

Tatiana HIRINA

Institute of Journalism KNU of Taras Shevchenko, Kyiv, Ukraine

Legal aspects of using the state language in radio broadcasts in Ukraine

Abstract: The article examines the stages of introducing the state language into the broadcasts of national, regional and local radio stations. The legislative regulation pertaining to the use of Ukrainian in radio broadcasts and music content of radio organizations in 2004–2016 is examined. The author concludes that the development of the language-based radio broadcasting is possible in the conditions of harmonious interaction between radio stations, musicians/songwriters and the audience.

Key words: legislative base, convergence, media, transformation, Ukrainian-language broadcasting

Introduction

The language issue, which is relevant for most countries of the civilized world in the context of globalization, has become an instrument of the political process since Ukraine gained independence. Despite the fact that experts note the artificiality of the problem for ordinary Ukrainians, in the international arena, as well as in the internal electoral market, the right to speak the language of national minorities (usually Russian) from year to year is widely discussed in the society. The media often become an object of criticism and influence in this process.

Review of publications on this topic

A major contribution to the research into the issue of Ukrainian-language radio in the world media context has been made by representatives of the Ukrainian school of journalism. The works of V. Rizun, O. Goyan, V. Nabruzko, I. Khomenk, L. Fedorchuk, M. Nagornyak and J. Elisovenko are important for us. The language of professional and common communication in Ukraine has been studied by O. Gresko. Scholars from different coun-

tries have studied the transformational features and levels of convergence in broadcasting, among them: Assistant Professor at the School of Communications, University of Hawaii in Manoa (USA), B. Oppegaard, Spanish researcher from the University of Castilla-La Mancha (Spain), A. Serrano Telleria, Ph.D., D. Cameron, Newcastle University, representatives of the Federal University of the State of Da-Bahia (Brazil) A. M. Silva Palacios and S. Barbosa, A. Al Tawara and E. Kide from the Central University of Queensland (Australia) and E. Bolat from Bournemouth University (UK). However, a comprehensive consideration of the proposed issue requires a systematic understanding of the problem, especially in the context of the change in socio-political conditions in Ukraine and the entry into force of changes in legislation regarding the broadcasting of Russian-language content on national, regional and local radio stations.

The main purpose of the article consists in the legislative support for the presence of the state language and music content on the air of mainland Ukrainian radio stations. This applies when radio stations of different forms of ownership, both in Ukraine and abroad, form Ukrainian-language radio content which is characterized by verbal and acoustic traditions. From the viewpoint of the researcher this requires additional understanding and justification.

Materials and methods

The research applies theoretical (analysis, comparative-historical) and theoretical-empirical (discourse analysis, induction) methods. Particularly valuable for us was the method of document analysis, allowing us to obtain information obtained from the official reports of the National Council of Ukraine on Television and Radio Broadcasting. The results concern the transformation of the language media landscape of mainland Ukraine between 2004 and 2016. The methods which were used made it possible to identify tendencies and present them in the form of dynamic data: the results of the research of using of the Ukrainian language in songs and programs of radio stations.

Results and discussion

Publicly discussing the so-called “language issue,” which was already removed from Article 10 of the Constitution of Ukraine (which states that

Ukraine guarantees the free development, use and protection of Russian), analysts of other minority languages of Ukraine talk about the regulation pertaining to the use of Russian. As a rule, they do not pay attention to the languages of the Tatars, Bulgarians, Romanians, Greeks, Jews, Belarusians, Moldovans, Poles, Hungarians, Germans, Slovaks, Gagauz and other nationalities living in Ukraine. At the level of common communication, both in the years of the Soviet Union and now, for many Ukrainians, Russian remains the language of international communication, at least with the inhabitants of the post-Soviet states.

The difference in the results in the Soviet Union (in 1989) and the first all-Ukrainian population census (2001) showed not only a decrease in the number of Ukrainians by 6.3%, from 51,706,600 to 48,707,020, but also made it possible to create a map of nationalities living in Ukraine. According to the census results, “77.8% of Ukrainians, 17.3% of Russians, 0.6% of Belarusians, 0.5% of Moldovans, 0.5% of Crimean Tatars, 0.4% of Bulgarians, 0.3% of Hungarians lived in ethnolinguistic communities, compared to 0.3% of Romanians, 0.3% of Poles, 0.2% of Jews, 0.2% of Armenians, 0.2% of Greeks and 0.2% of Tatars” (*Draft opinion*, 2011, p. 4). Despite the fact that Ukrainian is recognized as the state language, only 67.5% of the population called it “native,” for another 29.6% it was Russian. It is interesting that for 15.8% of ethnic Ukrainians, Russian became the language of common communication, despite the fact that only 3.9% of Russians in Ukraine used the state language in everyday life (Arel, 2002, p. 215).

In 2004, the National Council of Ukraine on Television and Radio Broadcasting published information according to which “the majority of TV and radio programs are not broadcast in the state language, whereas, according to the census data, for 67.5% Ukrainians, the native language is Ukrainian” (Reports, 2017). According to the modern Canadian Ukrainianist D. Arel, Ukraine is perhaps a unique state that demonstrates a great discrepancy between the declared ethnicity (Ukrainian, Russian or other) and the actual use of language (Arel, 2002). During the decades of independence (1991–2013), Ukrainians received media content, communicated and studied in Russian schools in conditions when the eastern neighbor solved the language problem in its own way. In Russia, except for its eponymous language, there are 100 languages, of which 35 are taught in schools. The largest minorities are Tatar (more than 5 million citizens) and Ukrainian (more than 2 million), and there are many schools with the Tatar language, but none with the Ukrainian, despite the fact that in Ukraine there are still many Russian-language schools.

The attention the government has given to the Ukrainian language on air has already brought results. In previous years, national radio stations passed through the stage of the Ukrainianization of advertising. In contrast to the tele-space, where the transition took place smoothly, including through captions, this process was delayed by radio companies. In 2005, the work was still in progress on broadcasting advertisements in the Ukrainian language, however, this requirement was more difficult for some radio stations, and a significant part of advertisements were broadcast in Russian: on radio “Kiss FM” (Ukrainian corporation “UTAR”) – 48%, “Lux FM” – 89, 3%, radio “Trust” – 65.7%” (Reports, 2017). A real achievement for national broadcasting was the refusal to broadcast foreign radio stations; even such well-known foreign brands as “Russian Radio Ukraine,” Radio “Chanson” and “Autoradio” now create content wholly in Ukrainian, based on the needs of the audience and its social and communication interests.

On November 8, 2016, the Law of Ukraine “On Amendments to Certain Laws of Ukraine Regarding the Share of Musical Works by the State Language in the Programs of Broadcasting Organizations” came into force, which regulates the percentage of songs in Ukrainian in radio to a level of at least 35% in a daily time interval from 07.00 a.m. to 02.00 p.m. and 03.00 p.m. to 10.00 p.m. It is important that the regulator set a specific time frame foreseeing possible speculations with a time interval for broadcasting Ukrainian-language radio programs, as was the case in previous stages, when “national radio stations played the musical products of the Ukrainian authors and performers in the programs mainly during the night, and in the interval from 7am to 23pm their number decreased significantly” (Reports, 2017).

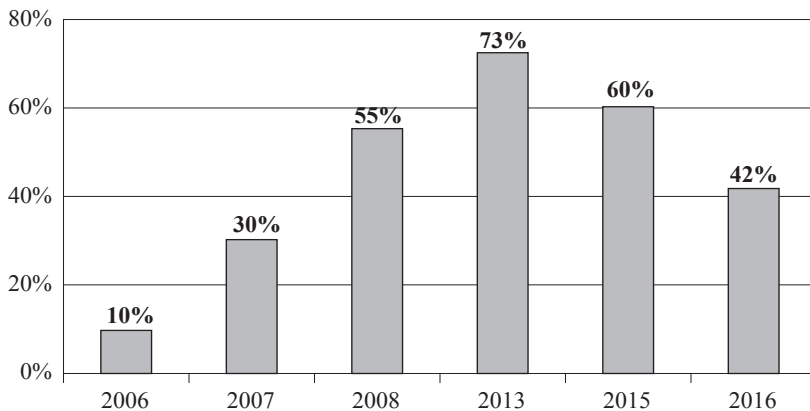
Ukrainian songs on air have passed through a long and complex path of regulatory innovations. An awareness of the potential and competitiveness of the Ukrainian-language song was acknowledged in previous years: “the musical quality of the Ukrainian production necessary for broadcasting exists, is produced and can contribute to the successful commercial operation of radio stations” (Reports, 2017). This statement from the report of the National Council was repeated verbatim the following year, remaining a declarative intent about actions, but not anticipating the complex steps towards the realization of this potential.

The presence of the state language in national music radio was determined descriptively, without precise specifics and comparative data, and although the amount “grew significantly” every year (Reports, 2017), it

remained not more 10% (Fig. 1). Since 2008, Ukrainian songs according to National Council for Television and Radio Broadcasting received more than half the airtime, but the musical works of Ukrainian authors and performers were also called Ukrainian, despite not always being performed in the state language.

In previous years, the National Council recognized that the established norms of 50% of the Ukrainian language and 40% of the Ukrainian-language song were realistic, but often were not fulfilled by licensees after receiving a broadcasting permit (Reports, 2017). After ten years of continuous growth in the numbers, in 2015 they suddenly recognized that, despite the popularization of Ukrainian songs on the radio, “an insignificant but positive tendency has emerged to increase the number of songs in the Ukrainian language. The leaders in this indicator became the National Radio Company of Ukraine – 100% of all songs and the radio company ‘Gala’ (radio ‘EU’) – 54%” (Reports, 2017) (Fig. 1).

Figure 1. Musical works by Ukrainian authors and performers on the air of Ukrainian radio stations over time



Source: Reports, 2017.

It should be noted that Figure 1 contains only the data specified in the annual reports of the National Council. The decline in values in recent years is associated with the interpretation of Ukrainian content, which we now understand as Ukrainian-language compositions only.

Forced to compete in new language realities, radio organizations have taken the path from making accusations against the authorities of an at-

tempt to put pressure on the freedom of speech against musicians, as if they had not learned to create a quality competitive product through the years of independence, to paying penalties imposed by the National Council for non-observance of language quotas (Reports, 2017), to the introduction of outdated songs popular in previous years and performed by the “stars” of Ukrainian show business, to constructive work, to the search for modern competitive content and exceeding their “linguistic plans.” The new rules of the game on the national radio market have become a long-awaited impetus for musicians as well as, initially, a challenge for radio stations. In terms of the amount, the music critic Y. Zeleny states that “the Ukrainian nation is considered among the most keen to sing in the world: UNESCO keeps 15,500 records of Ukrainian folk songs – this is the largest national folk song collection in the world. In general, researchers talk about the existence of almost 200,000 Ukrainian folk songs, and some of them are performed or re-recorded by modern Ukrainian groups to their taste” (Solonina, 2017).

As for the market competitiveness of Ukrainian songs on the radio market, comparing the experience of Belarus and the realities of Ukrainian broadcasting, the media manager of the radio stations of the TAVR group, V. Drozdov, recalled that the language quotas became an impetus for the development and popularization of performers at the national level in the first years, and later new names appeared in the musical Pantheon less and less, and popular artists stopped investing money in qualitative content. As a result, “during the first three years the quota had a healing effect, led to re-suscitation, and then began to perform a killing function” (Drozdov, 2011). Despite the widespread public resonance and the threat of the disappearance of some broadcasting formats these threats have not been confirmed during the period of the legislative act in Ukraine. Besides the rating media landscape of national radio stations has not stand for any significant changes.

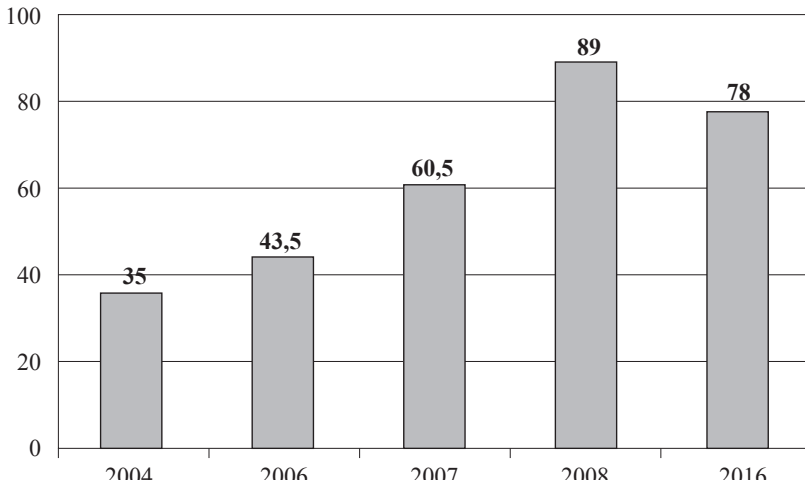
The next stage in the development of national broadcasting was the transition to the Ukrainian-language work of the leading broadcasters. According to the changes in the Law on Television and Radio Broadcasting which entered into force on October 13, 2017, “in the total weekly volume of broadcasting of local TV and radio broadcasting organizations, programs and/or films made in the state language should account for at least 60% of the total broadcast time” for national and regional media companies, this percentage is set at 75%.

In the previous stages, support for a nationally-recognized radio space, which was declared from year to year at state level, did not find

a concrete numerical expression in practice. The percentage of use of the Ukrainian language can be traced on the basis of the annual reports of the National Council. After more than ten years, the rhetoric of the Council changed to the contrary, from the protection of minority linguistic rights to the strengthening of the state language in 2004, when “the National Council made an attempt to harmonize the growing priority role of the state language and the satisfaction of the foreign-speaking population of Ukraine in television and radio broadcasting” (Reports, 2017) and to the recognition in 2016 that “under the influence of patriotic sentiments, the information sphere, which for many years developed only in the interests of certain political business structures, was forced to intensively change” (Reports, 2017). The constructive work, from emphasizing the limitations of its own influence on radio air, signing a number of ineffective memorandums about the intentions of the systemic and phased development of the national information space, was transformed into operational, responsible work, when “[t]he National Council held a number of meetings with radio companies in advance and strongly recommended that the structure of language broadcasting be properly reconstructed. The changes were to be made on November 8 [2016 – T.H.], and in November and December monitoring of broadcasting of radio companies was carried out” (Reports, 2017). At the same time, the first violations were discovered concerning the monthly quota requirements for the Ukrainian-language song on air. Unfortunately, the fixing of the percentage of Russian-language airtime on the radio was carried out in a descriptive mode, in conditions where “a special place is given to the Ukrainian-language filling of the national ether and television and radio programs of national production” (Reports, 2017), therefore it is difficult to provide a complete picture of the map of Russian-language radio in different years. All that can be shown is the annual “improvement of individual indicators in work” (Reports, 2017), and “the tendency to increase the share of broadcasting in the state language” (Reports, 2017), (Fig. 2).

Undoubtedly, data reflecting the average values across the country cannot fully demonstrate the geographical differences in the use of the Ukrainian language by radio broadcasters, as traditionally in the west legislative norms were exceeded, while the eastern and southern regions gravitated toward Russian-language projects. For example, in 2006, when 43.5% of airtime was spoken in the state language, “the average volume of broadcasting in the Ukrainian language on the air of radio companies in the Donetsk region was 30–35%” (Reports, 2017).

Figure 2. The average volume of broadcasting in the Ukrainian language on the air of Ukrainian radio companies, %

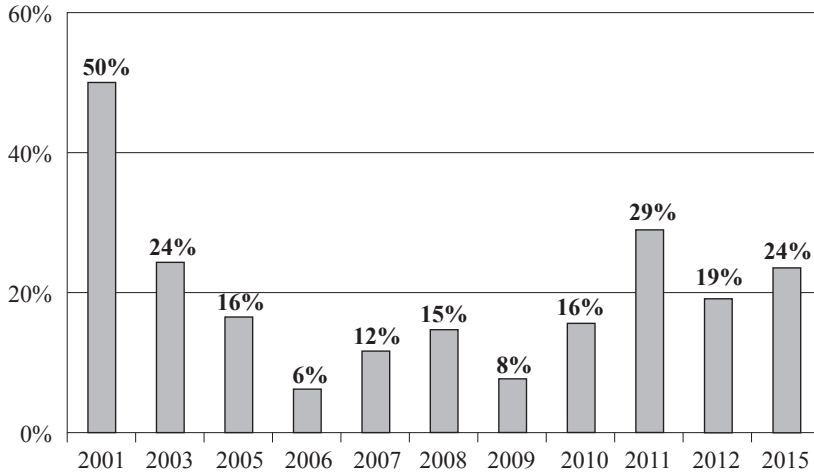


Source: Reports, 2017.

The years in Fig. 2 testify to the descriptive nature of the report of the National Council, which gives a general outline rather than specific data.

An important segment of the annual report of the National Council is the monitoring of violations of the percentage of transmissions in the Ukrainian language compared to the total number of violations of legislation in the broadcasting sector. The systematic approach to the definition of the role of the Ukrainian language on radio shows the importance of the problem at a qualitative level, and in quantitative terms expresses the interdependence of the “language situation” and the socio-political mood of society. From the increase in the level of violations against the background of a decrease in the public demand for Ukrainian-language content, the monitoring data of recent years reflect the desire of Ukrainians and the country’s resolute approach to strengthening the role of the Ukrainian language in radio air. This is the result of the active work of the regulator (Fig. 3). The percentage representation of the results is fair, given the significant quantitative gap in the number of studies conducted, which is a prerequisite for increasing the number of violations detected many times, therefore.

Figure 3. The results of monitoring violations of the percentage of transmission in the Ukrainian language compared to the total number of violations of legislation



Source: Reports, 2017.

Conclusions

The three elements of subject registration of the activity of radio organizations in the media space at the level of radio stations, listeners and music performers are considered. Apart from identified exceptions, they not only provide compliance with the legislation regarding the volume of songs and programming in the state language, but also lay the foundations for the entry of Russian-language broadcasting into world media context as an equal competitive player. The wide potential for the creation of quality diverse content, effective media management and sensitivity to the processes of transformation and convergence at the national level is the key to the recognition of Ukrainian radio in the global media community.

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Prawne aspekty posługiwania się językiem państwowym przez radiostacje na Ukrainie

Summary

W artykule omówiono etapy wprowadzania języka państwowego na antenę radiostacji narodowych, regionalnych i lokalnych. Przeanalizowano regulacje prawne dotyczące posługiwania się językiem ukraińskim przy emisji treści i muzyki przez radiostacje w latach 2004–2016. Autor dochodzi do wniosku, że rozwój emisji radiowej w konkretnym języku możliwy jest w warunkach harmonijnych relacji pomiędzy stacjami radiowymi, muzykami, twórcami piosenek i odbiorcami.

Słowa kluczowe: podstawa legislacyjna, konwergencja, media, transformacja, nadawanie w języku ukraińskim