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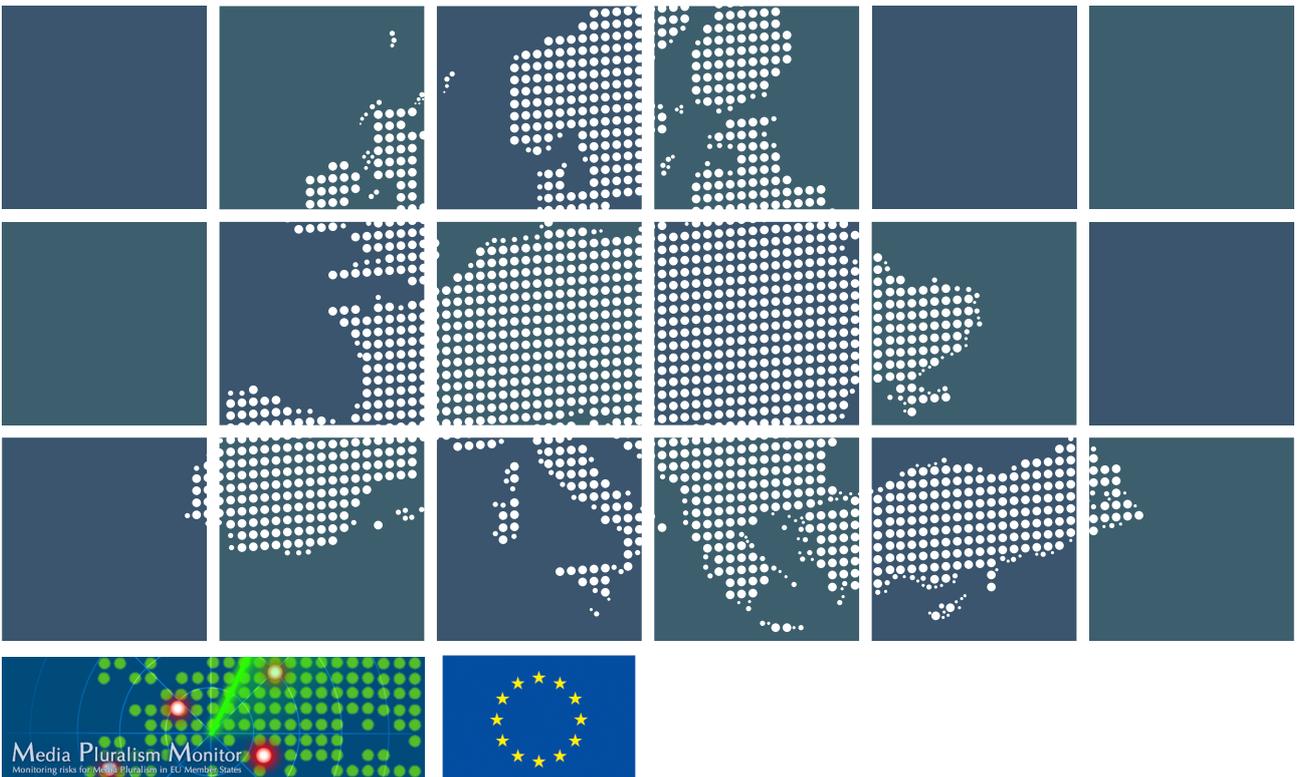
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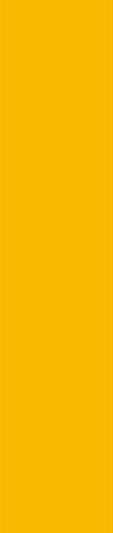


# Monitoring Media Pluralism in Europe: Application of the Media Pluralism Monitor 2017 in the European Union, FYROM, Serbia & Turkey

## Country Report: Germany

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# 1. ABOUT THE PROJECT

## 1.1 OVERVIEW OF THE PROJECT

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the Member States of the European Union. This narrative report has been produced within the framework of the second EU-wide implementation of the MPM, carried out in 2017. The implementation was conducted in 28 EU Member States, Serbia, Former Yugoslav Republic of Macedonia (FYRoM) and Turkey with the support of a grant awarded by the European Union to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

## 1.2 METHODOLOGICAL NOTE

The CMPF cooperated with experienced, independent national researchers to carry out the data collection and to author the narrative reports, except in the cases of Malta and Italy where data collection was carried out centrally by the CMPF team. The research is based on a standardised questionnaire and apposite guidelines that were developed by the CMPF. The data collection was carried out between June and October 2017.

In Germany, the CMPF partnered with the Department of Communication Studies and Media Research (LMU Munich), who conducted the data collection and annotated the variables in the questionnaire and interviewed relevant experts. The scores assessing the risks for media pluralism were provided by the CMPF and calculated according to the algorithm developed by the Centre itself. The national report was reviewed by CMPF staff. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly evaluative questions (see Annexe II for the list of experts).

Risks to media pluralism are examined in four main thematic areas, which are considered to capture the main areas of risk for media pluralism and media freedom: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area (see Figure 1 below).

Basic Protection	Market Plurality	Political Independence	Social Inclusiveness
Protection of freedom of expression	Transparency of media ownership	Political control over media outlets	Access to media for minorities
Protection of right to information	Media ownership concentration (horizontal)	Editorial autonomy	Access to media for local/regional communities and for community media
Journalistic profession, standards and protection	Cross-media concentration of ownership and competition enforcement	Media and democratic electoral process	Access to media for people with disabilities
Independence and effectiveness of the media authority	Commercial & owner influence over editorial content	State regulation of resources and support to media sector	Access to media for women
Universal reach of traditional media and access to the Internet	Media viability	Independence of PSM governance and funding	Media literacy

The results for each domain and indicator are presented on a scale from 0 to 100%. Scores between 0 and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk. On the level of indicators, scores of 0 were rated 3% and scores of 100 were rated 97% by default, to avoid an assessment of total absence or certainty of risk. For more information on MPM methodology, see the CMPF report “Monitoring Media Pluralism in Europe: Application of the Media Pluralism Monitor 2016 in EU-28, Montenegro and Turkey”, <http://cadmus.eui.eu/handle/1814/46786>



**Disclaimer:** The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection and authored the report. Due to updates and refinements in the questionnaire, the MPM2017 scores may not be fully comparable with MPM2016 ones. For more details, see the CMPF report on MPM2017, soon available on <http://cmpf.eui.eu/media-pluralism-monitor/>



## 2. INTRODUCTION

The population of Germany is about 82.7 million inhabitants and growing, mainly due to migration surpluses. The most populated federal states are North Rhine-Westphalia, Bavaria and Baden-Wuerttemberg. By the end of 2016, 18.6 million inhabitants with migration background lived in the country, including German and foreign citizens with or without personal migration experience. Inhabitants with a foreign citizenship are about 9.2 million. Among those are about four million inhabitants from EU-countries, esp. from Poland, Italy and Romania. From outside of the EU, inhabitants are most often from Turkey and the Russian Federation.<sup>1</sup>

Law recognizes four autochthonous national minority groups, distinguished from immigrants: the Danes in South Schleswig (approx. 50,000), the Frisians (approx. 60,000), the German Sinti and Roma (approx. 70,000) and the Lusatian Sorbs (approx. 60,000), equalling a proportion of 0.3 percent of the total population.<sup>2</sup>

The economy in Germany is predominantly characterized by small and medium-sized enterprises, including a majority of craft enterprises. At the end of 2017, economic growth was 0.6 percent.<sup>3</sup>

The political system is shaped by the German Constitution,<sup>4</sup> which stipulates basic rights such as equality before the law. Furthermore, the media system is built on principles of press freedom and freedom of expression, also stipulated by the Constitution. In addition, state media laws further regulate the media landscape.

The press sector is characterized by its long tradition; it is financed by advertising and subscription revenues.<sup>5</sup> In 2015, 33 percent of the population (≥15 years) consumed newspapers daily. Public service media (PSM) and private broadcasting stations characterize the dual broadcasting sector. Television (80%) and radio (74%) are the most used media channels on a daily basis in Germany. Besides that, 46 percent of the population uses the Internet daily.<sup>6</sup> Due to the importance of broadcasting, television is the most regulated media sector in Germany in order to ensure that media pluralism and diversity of opinions are guaranteed.

Restrictions to the freedom of expression as defined by German laws are in accordance with regional and international human rights standards.

Germany adopted a specific law to tackle online illegal speech. The Netzwerkdurchsetzungsgesetz (NetzDG) was adopted in June 2017, placing obligations on social networks and platforms to remove content that violates the NetzDG or face hefty fines.

The law is a first attempt to respond to the massive spread of illegal and false content online: it must be acknowledged that it triggered national and international criticism for its potential to threaten freedom of expression and press freedom in case platforms extensively interpret the grounds of limitation to online speech<sup>7</sup>.

1 See Statistisches Bundesamt ("Federal Statistical Office") (2018). Bevölkerungsstand. Retrieved from: <https://www.destatis.de/DE/ZahlenFakten/GesellschaftStaat/Bevoelkerung/Bevoelkerungsstand/Bevoelkerungsstand.html>.

See Statistisches Bundesamt ("Federal Statistical Office") (2017). Statistisches Jahrbuch 2017. Retrieved from: [https://www.destatis.de/DE/Publikationen/StatistischesJahrbuch/Bevoelkerung.pdf?\\_\\_blob=publicationFile](https://www.destatis.de/DE/Publikationen/StatistischesJahrbuch/Bevoelkerung.pdf?__blob=publicationFile).

2 See Minderheitensekretariat („Minority Secretariat“) (2018). Übersicht und Selbstverständnis. Retrieved from: <http://www.minderheitensekretariat.de/wen-vertreten-wir/uebersicht-und-selbstverstaendnis/>.

3 See Statistisches Bundesamt ("Federal Statistical Office") (2018). Volkswirtschaftliche Gesamtrechnung. Retrieved from: <https://www.destatis.de/DE/ZahlenFakten/GesamtwirtschaftUmwelt/GesamtwirtschaftUmwelt.html>

4 See German Basic Law: <https://www.bundesregierung.de/Content/EN/StatischeSeiten/breg/basic-law-content-list.html>.

5 See Thomaß, B. & Horz, C. (2017). Germany – Media Landscape. Retrieved from: [medialandscapes.org](http://medialandscapes.org).

6 See Media Perspektiven (2017). Basisdaten 2016. Retrieved from: <http://www.ard-werbung.de/media-perspektiven/basisdaten/>.

7 The law foresees a monitoring mechanism on the implementation of the law itself. Platforms are obliged (Section 2 of the Network Enforcement Act ) to report bi-annually on the implementation of the law ([first results expected in the 2<sup>nd</sup> half of 2018](#)).



### 3. RESULTS FROM THE DATA COLLECTION: ASSESSMENT OF THE RISKS TO MEDIA PLURALISM

In general, findings of the MPM2017 implementation indicate that risks to media pluralism in Germany are rather low.

For the Basic Protection area, indicators show very low risks overall. An exception is the Universal reach of traditional media and access to the Internet, which indicates signs of heavy concentration as it is dominated by the four major Internet Service Providers. The recent Network Enforcement Act (“NetzDG”) has attracted criticism. Albeit Protection of freedom of expression is at low risk in Germany, the NetzDG was found problematic as some provisions likely violate international standards and restrict freedom of expression.

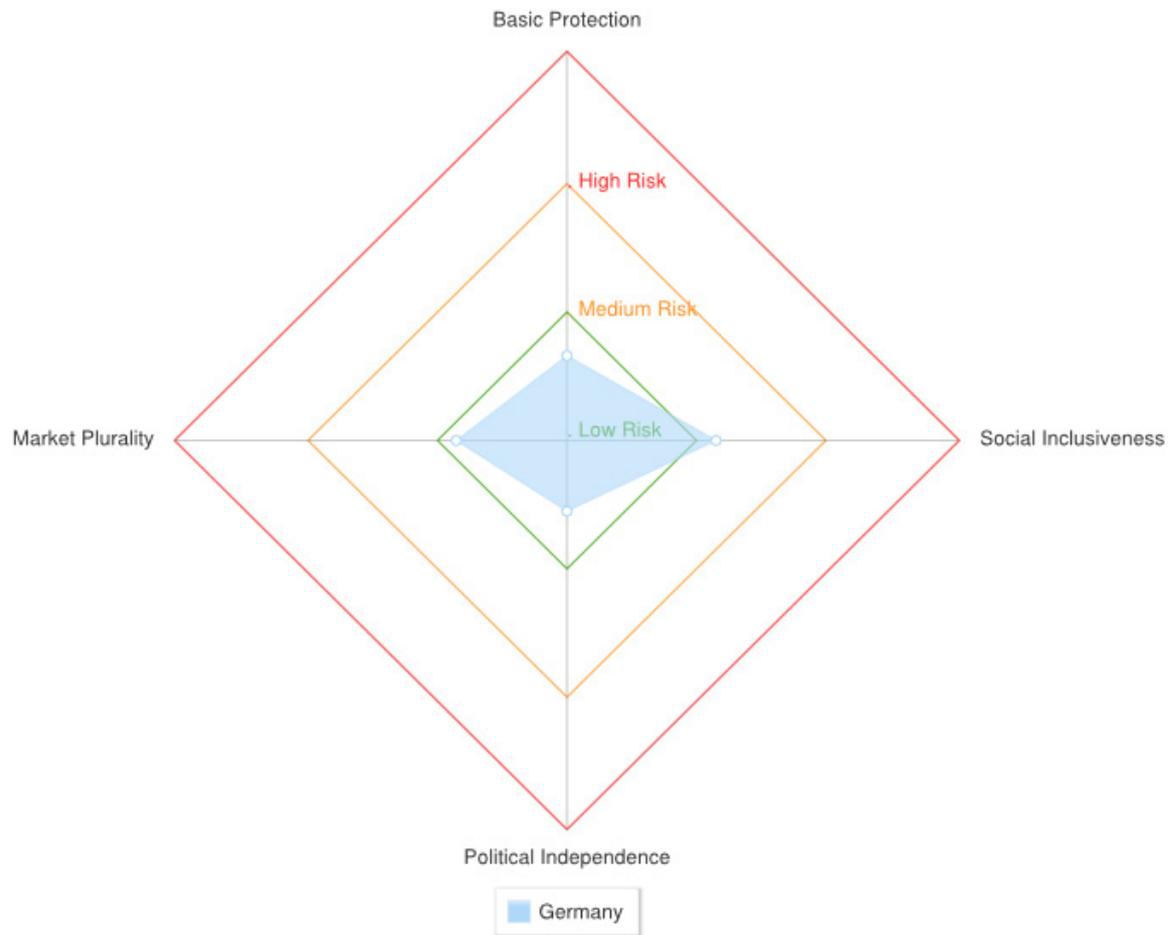
The Market Plurality area is also overall at low risk but shows an ambivalent assessment of media pluralism, with Media ownership concentration as well as Commercial and owner influence over editorial content being at medium risk.

The Political Independence area is at low risk too, albeit the indicators for Political independence of media and State regulation of resources and support of the media sector are at the edge of medium risk. German law addresses regulations concerning political control of media and includes restrictions on advertising. However, political parties might have some influence on the composition of the PSM’s supervisory bodies and are shareholders of newspapers.

The Social Inclusiveness area, finally, is at medium risk. Here, it is specifically the Access to media for minorities that shows high risk due to a lack of legally granted airtime access for minorities. At the same time, PSMs are supporting language and culture of almost all of the legally recognized minorities (a very small group compared to the total population, see 2.). Exceptions are the German Roma and Sinti, as there are no specific programming features for this minority group. Furthermore, Access to media for women and for people with disabilities are regarded as medium risk and need further attention.

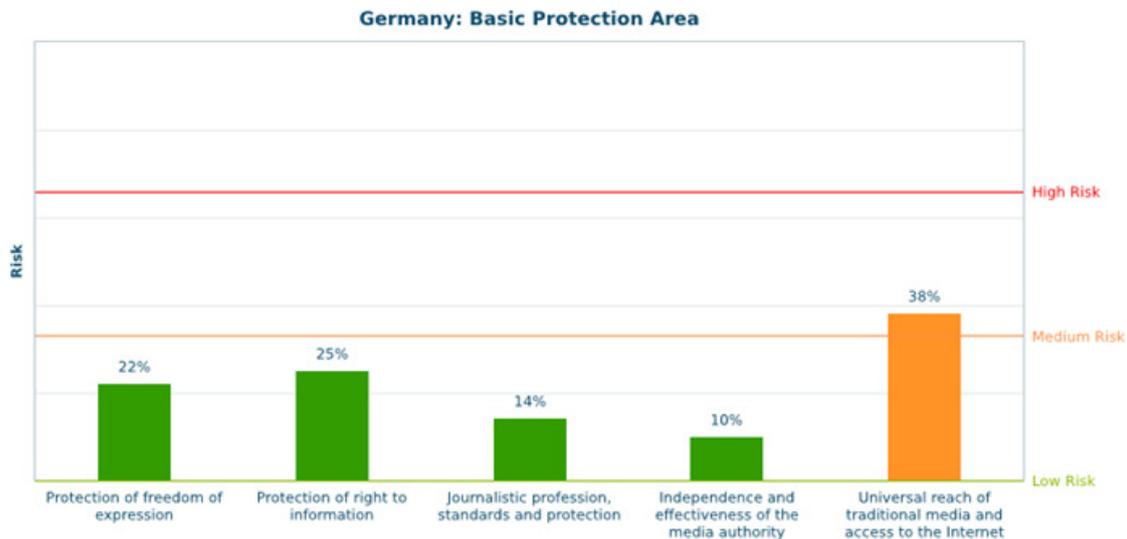


### Germany: Media Pluralism Risk Areas



### 3.1 BASIC PROTECTION (22% - LOW RISK)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy. They measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; the independence and effectiveness of the national regulatory bodies that have competence to regulate the media sector; and the reach of traditional media and access to the Internet.



On average, the Basic Protection area shows a low risk to media pluralism and indicates an overall score of 22 percent.

The indicator on Protection of freedom of expression scores at low risk (22%). The German Constitution stipulates freedom of expression by stating that every individual “shall have the right freely to express and disseminate his opinion” (see art. 5[1]). At the same time, law also defines restrictions, e.g. protection of human dignity (see art. 5[2]), which are in line with regional and international human rights standards.

In 2017, the parliament has passed the Network Enforcement Act (“Netzwerkdurchsetzungsgesetz”, NetzDG),<sup>8</sup> which aims at legally forcing social networks to respond speedily to user complaints about potentially criminal contents. While the law is an attempt to respond, under the rule of law, to the spread of illegal content online, it was criticized by some (inter-)national organizations, which argue that it ultimately incentivizes Internet companies to simply delete disputed content in order to avoid penalties, which could, in the end, result in restricted freedom of expression.<sup>9</sup>

Overall, privacy concerns have been on top of discussions in 2017, especially regarding the Federal Intelligence Service Act and provisions on data retention.<sup>10</sup> However, there is no evidence of violations by the German Federal Government overall.

The indicator Protection of right to information is also at low risk (25%) and stipulated by the German Constitution, which gives every individual the right “to inform himself without hindrance from generally accessible sources” (see art. 5[1]).

8 See Network Enforcement Act (“NetzDG”): [https://www.bmjbv.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/NetzDG\\_engl.pdf?\\_\\_blob=publicationFile&v=2](https://www.bmjbv.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/NetzDG_engl.pdf?__blob=publicationFile&v=2).

9 See Bundesverband Digitale Wirtschaft (“Federal Association of the Digital Economy”) (2017). Stellungnahme des Bundesverbandes Digitale Wirtschaft (BVDW) e.V. zum Entwurf eines Gesetzes zur Verbesserung der Rechtsdurchsetzung in sozialen Netzwerken des BMJV vom 14. März 2017 – „Netzwerkdurchsetzungsgesetz“ (NetzDG). Retrieved from: [https://www.bmjbv.de/SharedDocs/Gesetzgebungsverfahren/Stellungnahmen/2017/Downloads/03302017\\_Stellungnahme\\_BVDW\\_RefE\\_NetzDG.pdf?\\_\\_blob=publicationFile&v=2](https://www.bmjbv.de/SharedDocs/Gesetzgebungsverfahren/Stellungnahmen/2017/Downloads/03302017_Stellungnahme_BVDW_RefE_NetzDG.pdf?__blob=publicationFile&v=2).

See Reporter ohne Grenzen („Reporters without Borders“) (2017). Rangliste der Pressefreiheit 2017. Nahaufnahme Deutschland. Retrieved from: [https://www.reporter-ohne-grenzen.de/fileadmin/Redaktion/Presse/Downloads/Ranglisten/Rangliste\\_2017/ROG-Nahaufnahme\\_Deutschland\\_2017.pdf](https://www.reporter-ohne-grenzen.de/fileadmin/Redaktion/Presse/Downloads/Ranglisten/Rangliste_2017/ROG-Nahaufnahme_Deutschland_2017.pdf).

See Reporter ohne Grenzen („Reporters without Borders“) (2017). Stellungnahme zum Regierungsentwurf des Gesetzes zur Verbesserung der Rechtsdurchsetzung in sozialen Netzwerken (NetzDG). Retrieved from: [https://www.bmjbv.de/SharedDocs/Gesetzgebungsverfahren/Stellungnahmen/2017/Downloads/04192017\\_Stellungnahme\\_RoG\\_RefE\\_NetzDG.pdf?\\_\\_blob=publicationFile&v=2](https://www.bmjbv.de/SharedDocs/Gesetzgebungsverfahren/Stellungnahmen/2017/Downloads/04192017_Stellungnahme_RoG_RefE_NetzDG.pdf?__blob=publicationFile&v=2).

10 See Freedom House (2018). Freedom on the Net 2017. Germany. Retrieved from: <https://freedomhouse.org/report/freedom-net/2017/german>



The indicator on Journalistic profession, standards and protection scores at low risk (14%). While the Federal Employment Agency (“Bundesagentur für Arbeit”) registers about 150,000 people as working in journalism (including technical or assistant editors),<sup>11</sup> the Worlds of Journalism Study Germany estimated a population of 41,250 persons working as professional journalists on a regular basis.<sup>12</sup> The Constitution guarantees freedom of the press and freedom to report without censorship (see art. 5[1]). Furthermore, journalists have the rights to protect their sources and to refuse to testify.<sup>13</sup> Contrarily, media organizations can be held accountable. Media laws of federal states further regulate the media system. State press laws<sup>14</sup> and the Interstate Broadcasting Treaty<sup>15</sup> prohibit professional licencing barriers. Professional associations represent a broad section of journalists (e.g., including freelancers and photojournalists). Journalistic misbehaviour (e.g., violation of professional standards) can be publicly criticized by journalist unions, despite they lack legal means to enforce such professional standards. In addition, safety standards for journalists are rather high, though there have been isolated incidents of threats to safety in recent years. For instance, Reporters without Borders (2018) reported 16 violent attacks on journalists in 2017. Most of them occurred during reporting protests.

The indicator on Independence and effectiveness of the media authority scores at low risk (10%). To ensure media pluralism, various regulations protect the independence and effectiveness of media authorities. Overall, the Federal Government regulates broadcasting. Public bodies monitor the PSM, consisting of broadcasting councils (“Rundfunkrat”), administrative councils (“Verwaltungsrat”) and directors (“Intendant”). Law defines their composition, limiting the number of politicians and government representatives in supervisory bodies to a maximum of one third.<sup>16</sup> In addition, the 14 regional media authorities (“Landesmedienanstalten”) externally supervise private broadcasters. In doing so, regulatory bodies focus on licensing (Regulatory Affairs Commission, “ZAK”) and pluralism issues (Commission on the Protection of Minors, “KJM”; Commission on Concentration in the Media, “KEK”). Concerning the print sector, there are no specific regulatory bodies besides the German Press Council, which is an instrument of voluntary self-monitoring for publishers and journalist unions.

The indicator on Universal reach of traditional media and access to the Internet scores at medium risk to media pluralism in Germany (38%). While 99 percent of the population have access to public broadcasting channels and broadband coverage is high, high concentration of Internet Service Providers, with the top four holding 85 percent of the market share, is a source of concern.

11 See Bundesagentur für Arbeit (“Federal Employment Agency”) (2017). Blickpunkt Arbeitsmarkt. Juli 2017. Akademikerinnen und Akademiker. Retrieved from: <https://statistik.arbeitsagentur.de/Statischer-Content/Arbeitsmarktberichte/Berufe/generische-Publikationen/Broschuere-Akademiker.pdf>.

12 Steindl, N., Lauerer, C. & Hanitzsch, T. (2017). Journalismus in Deutschland. Aktuelle Befunde zu Kontinuität und Wandel im deutschen Journalismus. *Publizistik*, 62, 401-423. <https://link.springer.com/content/pdf/10.1007/s11616-017-0378-9.pdf>.

13 See article 383 of the Civil Procedure (“Zivilprozessordnung”) and article 53 of the Criminal Procedure Code (“Strafprozessordnung”).

14 See articles 1 and 2 of the state media laws.

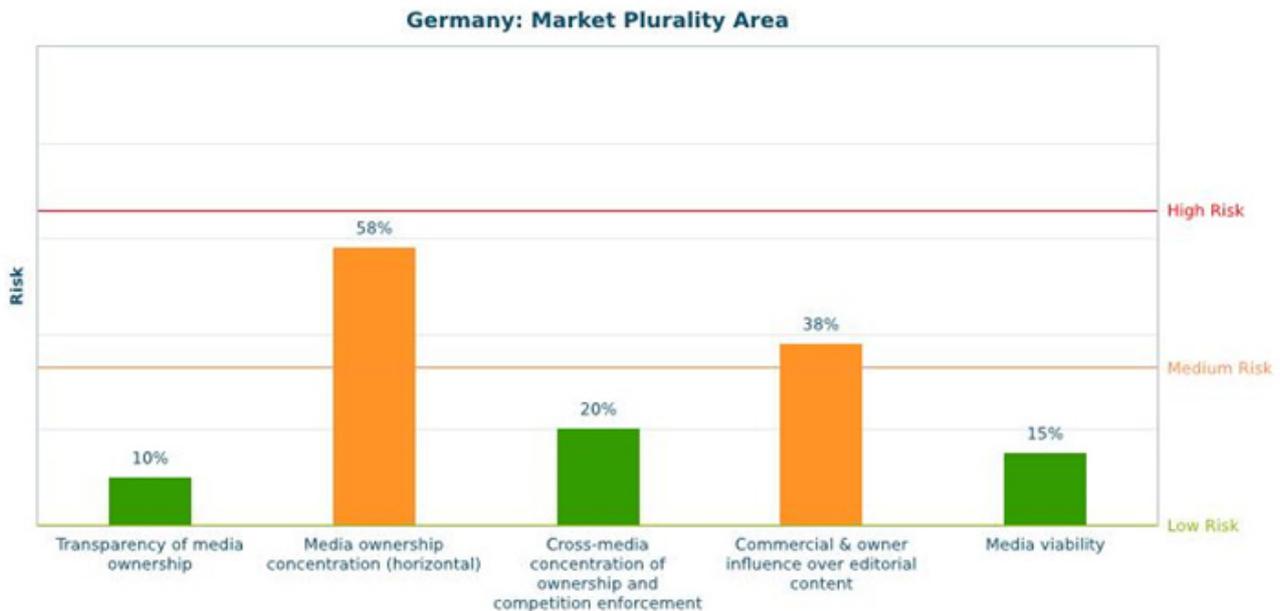
15 See article 54 of the Interstate Broadcasting Treaty (“Rundfunkstaatsvertrag”, RStV)

16 See article 19a(1) of the 17. Amendment of the Interstate Broadcasting Treaty.



## 3.2 MARKET PLURALITY (28% LOW RISK)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the existence and effectiveness of regulatory safeguards to prevent horizontal and cross-media concentration of ownership and the role of competition enforcement and State aid control in protecting media pluralism. Moreover, they seek to evaluate the viability of the media market under examination as well as whether and if so, to what extent commercial forces, including media owners and advertisers, influence editorial decision-making.



The Market plurality area shows low risk for media pluralism in Germany, with an overall score of 28 percent.

The indicator on Transparency of media ownership is at low risk (10%). While there is no reliable data on ownership structures, laws contain media-specific provisions for its disclosure: commercial broadcasters are required to obtain a licence for providing broadcasting services, their ownership information must be reported to the competent state media authority, and annual accounts and reports should be submitted to the Commercial Registry.<sup>17</sup> State media authorities publish an annual list of national commercial services. Online media have to make their ownership information transparent, e.g. through imprints with legal information on their websites (“Impressum”). In the print sector, owners are obliged to disclose information about ownership and shareholders, depending on the respective state press law.

The indicator on Horizontal media ownership concentration is at medium risk in Germany (58%). For instance, the PSM channels held about 37.4 percent of the audience share in 2016, while private stations RTL (9.8%), Sat1 (7.3%) and ProSieben (5.0%) are among the top four broadcasting channels in Germany.<sup>18</sup> In order to prevent media concentration in the audio-visual sector, regulations (based on audience shares) serve as controls to maintain diversity of opinion. The merger of media companies is subject to German competition law (“Gesetz gegen Wettbewerbsbeschränkungen”, GWB) and constitutes additional obstacles to unwanted mergers and acquisitions. However, no specific thresholds are defined for radio stations, newspapers and Internet Service Providers.

The indicator on Cross-media concentration and competition enforcement is at low risk (20%). The German Commission on Concentration in the Media (“Kommission zur Ermittlung der Konzentration im Medienbereich”, KEK) focuses on television. However, it takes limited account of other relevant markets, and it can regard cross-media ownership to a certain degree. While the GWB does not stipulate any specific legal regulations for cross-media ownership, state media laws, for instance, include rules for monitoring cross-media activities.<sup>19</sup> Regarding

<sup>17</sup> See RStV, articles 20(2), 23(1) and 29(1).

<sup>18</sup> Shares are based on viewing times per channel. See Media Perspektiven (2017). Basisdaten 2016. Retrieved from: [http://www.ard-werbung.de/fileadmin/user\\_upload/media-perspektiven/Basisdaten/Media\\_Perspektiven\\_Basisdaten\\_2016\\_Inhalt\\_komplett.pdf](http://www.ard-werbung.de/fileadmin/user_upload/media-perspektiven/Basisdaten/Media_Perspektiven_Basisdaten_2016_Inhalt_komplett.pdf).

<sup>19</sup> See Deutscher Bundestag („German Parliament“) (2006). Regulierung von Eigentumsstrukturen im Medienbereich. Retrieved from: <https://www.bundestag.de/blob/414766/02d70970eb989e7e70a13cfd81016565/wd-10-070-06-pdf-data.pdf>.



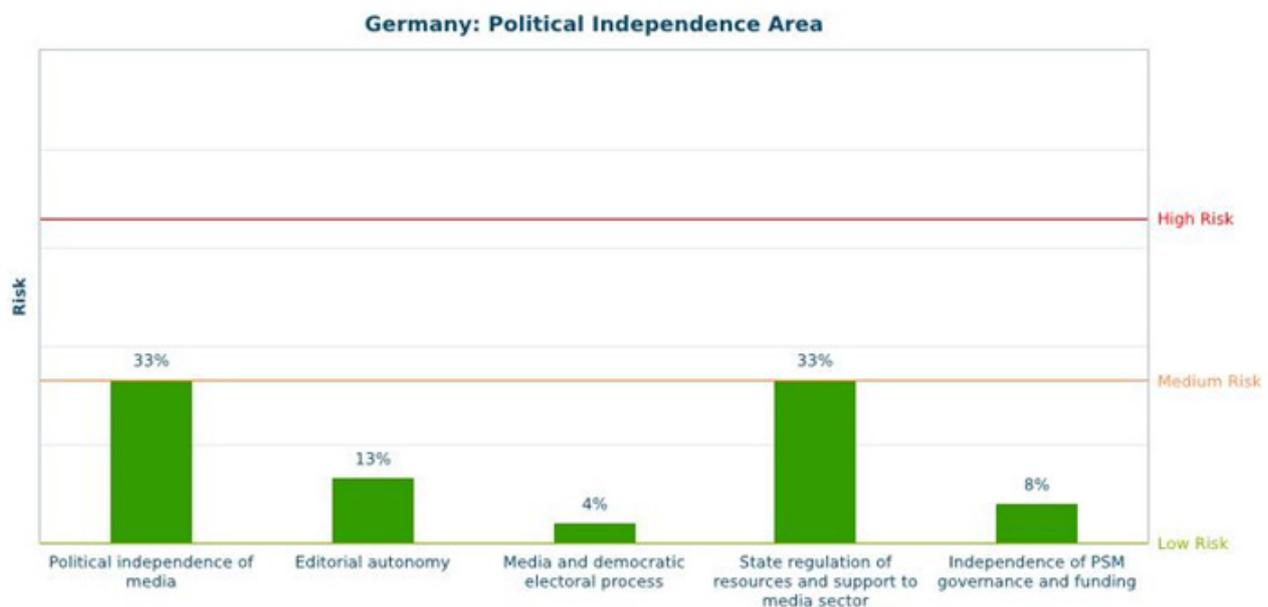
cross-ownership of press and broadcasting companies, all state media laws contain regulations to prevent so-called “double monopolies”.

The indicator Commercial and owner influence over editorial content is at medium risk (38%). While there is no evidence of systematic influence on editorial content, there are single incidents of media owners’ and commercial entities’ influence. Nevertheless, legally advertorials have to be labelled as such, and there are norms to prevent journalists from blending editorial content and advertising.<sup>20</sup> The German Press Code states that journalists and publishers are not to perform any activities that might jeopardize the credibility of the press (see art. 6). Editorial statutes (“Redaktionsstatute”) are used as self-regulatory measure to separate commercial and journalistic interests, and there are regulations to limit the influence of commercial interests on content (see art. 7; also see Competition law).

The indicator on Media viability in Germany scores at low risk (15%). Total revenues of the audio-visual sector (PSM and private), just like the advertising revenues of the radio and the online sector, have increased during the past two years. The newspaper sector, conversely, has faced a decrease of total revenues (including advertising revenues). The film industry is supported by the state. According to the German Federal Film Board (“Filmförderungsanstalt”, FFA), the total funding by the FFA, the Federal Government and the states, amounted to about 338 million for 2017.<sup>21</sup>

### 3.3 POLITICAL INDEPENDENCE (18% - LOW RISK)

The Political Independence indicators assess the existence and effectiveness of regulatory safeguards against political bias and political control over the media outlets, news agencies and distribution networks. They are also concerned with the existence and effectiveness of self-regulation in ensuring editorial independence. Moreover, they seek to evaluate the influence of the State (and, more generally, of political power) over the functioning of the media market and the independence of public service media. The lowest risk to media pluralism in Germany is located in the



Political independence area with an overall score of 18 percent. However, two indicators are close to medium risk.

One of which is the indicator Political independence of media, being at low risk (33%). German laws address conflict of interests and contain limitations regarding the control of media by parties and politicians.<sup>22</sup> To reduce political influence, a law stipulates the composition of supervisory bodies of PSM. However, its actual implementation is often

<sup>20</sup> See e.g. article 58(1) of the RStV.

<sup>21</sup> See FFA (2018). Zahlen aus der Filmwirtschaft. Retrieved from: <https://www.ffa.de/publikationen-ffa.html>.

<sup>22</sup> See article 6b of the Act amending the Federal Ministerial Law and Act on the Legal Conduct of the Parliamentary State Secretaries („Gesetz zur Änderung des Bundesministergesetzes und des Gesetzes über die Rechtsverhältnisse der Parlamentarischen Staatssekretäre“); also see state laws regulating conflict of interests, e.g., article 8 of the “Ministergesetz for Sachsen-Anhalt” or art. 5a of the “Ministergesetz for Brandenburg”; also see article 19a(1) of the 17. Amendment of the Interstate Broadcasting Treaty.



criticized.<sup>23</sup> Concerning the press and online sector, there are no laws forbidding political parties or politicians from owning shares in such companies, but political parties are obliged to disclose their participation.<sup>24</sup> Overall, there is no evidence that laws regarding political control of media are misused systematically. Nevertheless, there are occasional cases. In 2017, the inauguration of the new Media Minister of North Rhine-Westphalia initiated a discussion on his possible conflict of interest, since he held shares of Funke-Mediengruppe. Consequently, he was dismissed from his responsibilities on media policy after two months in office.<sup>25</sup>

The indicator on Editorial autonomy is a low risk (13%). The Constitution states that broadcasting has to be conducted independently of the state (“Staatsfernegebot”; see art. 5[1]2), and the Interstate Broadcasting Treaty states explicitly that PSM “must take into account the principles of objectivity and impartiality of the reporting” (see art. 11[2]). Moreover, there is an indirect control mechanism in PSM regarding the appointment and dismissal of editors in chief, e.g. through the composition of its boards. In 2017, there has been no evidence of political influence. Furthermore, there is no systematic political influence on editorial content in news media; hence, the risk is relatively low. Few such attempts have been recorded since 2016: the party “Alternative für Deutschland”, for instance, excluded journalists and media from its events, arguing that reports would be neither fair nor balanced, and the mayor of Jüterbog (Brandenburg) publicly boycotted the local newspaper “Märkische Allgemeine”, for which the County Commissioner considered disciplinary measures for possible infringement of press law.<sup>26</sup>

The lowest risk to media pluralism comes from the indicator Media and democratic electoral process (4%). The Interstate Broadcasting Treaty ensures plurality of opinion in PSM (see art. 11) and private broadcasters (see art. 25[1]). During election periods, PSM are obliged to give political representatives appropriate airtime (see art. 11). In addition, political parties campaigning for German parliamentary elections “shall, subject to reimbursement of costs, be granted appropriate broadcasting time” also on private channels (see art. 42[2]). Both, PSM and private broadcasters provide a fair representation of politicians, political parties and viewpoints. However, the representation of politics in news formats shows significantly higher shares in PSM than on private channels.<sup>27</sup>

The indicator on State regulation of resources and support of the media sector is also at low risk (33%). Overall, the Federal Government and the states are cautious with providing media subsidies, since any financing of media by public authorities could bear risks for the diversity of opinions. Direct subsidies are provided to a limited amount, e.g. for the film productions.<sup>28</sup> For private broadcasters, there are regulations regarding the financing of production and distribution technology infrastructure.<sup>29</sup> The press sector is supported indirectly by a reduced VAT rate.<sup>30</sup> At the same time, no data is available for the distribution of state subsidies and state advertising to media outlets.

The indicator on the Independence of PSM governance and funding is at low risk (8%). Law defines the pluralistic composition of the supervisory bodies, providing transparent provisions for appointment procedures for Director General and regulating PSM financing.<sup>31</sup> Albeit independence of state influence is not absolute, there was no evidence for attempts to influence the appointment and dismissal of PSM management and boards in 2017.

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23 See Reporter ohne Grenzen (2017).

24 See article 24(7)2 of the Parties Act („Parteiengesetz“).

25 See media reports by Deutschlandfunk ([http://www.deutschlandfunk.de/nrw-medienminister-den-bock-zum-gaertner-gemacht.2907.de.html?dram:article\\_id=393066](http://www.deutschlandfunk.de/nrw-medienminister-den-bock-zum-gaertner-gemacht.2907.de.html?dram:article_id=393066)), Welt (<https://www.welt.de/politik/deutschland/article168197646/Laschet-zieht-im-Medienminister-Streit-die-Notbremse.html>) and RP online (<http://www.rp-online.de/nrw/landespolitik/stephan-holthoff-pfoertner-nicht-mehr-medienminister-armin-laschet-hat-och-rechtzeitig-reagiert-aid-1.7052769>).

26 See Reporter ohne Grenzen (2017).

27 See Krüger, U.M. & Zapf-Schramm, T. (2017). InfoMonitor 2016: Nachrichtenprofile langfristig stabil. Media Perspektiven, 2, 62-90. [http://www.ard-werbung.de/fileadmin/user\\_upload/media-perspektiven/pdf/2017/0217\\_Krueger\\_Zapf-Schramm.pdf](http://www.ard-werbung.de/fileadmin/user_upload/media-perspektiven/pdf/2017/0217_Krueger_Zapf-Schramm.pdf).

28 See Law for Film Subsidy („Filmförderungsgesetz“).

29 See article 40 of the RStV.

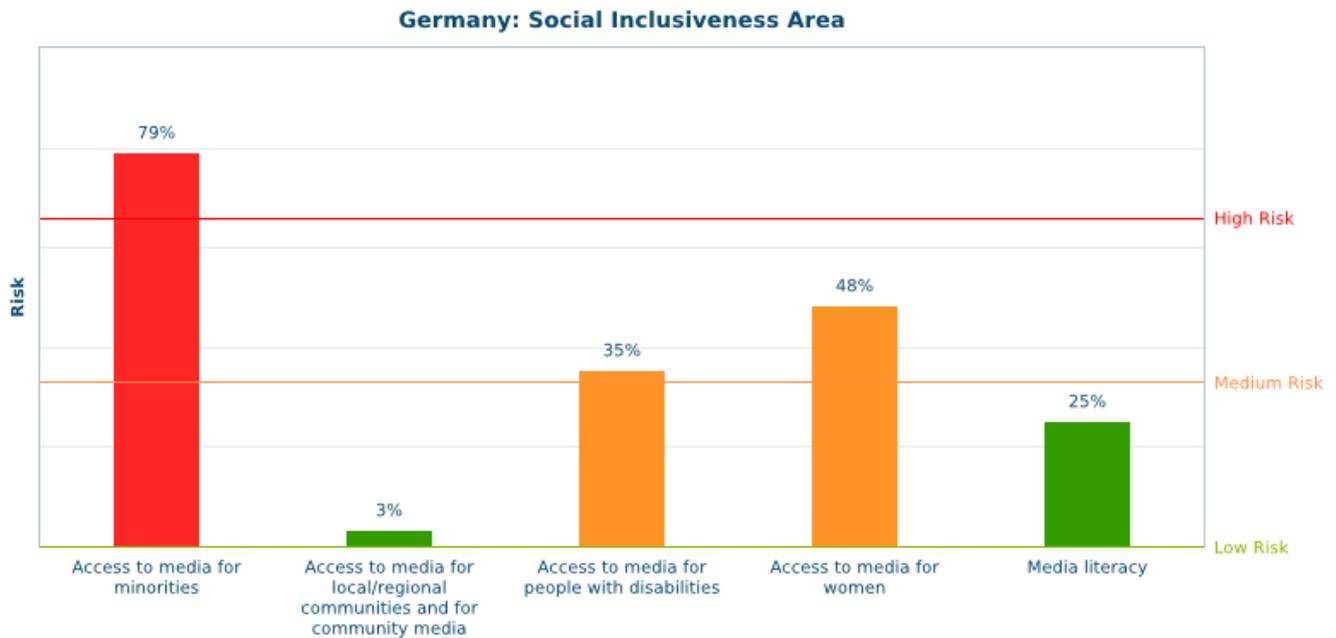
30 The Value Added Tax Act („Umsatzsteuergesetz“, UStG) states a reduced tax rate of 7 percent (instead of 19%) for press products in art. 12(2), rider 2(49).

31 See art. 19a and section 26 of the ZDF Treaty; also see section 1 of the Interstate Broadcasting Finance Treaty („Rundfunkfinanzierungsstaatsvertrag“).



### 3.4 SOCIAL INCLUSIVENESS (38% - MEDIUM RISK)

The Social Inclusiveness indicators are concerned with access to media by various groups in society. The indicators assess regulatory and policy safeguards for community media, and for access to media by minorities, local and regional communities, women and people with disabilities. In addition to access to media by specific groups, the media literacy context is important for the state of media pluralism. The Social Inclusiveness area therefore also examines the country's media literacy environment, as well as the digital skills of the overall population.



The most diverse results of the MPM2017 for Germany can be found in the Social Inclusiveness area, showing overall an evaluation of medium risk (39%).

The indicator on Access to media for minorities was considered to be the greatest risk in Germany (79%). The Interstate Broadcasting Treaty recognizes the protection of minorities through promoting integration and social cohesion (see art. 11). This is achieved, for instance, through the participation of minority groups in the supervisory bodies of the PSM and through diverse representation of different social and cultural groups in media coverage. However, there is no explicit provision securing airtime for social and cultural minority groups. There are some exceptions: the state of Saxony, for instance, is home to the Sorbs, one of the legally recognized minorities. The state is striving to ensure that Sorbian language and culture are considered adequately, e.g. through Sorbian language broadcasts.<sup>32</sup>

The indicator on Access to media for local and regional communities and for community media are at the lowest risk (3%). Law stipulates access to media for local and regional communities. For instance, federal states can financially support the promotion of projects for innovative broadcasting transmission technologies and forms of non-commercial local and regional broadcasting and media literacy projects.<sup>33</sup> In 2017, there were about 180 community media in use nationwide.<sup>34</sup> There is no evidence of political interference or manipulation of community media.

The indicator on Access to media for people with disabilities shows a medium risk (35%). However, there are various policies and regulations: the General Equality Law (“Allgemeines Gleichbehandlungsgesetz”, AGG) aims to remedy discrimination. In accordance with the Act on Equal Opportunities of Persons with Disabilities (“Behindertengleichstellungsgesetz”, BGG), state governments appointed Commissioners, who are responsible for providing legal information and offering explanations on how to integrate persons with disabilities into society.<sup>35</sup> The Interstate Broadcasting Fees Agreement (“Rundfunkbeitragsstaatsvertrag”) provides blind and deaf persons

32 See article 14 of the Saxon Sorbs Act (“Sächsisches Sorbenrecht”).

33 See article 40(1) of the Interstate Broadcasting Treaty.

34 See Förster, S. & die medienanstalten (2017). Vom Urknall zur Vielfalt. 30 Jahre Bürgermedien in Deutschland. Retrieved from: [http://www.nlm.de/fileadmin/dateien/aktuell/Publikationen/Vom\\_Urknall.pdf](http://www.nlm.de/fileadmin/dateien/aktuell/Publikationen/Vom_Urknall.pdf).

35 For further information visit the website of the Commissioner („Beauftragte der Bundesregierung für die Belange von Menschen mit Behinderung“): <https://www.behindertenbeauftragte.de/EN/Englisch.html>.



with a reduced broadcasting fee (see art. 4[2]), and the Act for Accessible Information Technology (“Barrierefreie-Informationstechnik-Verordnung”, BITV 2.0”) defines regulations for Internet content provided by federal agencies (e.g., use of captions). However, while PSM are constantly expanding their offers (e.g., audio-descriptions), private broadcasters just slowly become accessible to people with disabilities. Overall, the implementation of the existing policies is not coherent, financial support is sometimes missing, and social awareness needs to be increased.

The indicator on Access to media for women (48%) is also at medium risk. Gender equality policies covering personnel issues and programming content do exist in Germany. For instance, PSM appointed equality officers, ZDF statutes stipulate a 50-percent proportion of women in the administrative council or regional broadcasting treaties, such as of North Rhine-Westphalia, promote equality in programming (see art. 12[2]). However, gender equality policies are not implemented to the same extent everywhere and in all regards, e.g. there is no equal ratio across hierarchical positions<sup>36</sup>, and men still dominate information programs.<sup>37</sup>

Contrarily, the indicator on Media literacy is at low risk (25%). Policies are not coordinated by the Federal Government and, therefore, often incoherent due to the strong role of federal states, which implemented policies and are actively promoting media literacy but which do so to different degrees. Recently, the Federal Government is keen to foster cooperation and coordination of activities between the states, e.g. through establishing a national database on existing services supporting media literacy.

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36 According to ProQuote, the ratio of women among the higher managerial levels of the ZDF TV-news is about 27.3 percent and of the ARD TV-news 41.6 percent (data: 2013; see <http://www.pro-quote.de/statistiken/>).

37 Prommer and Linke (2017) found that there are more men than women present in television programs (fictional and non-fictional) as well as in information programs (such as TV-news) (representative study of the programming of PSM and private broadcasters, cinema and kids programs).



## 4. CONCLUSIONS

The findings of the MPM2017 implementation for Germany indicate that, overall, basic protection, market plurality and political independence are at rather low risk to media pluralism. However, several current developments need critical review and close monitoring, notably the Network Enforcement Act as well as new regulations regarding data retention and the Federal Intelligence Service Act, which are criticized for endangering citizens' privacy, freedom of expression and freedom of the press. In addition, increased attention should be paid to media ownership concentration, especially because regulations still mainly focus on the television sector. MPM2017 findings indicate that ownership concentration in the Internet sector, in particular, should be monitored more closely, as only four Internet Service Providers dominate the market in Germany, which is a strong indication of concentration.

Of the four MPM areas covered, findings indicate that the main risk to media pluralism in Germany are social inclusiveness issues, esp. access to media for minorities, for people with disabilities and for women. Greater awareness and attention must be paid to these issues to ensure that existing provisions and regulations are implemented properly. For instance, the development of access facilities for people with disabilities need further considerations.



## ANNEXE 1. COUNTRY TEAM

First name	Last name	Position	Institution	MPM2017 CT Leader (please indicate with X)
Thomas	Hanitzsch	Professor of Communication	Department of Communication Studies and Media Research, LMU Munich	X
Nina	Steindl	Research Associate	Department of Communication Studies and Media Research, LMU Munich	

## ANNEXE 2. GROUP OF EXPERTS

First name	Last name	Position	Institution
Michael	Brüggemann	Professor of Communication Studies	University of Hamburg
Frank	Lobigs	Professor of Journalism with a focus on “economic foundations of journalism”	Technical University Dortmund
Bernd	Malzanini	Head of Media Concentration	Commission on Concentration in the Media, “KEK”
Horst	Röper	Managing Director of the media research institute FORMATT	FORMATT



