002
Radio	24	24	25	30	31	32	31
Television	42	27	28	27	27	28	27
Cable television	32	29	39	37	33	37	37
Cable radio	1	1	1	1	1	1	1

\* Number of broadcasting licenses issued; number of registration licenses for cable television and cable radio.

NRTC data. <http://www.nrtv.lv> Last accessed on May 21, 2003.

All commercial broadcasters in Latvia must operate in accordance with the Law on Radio and Television. The law stipulates that no station and no program may be censored (Section 3, Paragraph 6) and that NRTC may not judge programs before they are aired (Section 45, Paragraph 6).

NRTC issues broadcasting licenses on the basis of a radio or television station's general programming plan, in which the broadcasters must also indicate minimum airtime in Latvian and maximum airtime in foreign languages. Since 2000, broadcasters have been required to submit information on programming plans and their implementation in standard form, with foreign language broadcasting time indicated as a percentage of total airtime within a 24-hour period.

## 3.3.1. Radio

Twenty-two radio stations have indicated in their general programming plans that they also broadcast in foreign languages. The percentage of foreign language airtime in a 24-hour period fluctuates between 0.6% and the 25% that are permitted by law. The Radio SWH broadcasting company is the only one that takes advantage of the possibility provided for by the law to maintain several radio stations, of which one broadcasts mainly in Russian. SWH+ airtime in Russian constitutes approximately 75% of total airtime. To date, NRTC has not approved this type of model for any other radio broadcaster (see Table 10: Foreign-language airtime indicated by radio broadcasters).

Table 10. Foreign-language airtime indicated by radio broadcasters

	Radio station	Foreign-language airtime	Area of operation
1.	SWH+	75%	Riga regional (a radius of 70 km around Riga)
2.	Radio PIK	25%	Riga, Riga District
3.	Radio MIX FM	25%	Riga regional
4.	European Hit Radio (Super FM)	25%	Riga regional
5.	Radio Skonto	25%	Riga regional
6.	Radio Sigulda	25%	Sigulda, Riga District
7.	Alise Plus	25%	Daugavpils, Daugavpils District
8.	Radio Maksimums 107.2 FM	25%	Daugavpils, Daugavpils District
9.	Radio EF – EI	24.4%	Rēzekne, Rēzekne District
10.	Radio NOVA	20%	Riga local
11.	Latvian Radio 4 – “Doma laukums”	18%	Latvia
12.	Radio Daugavai	15%	Daugavpils, Daugavpils District
13.	Radio Liepāja	15%	Liepāja, Liepāja District
14.	Radio Jēkabpils–1	13%	Jēkabpils, Jēkabpils District
15.	Radio Latgalei	12.5%	Rēzekne, Rēzekne District
16.	Radio Imanta	10%	Valmiera, Valmiera District
17.	Rietumu Radio	10%	Liepāja, Liepāja District
18.	Jelgavas Radio FM	7%	Jelgava, Jelgava District
19.	Latvian Christian Radio	5%	Latvia
20.	Saules Iela	1%	Cēsis, Cēsis District
21.	Madonas Radio	1%	Madona, Madona District
22.	Kurzemes Radio	0.6%	Kurzeme

Source: NRTC. <http://www.nrtp.lv> Last accessed on April 30, 2003.

In the Riga District, listeners can also tune in to Krebs TV's BBC radio station, which broadcasts entirely in English. The broadcaster has received NRTC's license to retransmit BBC World Service programs, so that language restrictions do not apply in this case.

From 1996 to 2001, NRTC had imposed sanctions on several radio broadcasters for failing to observe language restrictions. The broadcasting organizations that have been penalized most often are located in the Riga and Daugavpils areas: the Radio Bizness&Baltija company (Riga regional radio station Bizness&Baltija); RNR Ltd. (Riga regional radio station Mix FM); Pikal un Partneri (Riga regional radio station Radio Pik); Guron Plus (Daugavpils regional radio station Maksimums); Alise Plus (Daugavpils regional radio station Alise Plus).

A number of broadcasting organizations support the Constitutional Court's annulment of the 25% limit.<sup>49</sup> When asked whether their radio stations would start broadcasting entirely in Russian when the restrictions are revoked, they underline that Latvian-language programs would be maintained.<sup>50</sup> This is dictated by the market, and there will always be a demand for radio and television programs in Latvian. It is also pointed out that radio stations frequently find it difficult to observe the requirement that a program must be in a single language. During many programs, listeners are invited to call in and ask questions, but providing translations can be complicated and usually unnecessary since audiences know both languages.<sup>51</sup>

#### **Box 4.** **Radio Bizness&Baltija**

The Bizness&Baltija case received a great deal of public attention. This was the first case where a radio station applied to the Constitutional Court to determine whether or not the language-use provision of the Law on Radio and Television was in conformity with the Latvian Constitution. On August 9, 2001, the Constitutional Court received an application from the owner of the Bizness&Baltija media group, Vladimirs Gurovs, requesting assessment

<sup>49</sup> Interviews with E. Aizkalns, Radio Liepāja; V. Carevs, Alise Plus, Daugavpils; U. Polis, Super FM (March 27, 2003). A similar view was voiced by A. Karijevs, Radio Pik, at the conference "The Electronic Mass Media and the Integration of Society," November 22, 2002.

<sup>50</sup> Interviews with E. Aizkalns, Radio Liepāja; V. Carevs, Alise Plus, Daugavpils (March 27, 2003).

<sup>51</sup> Interviews with E. Aizkalns, Radio Liepāja; J. Enkuzēns, Rietumu Radio, Liepāja; U. Polis, Super FM; V. Carevs, Alise Plus, Daugavpils (March 27, 2003).

of the conformity of Section 19, Paragraph 5 of the Law on Radio and Television with the Latvian Constitution. Radio Bizness&Baltija had been repeatedly cautioned about failure to observe language restrictions and had been closed down for three days for the same violation.

On August 29, 2001, the court dismissed V. Gurov's complaint on procedural grounds, finding that not all other legal measures had been exhausted.<sup>52</sup> V. Gurovs then took the case to the District, the Regional and the Supreme Court. In April 2002, the Supreme Court dismissed the complaint about the language provisions, and Bizness&Baltija again submitted the case to the Constitutional Court.

Operations of the radio station were suspended on March 13, 2002, because, on March 7, 2002, NRTC refused to extend Bizness&Baltija's broadcasting license, quoting Section 15, Paragraph 8 of the Law on Radio and Television, which says that once a radio license has expired, the broadcaster has a priority right to extension of the license unless violations of the law have been established by a law court within the last 12 months of operation. And in this case, the Supreme Court had found that Bizness&Baltija had been using the works of different authors without their permission.<sup>53</sup> This is a violation of the Law on Radio and Television.<sup>54</sup> Radio Bizness&Baltija filed a plea with the Riga Centre District Court to have its license renewed.

Although formally the NRTC decision not to extend the radio station's license did not mention violations of language restrictions or failure to adhere to the programming plan submitted by the broadcaster, these were actually NRTC's main objections: failure to abide by the language provisions of the law and unsanctioned re-transmission of the Russian radio station Russkoje Radio. However, they were not given as the official grounds for the refusal to extend the license because NRTC had already lost cases against Bizness&Baltija involving violations of language restrictions on procedural grounds and because it did not wish to add fuel to the debate on language issues.

<sup>52</sup> Constitutional Court's August 29, 2001 decision to dismiss the case.

<sup>53</sup> Supreme Court judgement in case No. C04179699 (PAC 216), May 24, 2001.

<sup>54</sup> Law on Radio and Television, Section 17, Paragraph 6.

### 3.3.2. Television

According to the programming plans submitted by television broadcasters, only two do not broadcast in foreign languages: Aizpute Television and Skrunda Television. The other broadcasters indicate that their foreign-language broadcasting time is between 18% of total airtime in a 24-hour period and the 25% permitted by the law. Only two stations have indicated less than 5%<sup>55</sup> (see Table 11: Foreign-language airtime indicated by television broadcasters).

Table 11. Foreign-language airtime indicated by television broadcasters

	Television channels	Foreign-language airtime	Area of operation	Transmission radius, km
1.	Latvian Television 2nd channel (LTV7)	20 %	Latvia	
2.	Latvian Independent Television	24 %	Latvia	
3.	TV3 Latvia	25 %	Latvia	
4.	TV5-Riga	25 %	Riga regional	
5.	Kuldīga Television Corporation	24 %	Regional (Kuldīga, Saldus, Talsi, Liepāja Districts, partly Ventspils District)	23–28
6.	Daugavpils TV	25 %	Daugavpils, Daugavpils District	18–20
7.	TV-Miljons	25 %	Daugavpils, Daugavpils District	23–25
8.	Rēzekne TV	4 %	Rēzekne, Rēzekne District	12–17
9.	TV Dzintare	18 %	Liepāja, Liepāja District	10–15
10.	Ventspils TV “Skatvis”	25 %	Ventspils, Ventspils District	10–12
11.	TV Spektrs	25 %	Local (Mālpils, Rīga District)	12–20
12.	Līvāni TV	25 %	Local (Līvāni, surrounding townships)	10–18
13.	Vidusdaugava Television	25 %	Local (Jēkabpils, surrounding townships)	8
14.	Dagda TV	20 %	Local (Dagda, Krāslava District)	7–9

<sup>55</sup> The Rēzekne Television company (regional channel Rēzekne TV) and the Valmiera TV company (local channel Valmiera TV). NRTC data.

15.	Dobele TV (Zemgale regional television companies)	25 %	Local (Dobele, Dobele District)	15–22
16.	Smiltene TV	25 %	Local (Smiltene, Valka District)	10–18
17.	Ogre TV	25 %	Local (Ogre, Ogre District)	5–25
18.	Rūjiena TV	25 %	Local (Rūjiena, Valmiera District)	8–10
19.	TV Vidzeme	25 %	Local (Cēsis)	9–18
20.	Krāslava TV	25 %	Local (Krāslava, Krāslava District)	6–8
21.	Gulbene TV	25 %	Local (Gulbene)	10–12
22.	TV Viļāni	20 %	Local (Viļāni, Rēzekne District)	7–8
23.	Talsi TV	25 %	Local (Talsi, Talsi District)	2–6
24.	Valmiera TV	5 %	Local (Valmiera, Valmiera District)	15–20
25.	Sēlija NTV 6	23.15 %	Local (Viesīte, Jēkabpils District)	10–30

Source: NRTC. <http://www.nrtp.lv> and the Latvian National Electrocommunications Inspectorate <http://www.vei.lv/tvsia.htm> Last accessed on April 30, 2003.

From 1996 to 2001, NRTC imposed sanctions on a number of television broadcasters for failure to observe language proportions. Those affected most were television broadcasters in the Riga, Jelgava and Daugavpils areas: the LNT company (the LNT national television channel); the TV3 Latvia company (the Riga regional television channel TV3); TV Riga (the Riga regional television channel TV5-Riga); Multitone Balt (the Zemgale regional television channel Zemgale TV); the Daugavpils Television Studio (the Daugavpils regional television channel Daugavpils TV); the Daugavpils Publishing House Latgales Reklāma (the Daugavpils regional television channel TV-Miljons).

A number of broadcasters feel that the language restrictions should be abolished, both the 25% limit that the Constitutional Court invalidated in June 2003 and the single-language provision.<sup>56</sup> A problem for regional television broadcasters is the question of subtitling, which is a very costly procedure. On the other hand, if translation into Latvian is provided by dubbing or voice-overs, many emotional nuances that are connected with language are lost.<sup>57</sup>

<sup>56</sup> At the conference “The Electronic Mass Media and the Integration of Society” on November 22, 2002, this view was voiced by Olafs Pulks, TV5 program director, I. Lasmane, LNT program director, A. Mirvis, Ventspils TV. In an interview on March 27, 2003, TV3 program director D. Ostrovskā supported elimination of the 25% limit, but as to the requirement that programs must be in one language underlined that this complicates the work of broadcasting organizations.

<sup>57</sup> Interviews with A. Mirvis, Ventspils TV, and G. Šukorova, TV Miljons, Daugavpils (March 27, 2003).

### Box 5. TV5-Riga

The Riga regional television station TV5-Riga is a good example of how informative programs in Russian can give ethnic minority audiences access to local information sources. Of course, this type of television station cannot always observe the requirements of the law on airtime in foreign languages.

On October 1, 2001, the Riga regional television channel TV Riga was replaced by TV5-Riga. The target audience of this television station was the Latvian- and Russian-speaking population of Riga. TV5-Riga broadcasted informative programs in Russian, which were prepared by native Russian journalists (for example: “Nedēļas tēma [Topic of the week]” and “Nedēļas apskats [The week in review]”). These programs filled a big need for information on television in Russian on current issues in Latvia.<sup>58</sup> The BMF Gallup TV airtime monitoring report for the month of April 2002 showed that in one week TV5-Riga had 35 hours of Russian-language programs, and on each separate day of the week broadcasts in Russian added up to 59% of total airtime.<sup>59</sup>

Since this television station practiced an interactive approach and encouraged discussions with audience participation, moderators were frequently faced with a situation where, during a live broadcast in Latvian, viewers wished to ask questions in Russian, and these could not immediately be translated. But allowing these people to express themselves was a violation of Section 19, Paragraph 1 of the Law on Radio and Television.

Data on the distribution of television audiences show that in the first weeks following the launching of TV5-Riga, 8% of the ethnic minorities living in Riga tuned in to this channel. At the same time, there was a decline in the number of those who watched the Russian television channel ORT.<sup>60</sup>

<sup>58</sup> That there is a shortage of such programs is evidenced by the fact that the programs in Latvian that minority audiences watch most (36%) are news programs. Baltic Social Science Institute. “Valoda [Language]” survey, November 2001 – January 2002, p. 10.

<sup>59</sup> BMF Gallup Media. TV Channel Airtime Monitoring Report, April 22, 2002 – April 28, 2002, p. 8.

<sup>60</sup> BMF Gallup Media. Report on TV Audiences, October 29, 2002 – November 4, 2002.



### 3.3.3. Cable television

Cable television is fairly popular in Latvia. In 2001, there were 37 cable television companies operating in Latvia, with a total of 307,961 subscribers. There were 15 cable television operators in Riga and in the Riga District, two in Liepāja and one each in Daugavpils and Ventspils. Cable television is not accessible to those with small incomes, who cannot afford to pay the subscription fees.

The Russian cable television channels with the greatest number of viewers are ORT, RTR (Russian Public Television), TV6 Moscow, NTV International and TV Centr (see Table 12: Russian television subscribers).

Table 12. Russian television subscribers (April 9, 2002)

	Television channel	No. of subscribers
1.	Russian TV	221,800
2.	Russian Public TV	221,073
3.	TV 6 Moscow	207,835
4.	NTV International	127,653
5.	TV Centr	128,953

The Daugavpils, Krāslava, Jēkabpils and Saldus cable television companies offer their subscribers, among them members of the Polish ethnic minority in Latvia, the Polish television channel TV Polonia (see Table 13: TV Polonia subscribers).

Table 13. TV Polonia subscribers (April 9, 2002)

	Cable television companies	No. of subscribers
1.	DAUTKOM	26,000
2.	Telia MultiCom	25,040
3.	Krāslava KTV TELEANSS	1,557
4.	Saldus District ARTS	900

For a pluralism of views, it is important to provide as wide a choice of cable television channels as possible. A homogenous society is not possible if ethnic minority viewers get most of their information from programs that are produced in Russia and distributed via cable television.

### 3.4. The situation in other countries

Restrictions on the languages used by private broadcasting organizations are regulated by law in the Netherlands, France, Estonia and Moldova. Up until August 2001, the Turkish Radio and Television Law allowed only the Turkish language in radio and television broadcasts. On August 9, 2002, amendments were adopted to the Turkish Law on the Establishment of Radio and Television Enterprises and their Broadcasts, which allowed use of the Kurdish language on radio and television, but only under strict government control.<sup>61</sup> The Moldovan law stipulates that 65% of private broadcasters' airtime must be in the state language, but this provision is not applied in areas that are densely populated by ethnic minorities.<sup>62</sup>

The Estonian Language Law does not anticipate language restrictions for radio, and if programs are intended for listeners who are not Estonian, no translation is required. However, the law does place restrictions on foreign-language television broadcasts without translation into Estonian. The law says that translations are not required for direct retransmissions, language instruction programs, newscasts and live broadcasts in foreign languages. At the same time, the law restricts the airtime for such programs and stipulates that programs without a translation may not exceed 10% of the total weekly volume of programs produced by a radio or television station.<sup>63</sup>

One of the European Union Member States with language-use restrictions is France. Here, the 1986 law on freedom of communication prescribes compulsory use of the French language in radio and television.<sup>64</sup> The law does say, however, that this requirement is not applicable to radio or television stations that broadcast entirely in a foreign language: for example, Radio Orient, which broadcasts in Arabic.

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<sup>61</sup> "Furthermore, programs shall be allowed in other languages and dialects which are traditionally used in everyday communication by Turkish citizens. Such programs shall not be in conflict with the fundamental principles of the Turkish Republic that are anchored in the Constitution, or with the indivisibility of the population and territory of the State. The principles of such programs and their supervision shall be defined in a bylaw that is issued by the Radio and Television Supreme Council." Turkish Law on the Establishment of Radio and Television Enterprise and their Broadcasts. Law No. 3984, April 20, 1994.

<sup>62</sup> Raihmans, L. "Mediju likumdošana, mazākumtautību jautājumi un Latvijas gadījuma izpēte [Media legislation, ethnic minority issues and a Latvian case study]," p. 23.

<sup>63</sup> Estonian Language Law. <http://www.eki.ee/keel/langact.html> Last accessed on March 29, 2003.

<sup>64</sup> Loi relative à la liberté de communication (\*Loi Léotard\*). Law 86-1067, September 30, 1986, Article 20-1. Les brochures du Conseil Supérieur de l'audiovisuel, p. 12.

Another EU Member State that imposes language restrictions is the Netherlands. The 1987 media law requires commercial broadcasters to allocate at least 40% of their airtime to the two official languages: Dutch and Friesian.<sup>65</sup> However, data provided by the Netherlands Radio and Television Council show that in specific cases broadcasters may apply for exemptions. For example, from 2000–2002, the German-language channel Film 1 was fully exempted from this requirement.<sup>66</sup> It must be pointed out that the permitted volume of broadcasting time in other languages is relatively high (60%) in the Netherlands, considering that only three million of the 16 million people living in this country are members of ethnic minorities or immigrants.<sup>67</sup>

A look at the situation in other countries in regard to restrictions on the languages used by radio and television broadcasters shows that legislation in these countries includes provisions that restrict the use of foreign languages, but at the policy implementation level, individual radio or television stations that broadcast in the languages of the minorities are accepted.

### 3.5. Conclusions

Analysis of the current language policy as applied to commercial broadcasters leads to the following conclusions.

- Language restrictions on commercial broadcasters are in conflict with the basic principle of Latvia's official ethnopolitics. This seeks to separate the public and private spheres, i.e., to include the political culture and civil rights common to society as a whole in the public sphere, but to guarantee the cultural autonomy of ethnic minorities in the private sphere. One key element of cultural autonomy is the right to receive and impart information in the native language. This principle is anchored in the National Program for the Integration of Society in Latvia, where the quintessence of integration is thus defined: "Such is an integrated civil society, in which those belonging to other nationalities are fluent in Latvian, have overcome alienation from Latvian cultural values and are involved in seeking to achieve the goals common to society in Latvia (public sphere), and in which the rights of those

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<sup>65</sup> The Media Decree. The Bulletin of Acts and Decrees of the Kingdom of Netherlands 1987, 573, Article 521.

<sup>66</sup> Correspondence with the Netherlands Media Commission (Commissariaat voor de Media), June 11, 2002.

<sup>67</sup> CBS. Statistics Netherlands. <http://www.cbs.nl> Last accessed on April 30, 2003.

belonging to other nationalities to preserve their native language and culture are guaranteed (private sphere).<sup>68</sup>

- International human and minority rights view language use by commercial broadcasters in conjunction with the right of every individual to freedom of expression. This applies not only to the content of information, but also to its form, i.e., language. On June 5, 2003, the Constitutional Court ruled that Section 19, Paragraph 5 of the Law on Radio and Television, which stipulates that the amount of broadcasting time in foreign languages shall not exceed 25% of a broadcasting organization's stations' total volume of broadcasting time within a 24-hour period, does not conform with Article 100 of the Constitution, which guarantees freedom of expression. With this Constitutional Court judgement, the 75/25% division was invalidated for private broadcasters.
- Section 19, Paragraph 1 of the Law on Radio and Television prescribes that radio or television broadcasts must be in one language, but fragments of a broadcast in other languages must be provided with a translation. This hinders the production of bilingual radio programs. In the case of television, it limits the possibilities of showing live programs during which two languages are used.
- The language-use controls carried out by NRTC show that sanctions and penalties are not the best way to promote use of the Latvian language by commercial radio and television stations. It is not possible to constantly monitor whether or not language proportions are observed. As a result, individual broadcasters regularly violate the language restrictions by broadcasting in Russian to provide Russian-speaking audiences with information about current affairs in Latvia.
- NRTC plays a major role both in shaping policy on the electronic mass media and in making decisions on the allocation of national budget resources to public broadcasting organizations. For this reason, it is important to make sure that the interests of the ethnic minorities are represented in this institution.

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<sup>68</sup> National Program for the Integration of Society in Latvia.

<http://www.integracija.gov.lv/index.php?id=94&sadala=40> Last accessed on May 21, 2003.

## RECOMMENDATIONS

- The function of Latvian Television and Latvian Radio is to create a balanced and diversified choice of radio stations and television channels for all population groups, including the ethnic minorities. This is difficult to accomplish since only 20% of the programs on the second broadcasting network may be in the languages of the minorities. For this reason, Section 62, Paragraph 3 of the Law on Radio and Television should be amended to allow the allocation of 40% of annual broadcasting time to programs in the languages of the ethnic minorities by stations broadcasting on the second channel, taking into account the proportion of Latvia's population whose native language is not Latvian.
- The volume and content of Latvian Radio and Latvian Television broadcasts in the languages of the ethnic minorities should be chosen on the basis of population surveys that are carried out to establish the demand for such programs and the attitudes of ethnic minority audiences.
- The agreement between NRTC and Latvian Television on execution of the national remit should be amended to include the condition that the second channel of Latvian Television must include in its integration block not only programs in Russian, but also in the languages of the other ethnic minorities living in Latvia. The necessary funding for these programs must be allocated from the national budget. Airtime for Russian-language news programs on the second LTV channel must be increased.
- The financial resources necessary to ensure Latvian Television and Latvian Radio reception in the whole territory of Latvia should be found.
- The National Program for the Integration of Society in Latvia should be reviewed and amended to provide policy guidelines for the integration of society, which are more in keeping with the current situation. In regard to the mass media, special attention should be paid to the role of radio and television in promoting a dialogue between Latvians and members of the ethnic minorities living in Latvia.

- In view of the ruling of the Constitutional Court, the policy on language use by commercial broadcasters should be based on making information more accessible to audiences and not on language-use restrictions.
- Section 19, Paragraph 1 of the Law on Radio and Television (“Each broadcast shall be in one language – the language of the broadcast. Fragments of a broadcast which are in other languages shall be provided with a translation (dubbed, voiced-over or subtitled). This provision is not applicable to language instruction programs or musical performances.”) should be deleted.
- Audience demand should determine the language used by a commercial broadcaster. This would be in keeping with one of the principles of the National Program for the Integration of Society in Latvia – that the goal of proportional distribution of broadcasting time between the state language and other languages is “to make information accessible to audiences.”
- Alternative solutions should be examined to ensure that ethnic minority interests are represented on NRTC.
- Instead of monitoring the proportional use of languages, NRTC should make sure that broadcasting organizations operate in accordance with their programming plans and include news and information about current affairs in Latvia in their programs. NRTC must also make sure that commercial broadcasters do not illegally retransmit foreign radio or television.

## APPENDICES

Appendix 1  
CONSTITUTIONAL COURT JUDGEMENT  
ON THE INCOMPATIBILITY OF LANGUAGE  
RESTRICTIONS ON COMMERCIAL BROADCASTING  
ORGANIZATIONS WITH THE CONSTITUTION\*

The Republic of Latvia Constitutional Court

JUDGEMENT  
IN THE NAME OF THE REPUBLIC OF LATVIA

Riga, June 5, 2003  
Case No. 2003-02-0106

The Republic of Latvia Constitutional Court in the body of the Chairman of the Court session Aivars Endziņš, justices Juris Jelāgins, Romāns Apsītis, Ilma Čepāne, Andrejs Lepse, Ilze Skultāne and Anita Ušacka,

pursuant to Article 85 of the Republic of Latvia Constitution, and Article 16, Clauses 1 and 6, Article 17, Paragraph 1, Clause 3 and Article 28<sup>1</sup> of the Law on the Constitutional Court,

on the basis of a constitutional claim by twenty four deputies of the 8th Saeima – Boriss Cilevičs, Jānis Jurkāns, Jānis Urbanovičs, Nikolajs Kabanovs, Pavels Maksimovs, Ivans Ribakovs, Dainis Turlais, Valērijs Karpuškins, Vladimirs Buzajevs, Anatolijs Mackevičs, Andris Tolmačovs, Sergejs Fjodorovs, Vjačeslavs Stepaņenko, Martijans

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\* Text of the Constitutional Court judgement published on the homepage of the Constitutional Court [http://www.satv.tiesa.gov.lv/LV/Spriedumi/02-0106\(03\).htm](http://www.satv.tiesa.gov.lv/LV/Spriedumi/02-0106(03).htm) Last accessed on September 8, 2003.

Bekasovs, Aleksejs Vidavskis, Oļegs Deņisovs, Aleksandrs Golubovs, Juris Sokolovskis, Valērijs Agešins, Jakovs Pliners, Vitālijs Orlovs, Andrejs Aleksejevs, Andrejs Klementjevs and Aleksandrs Bartaševičs

holding the proceedings in written form, reviewed the case

**“On the Conformity of Article 19, Paragraph 5 of the Law on Radio and Television with Articles 89, 91, 100 and 114 of the Republic of Latvia Constitution, Articles 10 and 14 (in conjunction with Article 10) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, and Articles 19 and 27 of the International Covenant on Civil and Political Rights.”**

### **Descriptive part**

1. On August 24, 1995, the Republic of Latvia Saeima adopted the Law on Radio and Television. The Law lays down the rules for forming, registering, operating and monitoring the electronic mass media under the jurisdiction of the Republic of Latvia.

Chapter III of the Law incorporates provisions for the establishment of broadcasting stations and the production and broadcasting of programs, including provisions on the language of a program. Initially, Section 19, Paragraph 5 of the Law on Radio and Television stipulated that the proportion of a broadcaster’s foreign-language programs shall not exceed 30 percent of total airtime per month. On October 30, 1997, the Saeima amended the above paragraph and determined that the proportion of a broadcaster’s foreign-language airtime shall not exceed 30 percent of total airtime per twenty-four hours.

On October 29, 1998, the Saeima adopted further amendments to Section 19, Paragraph 5 of the Law on Radio and Television, and the new wording has been in effect since November 28, 1998. This stipulates that “the amount of broadcasting time in foreign languages shall not exceed 25 percent of a broadcasting organization’s stations’ total volume of broadcasting time within a 24-hour period” (henceforth – the disputed provision). An exception is made in that “this provision is not applicable to Latvian Television, Latvian Radio, cable television, cable radio, satellite television and satellite radio.”

With the May 4, 1990 Supreme Council Declaration on the Accession of the Republic of Latvia to International Instruments on Human Rights Issues, the Republic of Latvia acceded to the UN December 16, 1966 International Covenant on Civil and Political Rights (henceforth – the Covenant). In the Republic of Latvia, the Covenant entered into force on July 14, 1992.



Article 19 of the Covenant determines that everyone shall have the right to hold opinions without interference. The Article explains that this right shall include the 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 choice. This right may be subject to certain restrictions, but “these shall only be such as are provided by law and are necessary: (a) for respect of the rights or reputation of others; (b) for the protection of national security or public order, or of public health or morals.”

Article 27 of the Covenant determines that in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture and to use their own language.

On June 4, 1997, the Republic of Latvia Saeima ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms (henceforth – the Convention). In the Republic of Latvia, the Convention has been in effect since June 13, 1997.

Like the Covenant, the Convention determines the right of everyone to freedom of expression, including the freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers (Article 10). It states further, however, that this Article “shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.”

Article 10, Paragraph 2 lists legitimate reasons for restrictions on the freedom of expression, which may be necessary in a democratic society. It anticipates that these restrictions shall be prescribed by law in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 14 of the Convention determines that the enjoyment of the rights and freedoms set forth in the Convention, including the right to freedom of expression, shall be secured without discrimination on any ground, including language or association with a national minority.

**2. The Claimants** – twenty-four Saeima deputies – have requested an assessment of the conformity of the disputed provision with:

- 1) Articles 89, 91, 100 and 114 of the Republic of Latvia Constitution (henceforth – the Constitution);
- 2) Articles 10 and 14, in association with Article 10, of the Convention;
- 3) Articles 19 and 27 of the Covenant.

The Claimants request that the disputed provision be declared null and void as from the moment of its adoption.

The Claimants point out that all private broadcasting organizations that have been established in Latvia are subject to the restricting 25% provision, and thereby conclude that the disputed provision denies the right to form private broadcasting organizations that broadcast primarily in minority languages. To their mind, this is a violation of personal rights and discrimination on the ground of language, which seriously restricts the right of a person to receive and impart information in a minority language.

The Claimants point out that Article 100 of the Constitution determines the right of every person to freedom of expression, which includes the right to freely receive, possess and impart information. This includes the right of a person belonging to an ethnic minority to freedom of expression. Furthermore, Article 91 of the Constitution stipulates that human rights shall be realized without discrimination of any kind. The right to freedom of expression has also been determined in Article 10 of the Convention and Article 19 of the Covenant. Article 14 of the Convention also establishes that the right to freedom of expression shall be secured without discrimination.

The Claimants draw attention to the fact that persons belonging to ethnic minorities have the right to preserve and develop their language (Article 114 of the Constitution). Furthermore, protection of the rights of ethnic minorities is also determined in Article 27 of the Covenant.

3. **The Saeima**, in its written reply to the Constitutional Court, points out that the restrictions set out in the disputed provision are not in conflict with Articles 89, 91, 100 and 114 of the Constitution, Article 10 and Article 14, in conjunction with Article 10, of the Convention, and Articles 19 and 27 of the Covenant. The Saeima requests that the claim be declared unfounded and dismissed. In its written reply, the Saeima contends that Article 10, Paragraph 1 of the Convention does not restrict the right of the State to require the licensing of broadcasting, television or cinema enterprises, being as the Convention anticipates the right of the State to subject broadcasting to certain requirements, thus accepting a degree of interference by public authorities.

The Saeima substantiates this contention with the principle of proportionality, i.e., the State is entitled to impose restrictions on rights if such restrictions have been provided for by law, if they have a legitimate objective, and if the need for such restrictions has been established in a democratic society. After evaluating a number of judgements made by the European Court of Human Rights, the Saeima concludes that States are entitled to impose restrictions on broadcasting and refuse the issue of licenses to organizations failing to meet the requirements of the law.

It is underlined in the written reply that the legitimate objective of the disputed provision is to ensure use of the Latvian language as the state language in public communication. To substantiate its view, the Saeima also uses historical arguments, i.e., when debating the disputed provision, it was underlined that the main objective of the provision is to ensure that the broadcasting organizations operating in Latvia have regard for the state language, but, at the same time, to give them the option of broadcasting in other languages as well. The disputed provision does not deny ethnic minorities the possibility of creating broadcasting organizations. It serves to ensure the production of programs in both the language of an ethnic minority and the state language. The Saeima also points out that, in accordance with the Language Law, a foreign language is any other language that is used, with the exception of the Liiv language. This means that the disputed provision applies not only to the languages of the ethnic minorities, but also to any other foreign language. Therefore, the disputed provision is not discriminating against the ethnic minorities, being as the restrictions apply to any foreign language.

In the written reply, the Saeima points out that Article 114 of the Constitution and Article 27 of the Covenant, which determine the right of persons belonging to ethnic minorities to preserve and develop their language, do not impose upon the State the obligation to guarantee unlimited use of the languages of ethnic minorities in public communication. The Saeima contends that it is the duty of the State to ensure that the existence and implementation of these rights is protected against divestment or violation.

## Reasoning

1. Freedom of expression belongs to the so-called first-generation human rights and is considered to be one of the most important human rights. More than any other human right, it symbolizes the interdependence of civil and political rights – the freedom of expression belongs to both civil and political rights.

Freedom of expression embraces a wide area and incorporates two aspects: the private and the public. The private aspect of freedom of expression means that every person has the right to hold personal views and to freely voice them. Freedom of expression is one of the essential preconditions for a society that is based on mutual respect. Thus, the right to freedom of expression is closely connected with such important rights as the right of every person to a private life, which demands protection against any interference whatsoever (see *Manfred Nowak. UN Covenant on Civil and Political Rights. CCPR Commentary. Publisher N.P.Engel, Kehl, Strasbourg, Arlington, 1993, p. 336*).

The public aspect of freedom of expression applies to the right of every person to freely receive information and voice his/her views in any manner – orally, in writing, visually, in the form of art, etc. The mass media – radio and television – are also a means of imparting information and voicing views.

The European Court of Human Rights in its judgement “*Autronic AG v. Switzerland*” has concluded that Article 10 of the Convention applies to “all persons,” i.e., both natural and legal persons. Furthermore, the Court has in a number of cases found that the above Article shall also be applied to commercial corporations (see *the European Court of Human Rights October 24, 1991 judgement in the case “Sunday Times v. the United Kingdom”*; *the February 22, 1990 judgement in the case “Groppera Radio AG and Others v. Switzerland”*; *the October 25, 1989 judgement in the case “Markt Intern Verlag GmbH and Claus Berman v. the Federal Republic of Germany”*; *the April 1, 1989 judgement in the case “Autronic AG v. Switzerland”*).

The first sentence of Article 100 of the Constitution says: “Everyone has the right to freedom of expression, which includes the right to freely receive, possess and impart information and to express his views.” The quintessence of this Article of the Constitution is close to that of Article 19 of the Covenant and Article 10 of the Convention.

Article 100 of the Constitution is extremely laconic. It determines the right of every person to freedom of expression, but does not specify the ways in which this freedom of expression shall be implemented. The Constitution does not *expressis verbis* anticipate freedom of the press (mass media). The exact term “freedom of the press” is formulated in the Law on the Press and other Mass Media. Section 1 of this law stipulates that “in the Republic of Latvia all persons, groups of persons, public authorities and all manner of entrepreneurial institutions and organizations have the right to freely express their views and opinions, to distribute information through the press and other mass media, and to receive, through the same, information about any issue of interest or public concern.”

The most comprehensive formulation of the term “freedom of expression” can be found in Article 19 of the Covenant: “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.” The same also follows from Article 10 of the Convention and from an analysis of conclusions in the judgements of the European Court of Human Rights.

**From this follows that the term “freedom of expression,” which is used in Article 100 of the Constitution, also incorporates the concept of “freedom of the press.”**

Although the right to freedom of expression is seen as one of the most essential human rights, being as it affects all other human rights, it is not absolute. Both the Constitution and the aforementioned international instruments on human rights allow restrictions on this right. The Convention and the Covenant include a fairly extended list of permissible restrictions. Legal literature underlines that the State may impose restrictions on freedom of expression in cases where the right of persons to freedom of expression may directly affect the rights of other persons, and in cases where freedom of expression poses a clear and direct threat to society (see *Manfred Nowak, p. 337*).

The Constitutional Court, too, in several of its judgements, for example, the April 23, 2003 judgement in case No. 2002-20-0103; the September 23, 2002 judgement in case No. 2002-08-01; the August 30, 2000 judgement in case No. 2000-03-01, has concluded that in certain circumstances the State may exercise the right of restricting the fundamental rights guaranteed by the Constitution. Fundamental rights may be subject to restrictions only in the circumstances set out in the Constitution, provided that this is required to protect vital public interests, and provided that the principle of proportionality is observed.

This means that any restriction on the right to freedom of expression must meet the following requirements:

- a) it must be prescribed by law;
- b) it must serve a legitimate objective, which the State pursues by imposing the restriction;
- c) it must be proportionate to the objective.

2. Being as the disputed provision, which includes restrictions on the fundamental human rights set out in Article 100 of the Constitution, is incorporated in a Law adopted by the Saeima, which has been announced in due manner and is valid, the Court holds that there is no doubt that these restrictions are provided for by law.

3. Article 116 of the Constitution stipulates that freedom of expression may be subject to restrictions in the circumstances provided for by law in order to reach any of the legitimate objectives set out in this Article: to protect the rights of others, the democratic structure of the State, public safety, welfare and morals.

In its written reply, the Saeima points out that the legitimate objective of the disputed provision is greater influence of the Latvian language in Latvia's cultural environment and faster integration of society.

To determine whether the disputed provision, which determines the scope of foreign-language use, has a legitimate objective, a number of facts must be taken into account. For example, the fact that Article 4 of the Constitution establishes that the Latvian

language is the official state language in the Republic of Latvia; the fact that the status of the state language has been anchored in the Constitution only recently – on October 15, 1998; the fact that from 1940 to 1990, due to historical circumstances, use of the Latvian language had significantly declined; the fact that, at present, there is a need for special measures to protect the Latvian language and further its development.

One of the legitimate objectives set out in Article 116 of the Constitution, which may justify restrictions on the right to freedom of expression, is public welfare. Together with the material aspects of welfare, the concept of “public welfare” also incorporates non-material aspects, which are necessary for the harmonious functioning of a society. One of these “could be measures carried out by the State to secure dominance of the Latvian language in society” (*Levits E. “Cilvēktiesību piemērošanas pamatjautājumi Latvijā [Basic questions regarding the application of human rights in Latvia].” In: Cilvēktiesības pasaulē un Latvijā [Human Rights in the World and in Latvia]. Riga (2000), p. 287.*

Increasing the influence of the Latvian language would promote the integration of society and ensure a harmonious functioning of society, which is a basic precondition for public welfare.

The Constitutional Court has previously concluded that “restrictions on use of the Latvian language as the state language in the territory of Latvia shall also be regarded as a threat to the democratic system” and “therefore, restrictions are imposed on the private life of the applicant in order to protect the right of other people living in Latvia to use the Latvian language freely in the entire territory of Latvia and to protect the democratic system” (*Constitutional Court December 21, 2001 judgement in case No. 2001-04-0103*).

**From this follows that the restrictions on freedom of expression incorporated in the disputed provision have legitimate objectives.**

4. In accordance with Article 4 of the Constitution, the official language in the Republic of Latvia is Latvian. Section 16 of the State Language Law stipulates that “the language of mass media broadcasts is prescribed by the Law on Radio and Television.” Section 19, Paragraph 5 of the Law on Radio and Television includes the disputed provision, which stipulates that the amount of broadcasting time in foreign languages shall not exceed 25% of a broadcasting organization’s stations’ total volume of broadcasting time within a 24-hour period. Section 5 of the Language Law says that “any other language, with the exception of the Liiv language, used within the Republic of Latvia, shall be regarded as a foreign language.” This meaning of the term “foreign language” must also be applied to the disputed provision.

To determine whether the restrictions on freedom of the press comprised in the disputed provision are necessary in a democratic society and may be applied as a means of reaching a legitimate objective, it is necessary to clarify whether the principles of human rights have been violated. This requires an examination of whether the restrictions are socially necessary and proportionate.

4.1. In the Republic of Latvia, every person has the right to engage in commercial activities and to set up commercial broadcasting organizations. One of the most important factors for the existence of broadcasting organizations is the possibility to sell advertising time. At present, the disputed provision forbids commercial broadcasting organizations to broadcast advertisements in foreign languages to an extent that does not endanger their financial existence. At the same time, the restrictions do not apply to cable television, satellite television, satellite radio, or to press publications – the printed mass media.

The Saeima has amended the disputed provision three times, each time decreasing the airtime for programs in foreign languages. The transcripts of the Saeima debates show that, both at the time when the law was passed in 1995 and later, when there were heated debates on amendments to the disputed provision, the views of the Saeima deputies were fairly divergent.

Already on June 14, 1995, when the Law on Radio and Television underwent its second reading, deputy Ilga Kreituse voiced the opinion that “state radio must be separated from the private organizations [...] when we talk about private radio, about the private broadcasting stations that we have, we must keep in mind that they are private, they exist on their own money, and by placing restrictions on their airtime we come into conflict with the demands of the free market, if we want to talk about such in this country (*transcript of the Saeima June 14, 1995 session*).

Implementation of the disputed provision has neither promoted wider use of the state language nor speeded up the integration of society. The results of a study attached to the documents of the case show that, if people cannot use the services of local broadcasting organizations because of language restrictions, they choose the services of foreign broadcasting organizations, primarily Russian television channels. As compared with 1997, in 2000 the percentage of non-citizens among the viewers of Russian television channels had increased. Three-quarters of the non-citizens regularly watch Russian television programs (see *documents of the case, page 258*).

**From this follows that the restrictions on language use included in the disputed provision cannot be considered socially necessary in a democratic society.**

4.2. At the beginning of 2003, the National Radio and Television Council (henceforth – the Council), which monitors mass media operations in the Republic of Latvia, drafted the Framework Document on Development of Latvia’s Electronic Mass Media 2003–2005. *Inter alia*, the Council draws attention to the fact that a discussion must take place on how to attract audiences of non-Latvian descent to Latvian information sources. In this document, the Council also points out that it is necessary to reassess the restrictions on the right to freedom of expression set out in Section 19, Paragraph 5 of the Law on Radio and Television, and to make amendments to this part of the law.

The Council finds that resolution of this issue is important for two reasons: 1) a number of broadcasting organizations have drawn the attention of the Council to the fact that restrictions on the use of foreign languages hinder the development of radio and television broadcasting organizations; 2) the possible ratification of the Council of Europe’s Framework Convention for the Protection of National Minorities by the 8th Saeima will create a conflict with the Law on Radio and Television: Article 9 of the Convention anticipates the right of every person belonging to a national minority to receive and impart information and ideas in the minority language, without interference by public authorities, but this is in conflict with the restrictions set out in Section 19, Paragraph 5 of the Law on Radio and Television.

The theses set forth in the Framework Document indicate that the Council finds it necessary to amend the disputed provision and eliminate the disproportionate restrictions on the use of foreign languages.

Article 10, Paragraph 1 of the Convention does not prohibit the licensing of radio and television broadcasting by the State. The European Court of Human Rights, in its judgement in the case “*Radio ABC v. Austria*,” has acknowledged that its “aim has been to explain that the state is allowed by means of a licensing system to regulate radio broadcasting in its territory, primarily the technical aspects [of broadcasting]. Technical aspects are undoubtedly important, but the issue of a license or the refusal to do so may be based on other considerations, such as the nature and objectives of the broadcasting organization, its potential audience at the national, regional or local level, the specific rights and needs of audiences, and the commitments following from international instruments” (*European Court of Human Rights October 20, 1997 judgement in the case “Radio ABC v. Austria”*).

**From this follows that licensing of radio and television programs incorporates a great variety of aspects.**

The issue of radio and television broadcasting licenses must not be allowed to generate disproportionate restrictions on fundamental human rights, among these the right to freedom of expression. To increase the use of Latvian in the electronic mass media,



only such means may be applied which comply with this requirement. For example, one of the criteria for issuing broadcasting licenses to private broadcasting organizations might be the number of companies broadcasting in foreign languages, their offer of programs that promote the integration of society, and other criteria.

The former Estonian Minister for Nationality Issues has pointed out that the companies broadcasting in foreign languages have, indeed, stimulated the integration process in Estonia. They have done so in two ways. By including a variety of information in their programs, they have provided a more versatile insight into integration processes. Furthermore, the programs of these broadcasting organizations have served as a platform for discussions on integration issues (see *Katrina Saksa. Public Broadcasting and Integration in Estonia. [www.politika.lv](http://www.politika.lv) November 25, 2002*).

This shows that it is possible to reach the objective by other means, which restrict personal rights to a lesser degree.

**It can, therefore, be concluded that the language-use restrictions provided for in the disputed provision cannot be considered necessary and proportionate in a democratic society.**

5. Being as the disputed provision does not conform with one of the articles of the Constitution – Article 100 – there is no need to evaluate its conformity with the other articles of the Constitution – Articles 89, 91 and 114.

## Decision

Pursuant to Articles 30-32 of the Law on the Constitutional Court, the Constitutional Court has decided:

**to declare Section 19, Paragraph 5 of the Law on Radio and Television Law to be incompatible with Article 100 of the Republic of Latvia Constitution and null and void as of the day of the publication of the Judgement.**

The Judgement is effective as of the moment of its publication. The Judgement is final and allowing of no appeal.

## Appendix 2

### NATIONAL PROGRAM FOR THE INTEGRATION OF SOCIETY IN LATVIA

#### SUB-SECTION “MASS MEDIA”

#### I. MASS MEDIA

##### Goals

- To promote the free flow of information and guarantee the rights of all persons living in Latvia to receive objective and all-round information, enabling them to understand the country’s political and social processes and take part in the exchange of information, fully understanding the issues at hand.
- To draft and implement an information policy, which, based on freedom of expression, freedom of the press and other democratic freedoms, encourages an open dialogue between state and society and between different parts of society, thus promoting the integration of state and society, transparency of government and local government, and creating an atmosphere of trust in relations between state and society.
- To rigorously, and in accordance with the law, forestall any attempts to use freedom of the press and freedom of expression to stir up national hostility or violate a person’s dignity and honor due to his/her birth, religion or social status.
- To promote new information techniques and their exploitation.

##### Courses of Action

**Access to Information.** An information policy must be drafted, which promotes the integration of society and provides access to common sources of information. The Law

on Access to Information (Freedom of Information) must become a practical instrument that can satisfy the needs of society for the exchange of information. The public, including journalists, must be educated about the rights provided for by law.

It is the responsibility of government and local government structures to make available the information that is required for public participation, without waiting for such information to be requested. A dialogue must be developed, involving the public in discussions on all decisions and draft laws that have an impact on society at large or on any of its groups. Coordination between public administration institutions must be improved as regards the preparation and distribution of information.

**Information sources.** The information policy of public administration institutions must seek to raise the awareness of all population groups that their welfare and security can only be achieved through a joint effort, and that co-operation can only be achieved through an active dialogue that pursues mutual understanding. Such awareness will lead to an interest in common sources of information. This will greatly help those who are not native Latvians to learn the Latvian language. This will help to overcome the information barriers that exist due to a lack of Latvian language skills and an inability to read the Latvian press or listen to the radio and watch TV programs in Latvian. The mass media must draw greater attention to the integration of society.

The government must promote the development of public radio and television and, at the same time, it must ensure their independence from the undemocratic influences of any groups or persons whatsoever. The importance of a high standard of professional ethics in the work of mass media organizations and journalists must be underscored. In the context of integration, support must be increased for educational programs connected with the training and further education of journalists, and the students of other subjects must be educated about the capacity of the mass media to promote the integration of society. The technical capacity of Latvian Radio and Latvian Television must constantly be improved in order to ensure that their broadcasts can be received in the whole territory of Latvia. Airtime for radio and television broadcasts in Latvian and other languages must be allocated flexibly, taking into account the actual language situation in each specific region, with the aim of making information accessible to audiences. Special attention should be paid to the regional mass media. For their development, specific integration programs must be prepared, which are adapted to local circumstances.

The existence of a variety of press publications must be supported. This pertains in particular to professional analytical and scientific publications, which do not confine themselves to producing scandals and sensations or finding who to blame after the fact, but which are able to identify the causes of various phenomena and processes and recommend well-reasoned and constructive solutions.

Distribution of information about events – scientific, cultural, artistic and athletic – that unite Latvia's society, must be supported. The international achievements of Latvia's representatives of any nationality whatsoever serve as Latvia's "business-card" abroad. Information about such events has strong and effective integration potential, which is still seldom exploited in Latvia.

It should be kept in mind that many who are not native Latvians also took part in the struggle for the renewal of Latvia's independence. Discussions in the mass media about history should be encouraged to increase understanding of historical processes. The view that the renewal and defense of Latvia's independence was and is only a Latvian concern must not be cultivated. Those who are not native Latvians must be involved in shaping Latvia's public image. Patriotism must be fostered with the help of the mass media, including programs intended for the ethnic minorities. Joint mass media projects in different languages, especially joint Latvian and Russian media projects and the exchange of publications (articles) must be supported in every respect.

The topic of EU accession as a common vision for the future prospects of Latvia's whole population should be more widely exploited – as a factor that stimulates integration.

**New Technologies.** Greater advantage should be taken of the opportunities provided by the evolution of an information society to achieve the goals of integration. These opportunities are determined by two main factors: the availability of technical tools (networks and equipment) and the readiness (know-how) of users. These factors prescribe the necessity for an adequate policy in regard to technology and education – with integration as one of its goals.

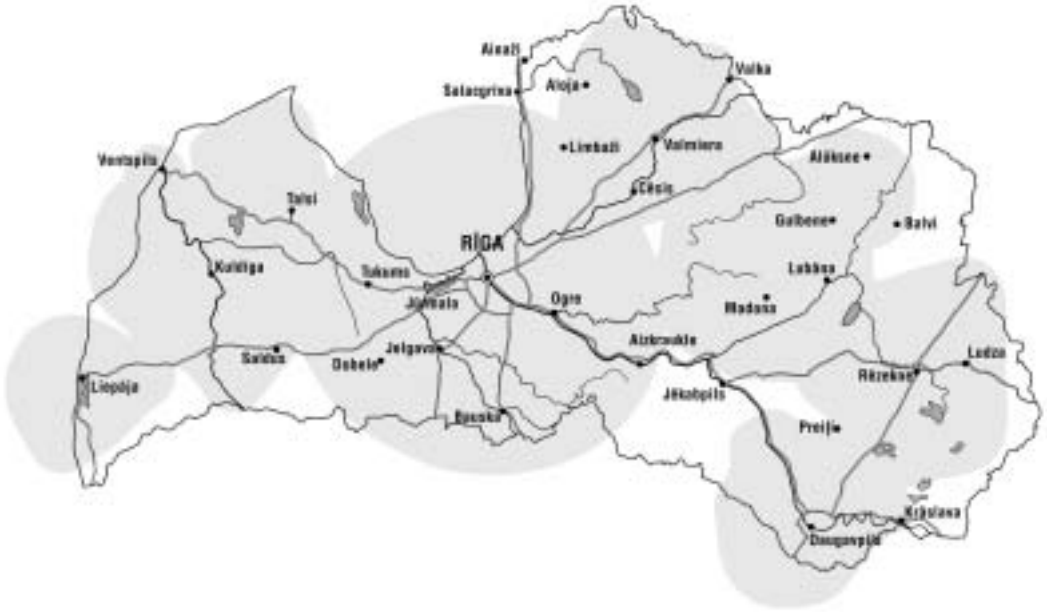
## Appendix 3 TRANSMISSION RANGES OF LTV

Figure 1. LTV1 transmission range



Source: Latvian National Radio and Television Center. <http://www.lvrtc.lv>

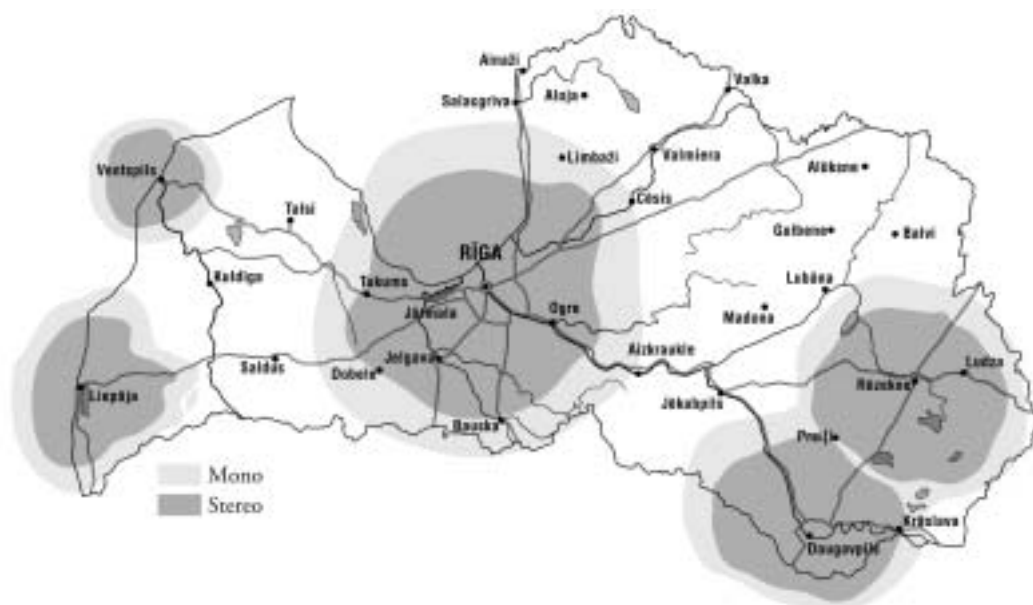
Figure 2. LTV7 transmission range



Source: Latvian National Radio and Television Center. <http://www.lvrta.lv>

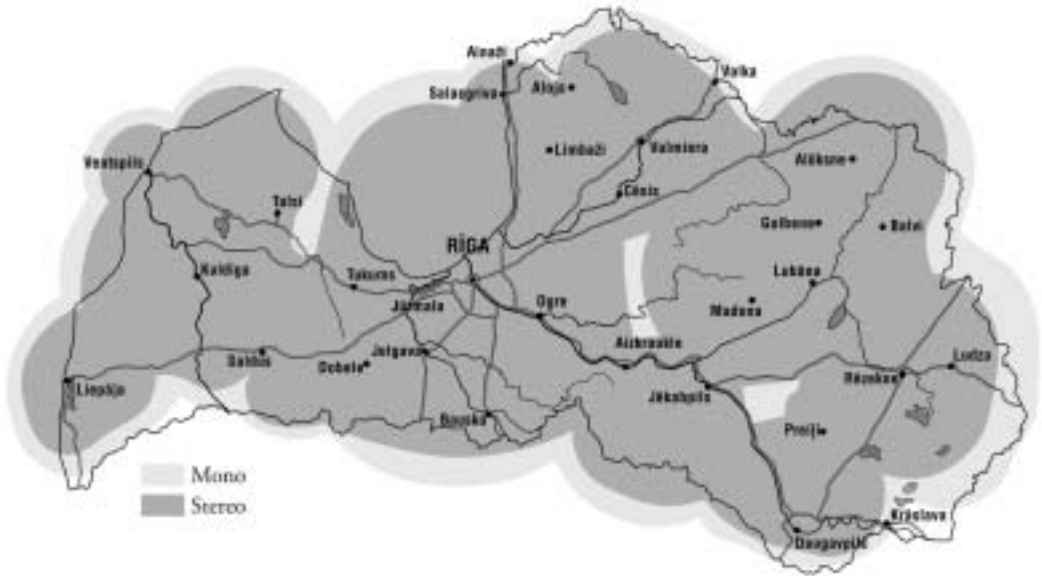
## Appendix 4 TRANSMISSION RANGES OF LATVIAN RADIO

Figure 1. Latvian Radio 4 “Doma laukums” transmission range



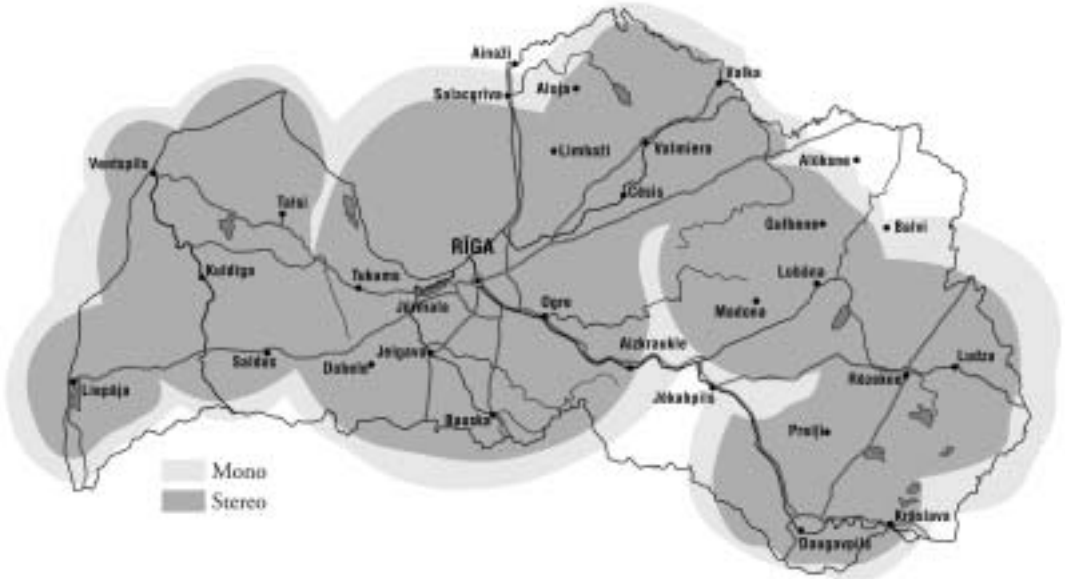
Source: Latvian National Radio and Television Center. <http://www.lvrtc.lv>

Figure 2. Latvian Radio 1 transmission range



Source: Latvian National Radio and Television Center. <http://www.lvrta.lv>

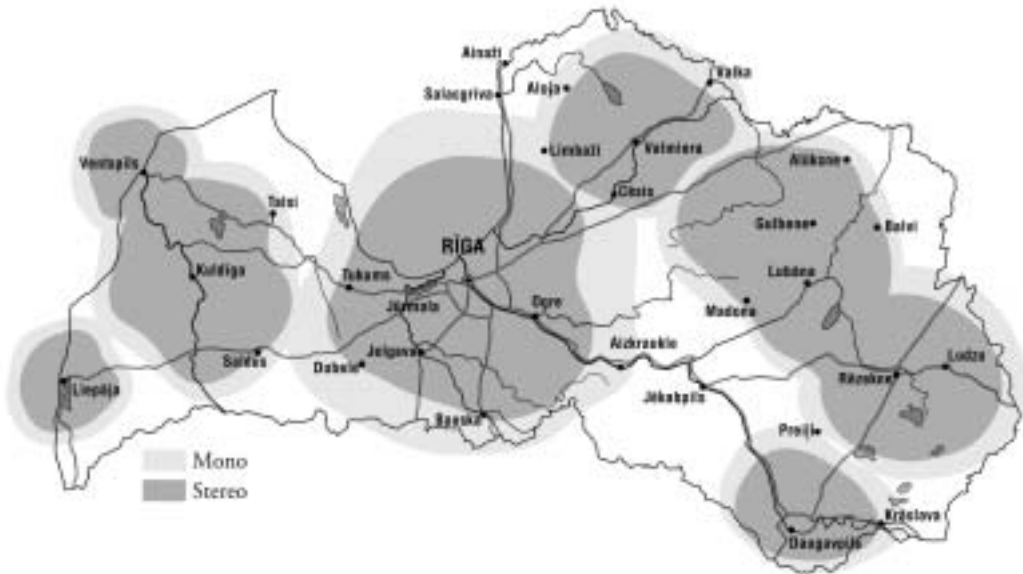
Figure 3. Latvian Radio 2 transmission range



Source: Latvian National Radio and Television Center. <http://www.lvrta.lv>

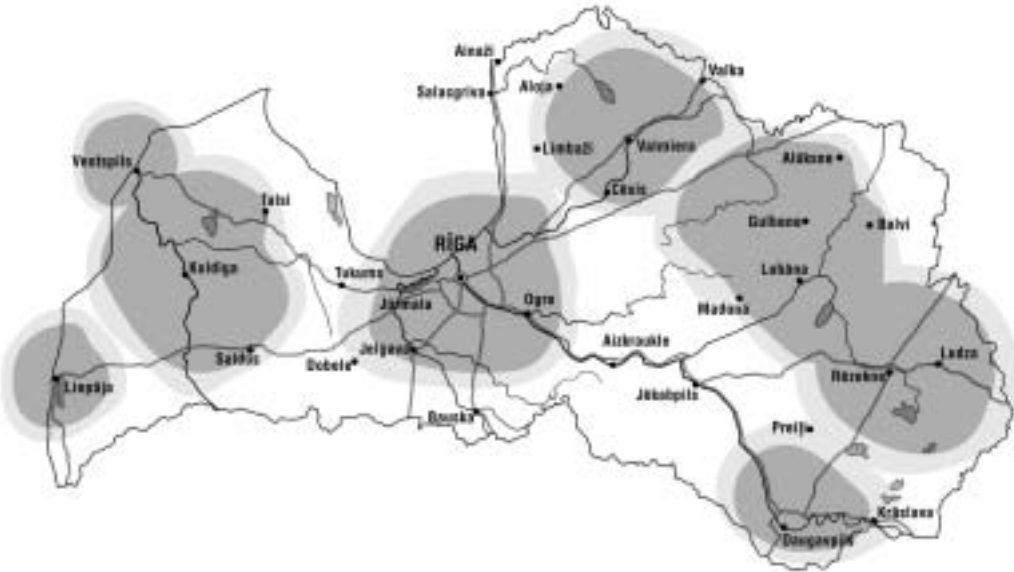


Figure 4. Latvian Radio “Classics” transmission range



Source: Latvian National Radio and Television Center. <http://www.lvrbc.lv>

Figure 5. Latvian Radio 5 (transmission of Saeima plenary debates) transmission range



Source: Latvian National Radio and Television Center. <http://www.lvrbc.lv>

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