MELIA OBSERVATORY – Media Literacy Observatory for Active Citizenship and Sustainable Democracy

Data Collection on Media Literacy and the Relationship of Media Literacy to Democratic Values and Behaviours in Germany (WP T.1)

Project Partner – SoWiBeFo e.V.

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Legal Framework Review concerning Media Regulation, Media Literacy and Media Education and Policy Analysis on Media Literacy in Germany/Bavaria

SoWiBeFo e.V.

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Regensburg, 01 March 2021

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1. Introductory Remarks

The media today is often referred to as a "fourth power", alongside the legislature, the executive and the legislature in democratic countries, to emphasise their great influence on the political system despite not being a formally institutionalised "power". The Official Journal of the European Union describes media as "the most visible and familiar "power" of all" (Official Journal of the European Union 2006, p. 168).

How media is legally framed in Germany and which relevant policies are relevant in this regard, is the subject of the following analysis. As Germany is a federal republic (see Sturm 2013) what may entail different legal frameworks and policies regarding media in the 16 *Länder*, the present review and analysis will focus in some aspects on the situation in Bavaria as location of the German project-partner and as the state that includes by far the largest and most significant part of the German Danube region.

2. Legal Framework Review

2.1 Freedom of Media

The freedom of media in Germany is a fundamental right enshrined in Article 5 ("Freedom of expression, arts and sciences") of the German Basic Law (constitution) from 1949, together with the freedom of expression, the freedom of broadcasting and the freedom of information:

> "(1) Every person shall have the right freely to express and disseminate his opinions in speech, writing and pictures and to inform himself without hindrance from generally accessible sources. Freedom of the press and freedom of reporting by means of broadcasts and films shall be guaranteed. There shall be no censorship." (Basic Law for the Federal Republic of Germany, Art. 5 (1))

Despite censorship being outlawed, Article 5 of the German Basic Law however, also provides restrictions regarding the freedom of media, the freedom of expression, the freedom of broadcasting and the freedom of information:

> "(2) These rights shall find their limits in the provisions of general laws, in provisions for the protection of young persons and in the right to personal honour." (Basic Law for the Federal Republic of Germany, Art. 5 (2))

The freedom of media in Germany is therefore subject to restrictions regarding the protection of minors and young persons (*Jugendschutzgesetz*, Protection of Young Persons Act) (e.g., in the form of age restrictions for movies and games), the right to personal honour and other general laws. The phrase "general laws" refers to laws protecting a superior right in cases of

conflict, e.g., the right of reply for individuals or treason (see Duden Recht A-Z 2015) which then also justifiably restrict the freedom of media.

Furthermore, Article 5 of the German Basic Law reads as follows:

> (3) Arts and sciences, research and teaching shall be free. The freedom of teaching shall not release any person from allegiance to the constitution.

The German Basic Law is the constitution of the Federal Republic of Germany and was the constitution of West Germany before the German reunification in 1990. It was drafted and adopted by the Parliamentary Council, the West German constituent assembly in Bonn on 23 May 1949 by order of the allied victors of World War II. The main purpose of the Council was the drafting of a new constitution for Germany and thereby especially acknowledging lessons learnt from the failure of the Weimar Republic that paved the way to the rise of National Socialism. The result was a constitution establishing a federal state based on a representative parliamentary democracy, welfare and the rule of law (*Rechtsstaat*). Human dignity was declared inviolable and the protection of it as the duty of all state authority (see bpb 2019).

Therefore, the German *Grundgesetz* understands democracy and rule of law as protecting inalienable, individual rights. This is a strong contrast to an understanding of democracy as the rule of the majority (or for that matter a class) against individual rights. These can be restricted and framed, but not to the degree that they cannot be exercised in their core. The constitutional court has a very strong role in the constitutional framework and has restricted lawmakers wherever it felt that laws made by the majority violated individual rights.

2.2 Ownership of Media

The German media landscape is divided into print media (newspapers, book, publishing, magazine publishing), audiovisual media (radio, broadcast television, multichannel TV platforms, video portals, films), telecommunications media (wireline and wireless telecom), and Internet media (Internet Service Providers, search engines, online news market, Internet portals).

Regarding audiovisual media, the dozen public service broadcast institutions are the most important players which are organised in the broadcasters ARD (*Arbeitsgemeinschaft der Öffentlich-Rechtlichen Rundfunkanstalten Deutschlands*, working group of the public service

broadcasters in Germany) including branches that are regionally organised and broadcasted and ZDF (*Zweites Deutsches Fernsehen*, Second German TV Channel). Even if these institutions are organised within a public service broadcasting system, they are not "state media" in the sense that they are bound to governmental instructions (*Anstalten des öffentlichen Rechts*). They are public, not state media.

They are institutions, supervised by independent broadcasting and television boards (*Rundfunk- und Fernsehräte*), consisting of members of the state governments and state parliaments as well as delegates of relevant social groups (e.g. Catholic and Protestant church, Jewish religious community, employer's and employee's associations). Also, the public service broadcasters are not profit-oriented but fulfil a social function (see bpb 2017a).

The 14 state media authorities of the German states (*Länder*) (*Landesmedienanstalten*) set the policy framework and monitor especially the private broadcasters. Some large print publishers have also successfully established a substantial role in television like Bertelsmann company with RTL (*Radio Télévision Luxembourg*) and Axel Springer Verlag AG with Sat1 and ProSieben (see Bösch et al. 2016 and https://www.britannica.com/place/Germany/Media-and-publishing).

This dual public-private broadcasting system mainly goes back to a decision of the German Federal Constitutional Court in 1981 that also enabled the establishment of commercial programs in TV, alongside with the already existing public service broadcasters (see bpb 2017b).

The dual system also regulates the concentration of media, ensuring that no single company is in charge of more than 30% of all TV audiences. Regarding telecommunications media, the most important players are Deutsche Telekom, Vodafone and Telefónica. Besides the already mentioned internationally active Bertelsmann company based in the German city of Gütersloh and the Axel Springer Verlag AG, are the also internationally active companies Hubert Burda Media, Bauer Media Group and Holtzbrinck Publishing Group (see Bösch et al. 2016). Since 2020, the majority of the shares of Axel Springer Verlag AG, home of the most important und influential tabloid newspaper "Bild", is owned by the US-American holding company KKR (see https://www.n-tv.de/wirtschaft/Investor-nimmt-Axel-Springer-von-der-Boerse-article21531135.html).

Like already mentioned before, the state media authorities (*Landesmedienanstalten*) supervise and control private broadcasting regarding youth media protection and legal requirements

(ensuring the diversity of opinions, violations of rules on advertising and tracking of glorification of violence, incitement of the people) (see die medienanstalten 2013).

As a result of the freedom of broadcasting, embedded in the *Grundgesetz*, the state is not allowed to directly or indirectly influence broadcasting, which is why media regulation is organised independent from the state.

Digital platforms have been increasingly included in the supervision in recent years (see Holznagel/Kalbhenn 2020, p. 7). The Interstate Media Treaty (*Medienstaatsvertrag*), implemented in 2020, for example, "mandates that so-called media intermediaries like social networks have to fulfil obligations regarding transparency, non-discrimination and the labelling of social bots. The Network Enforcement Act (*Netzwerkdurchsetzungsgesetz* of 2017) also takes aim at tightening the social networks' obligations to tackle hate speech online more effectively. The law for the protection of minors is also to be adjusted to protect against online harms more effectively. Other new legislation concerning the media comes from EU legislation (e.g. Copyright directive, AVMS-directive)." (Holznagel/Kalbhenn 2020, p. 7).

Regarding the popularity of media in Germany in general, it can be said that according to the Centre for Media Pluralism and Media Freedom, in 2015 the most accessed media channels were television and radio. While 84% of the population watch television every day, 69% daily listen to radio. 57% of the population used the Internet on a daily basis, while print media was daily consumed by 56% (see Schulz et al. 2015).

In 2020, the most popular media channels are still television and radio. However, the time spent watching TV decreased in recent years, while the time spent listening to radio programmes remained constant.

The amount of people using the Internet steadily grew over the last two decades. In 2020, 66 Million people use the Internet at least infrequently, which corresponds to approximately 80% of the German population.

The biggest decrease can be recorded in the consumption of magazines and journals, and also the amount of people never reading newspapers reached an all-time high with 8,5 million people in 2020 (see Weidenbach 2020a).

Concerning the popularity of specific media programmes in Germany, it can be stated that regarding television, the most popular television channels remain the public service channels (*öffentlich-rechtlich*), despite of the many available private channels. According to a video

research institute, the regional programmes by ARD (working group of the public service broadcasters in Germany) were the most popular with 14,7% of the spectators, while the ZDF (Second German TV Channel) was watched by 13,4% of the viewers. The nationwide channel ARD was watched by 12,1%, whereas the private channels RTL and SAT 1 were watched by 7,5% respectively 5,4% of the audience.

As already stated above, the time spent watching TV decreased in the recent years despite still high audience ratings. The reason for that is the increasing popularity of streaming services. Especially in the age group of the 14 to 29-years olds streaming becomes more and more popular (67% watch streaming services weekly), while only 23% in the age group of 50 to 60-year olds consume streaming services on a regular basis (see Berg 2021).
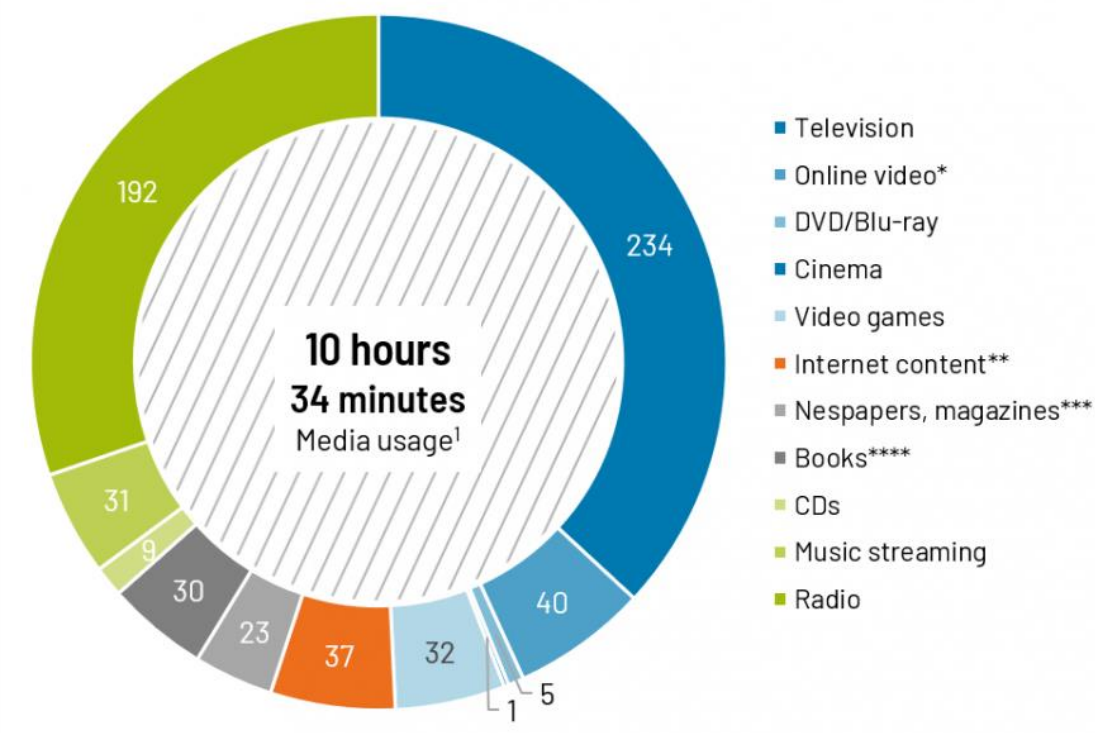
Regarding the popularity of radio stations, recently conducted surveys have shown that *radio NRW* (Radio North Rhine-Westphalia), *Bayern 1* (Bavaria 1) and SWR3 (Southwest German Radio) were the most popular in 2020 (see Weidenbach 2020b). While *radio NRW* is the mantle program for 45 local radio stations and a private radio station, *Bayern 1* and SWR3 are public service channels (*öffentlich-rechtlich*).

The most read newspapers in Germany in 2019, were the daily tabloid BILD-Zeitung of the Axel Springer Verlag, the left-liberal daily newspaper *Süddeutsche Zeitung* (South German Newspaper) and the centre-right, liberal-conservative daily newspaper *Frankfurter Allgemeine Zeitung* (Frankfurt General Newspaper) (see https://www.deutschland.de/de/topic/wissen/ueberregionale-zeitungen).

Accumulated data from different surveys, show the following result in regard to the media usage in Germany in 2018:

Share of Media Time Budget[1] 2018

Average daily media use, in minutes

Television
Online video*
DVD/Blu-ray
Cinema
Video games
Internet content**
Nespapers, magazines***
Books****
CDs
Music streaming
Radio

10 hours
34 minutes
Media usage[1]

192 234 31 9 30 23 37 32 1 5 40

[1]Note: The stated media time budgets originated from different surveys so that, due to methodological deviations, the total figures in particular should be regarded merely as approximate values; *Free and paid video-on-demand; **Excluding communication, online videos and music streaming; ***Including ePapers; ****Including eBooks

Sources: VAUNET Analysis based on the Working Group for Video Research (AGF) in cooperation with GfK 2018 (TV, aged 14+), ma (Media Analysis) 2018 Audio II (radio, workdays, aged 14+) and SevenOne Media / forsa - Media Activity Guide 2018 (all other media, aged 14-69)

VAUNET

Table 1 Retrieved from Krieger 2019, (https://www.broadbandtvnews.com/2019/01/22/media-usage-in-germany-rises-to-9-hours-per-day/). Accessed: 25 January 2021.

Even if television and radio still play a dominant role, it can be observed that the market is more and more shifting to digital media (see Holznagel/Kalbhenn 2020, p. 7). Especially, the increasing usage of streaming services – video-on-demand services like Netflix and Amazon Prime or music stream services like Spotify – and the crisis of print media clearly highlight this trend (see Weidenbach 2014).

2.3 Media Pluralism

The Media Pluralism Monitor (MPM) is a research tool that helps to assess potential risks to media pluralism in the member states and candidate countries of the European Union, taking into consideration both online and offline news environments. It has been developed by the Centre for Media Pluralism and Media Freedom, a research institute co-financed by the European Union.

The Monitor divides risks to media pluralism into four areas: basic protection, market plurality, political independence and social inclusiveness, comprising five indicators each (e.g. protection of freedom of expression, transparency of media ownership, political independence of media, access to media for minorities) (see Holznagel/Kalbhenn 2020, p. 5).

For the survey period of 2018/2019, it could be stated that the risks for media pluralism in Germany are rather low. Some indicators however show a medium risk, especially regarding online-related sources of risk (see Holznagel/Kalbhenn 2020, p. 8).[1]

In the area of basic protection all five indicators (protection of freedom of expression, protection of right to information, journalistic profession, standards and protection, independence and effectiveness of the media authority, universal reach of traditional media and access to the Internet) show a low risk (14%).

The indicator "universal reach of traditional media and access to the Internet" shows the highest risk (21%), which is mainly due to a high concentration of Internet service providers (see Holznagel/Kalbhenn 2020, pp. 8-10).

In the area of market plurality (indicators: transparency of media ownership, news media concentration, online platform concentration and competition enforcement, media viability, Commercial and owner influence over editorial content), the indicators "news media concentration", "online platform concentration", and "media viability" show a medium risk and the remaining two show a very low risk (see Holznagel/Kalbhenn 2020, pp. 8; 10-12).

The medium risk in this area is partly due to the "lack of impact of the current media concentration law, combined with rising concentration of power in some areas. The upcoming reform to the Act against Restraints of Competition wants to adapt competition law to the increasing digitization of the market and aims at helping competition enforcement to become

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[1] "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." (Holznagel/Kalbhenn 2020, p. 5)

more effective in regulating the platform economy. The decline in local news media outlets is one reason the indicator Media Viability has a medium risk assessment" (Holznagel/Kalbhenn 2020, p. 8).
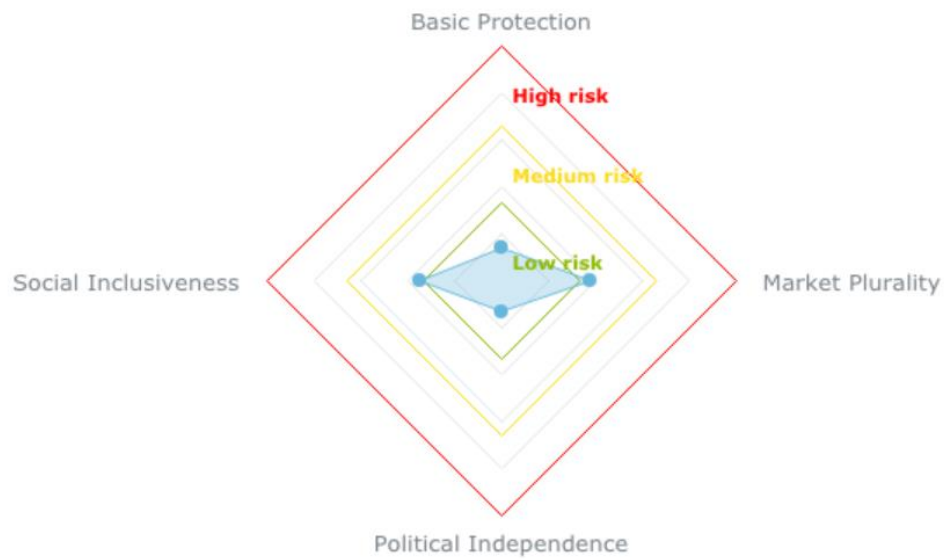
In regard to the area of political independence, all indicators (political independence of media, editorial autonomy, audiovisual media, online platforms and elections, state regulation of resources and support to media sector, independence of PSM (public service media) governance and funding) show a low risk. Nonetheless, the indicators "audio-visual media, online platforms and elections" and "state regulation of resources and support of the media sector" almost show a medium risk. Because there are no rules for online election campaigns, the former almost shows a medium risk (see Holznagel/Kalbhenn 2020, p. 8).

The area of social inclusiveness (indicators: access to media for minorities, access to media for local/regional communities and for community media, access to media for people with disabilities, access to media for women, media literacy) shows medium risks for the indicators "access to media for minorities" and "access to media for women" and almost a medium risk for the indicator "access to media for people with disabilities". Although, in all three areas, campaigns and initiatives are being led to enable a greater access for minorities, women and people with disabilities, the representation of women in management positions of media companies is for example still low (see Holznagel/Kalbhenn 2020, p. 8).

As already stated above, the indicators that are online-related generally show higher risks in regard to media pluralism, which is due to a lack of effective laws (see Holznagel/Kalbhenn 2020, p. 8).

Germany: Media Pluralism Risk Areas

Table 2 Retrieved from Holznagel/Kalbhenn 2020, p. 8.

In order to better assess the situation of media pluralism in Germany, it is necessary to supply comparative data. While the data conducted in Germany showed a low risk to medium risk in all four areas (basic protection: 14%, market plurality 38%, political independence: 13%, social inclusiveness: 35%), the aggregated data from the Media Pluralism Monitor in the survey period of 2018/2019 from all 28 member states of the EU (UK still included at that time) plus Albania and Turkey, shows a medium risk in all four areas (basic protection: 33%, market plurality 64%, political independence: 47%, social inclusiveness: 52%) (see https://cmpf.eui.eu/mpm2020-executive-summary/).

2.4 Legal Evolutions

As already mentioned above in section 2.2, ongoing debates regarding media legislation in Germany increasingly focus on digital platforms.

The **Interstate Media Treaty** (*Medienstaatsverstrag*), effective only since 7 November 2020, replaces the former Interstate Broadcasting Agreement (*Rundfunkstaatsvertrag*), effective since 1991, that was mostly targeted towards television and radio. The Interstate Media Treaty focuses on all media, including the landscape of digital media and also sets rules for the so-

called media intermediaries like social networks, news aggregators, search engines, app portals, user generated content portal (e.g. YouTube, Wikipedia), etc.

Alongside with a liberalisation of an admission regarding radio programs, the treaty sets universal rules for telemedia (including Facebook, Google and Twitter etc.) and has its main focus on the legal introduction of transparency rules and the ban of discrimination. Thereby, diversity of opinions and transparency should be guaranteed.

All media providers are obliged to provide users access to their methods of collecting, selecting and presenting content and information about the use of algorithms and the effects of social bots. Responsible for the supervision and compliance with the Interstate Media Treaty are the state media authorities of the *Länder* (see Mantel 2020).

Also, the already mentioned **Network Enforcement Act** (*Netzwerkdurchsetzungsgesetz*) of 2017 (popularly known as the Facebook-Act) mandates social networks to approach hate speech online more vigorously. The law imposes fines when social network providers fail to comply with rules regarding hate speech, hate crimes online and fake news. Providers have to fulfil a quarterly reporting obligation, are mandated to install an efficient complaint management, to nominate a national authorized recipient and have to comply victims of hate speech with information on the damaging party (see Netzwerkdurchsetzungsgesetz – NetzDG 2017). The law was widely criticised – on the one hand from critics that were concerned about the freedom of expression and freedom of the press (see Harner et al. 2018) and on the other hand from civil society players that criticised the law for not countering hate speech and fake news effectively enough (see Rafael 2020).

Currently, the *Bundestag* (German parliament) is debating the adjustment of the *Jugendschutzgesetz* (**Protection of Young Persons Act**). The adjustment of the law is supposed to better adapt to the digital media reality of children and youths and oblige for example social media and internet service providers to protect minors from harmful contents, like cyberbullying, hate speech, tracking, sexual harassment ("cyber grooming"[2]) and cost traps (e.g. "loot boxes"[3]). Also the adjustment of the law intends to extend the Federal Department for Media Harmful to Young Persons (*Bundesprüfstelle für jugendgefährdende Medien*), which also will be responsible for the supervision and compliance with the new regulations (see

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[2] "Cyber grooming is the process of 'befriending' a young person online "to facilitate online sexual contact and/or a physical meeting with them with the goal of committing sexual abuse." (see https://www.childsafenet.org/new-page-15)

[3] "[I]n online gaming, a box of virtual items that players buy before they know exactly what it contains." (https://www.macmillandictionary.com/buzzword/entries/loot-box.html)

https://www.bundestag.de/dokumente/textarchiv/2020/kw51-de-jugendschutzgesetz-cybermobbing-812892 and https://www.bundesregierung.de/breg-de/aktuelles/jugendschutz-internet-1798644).

Also, the European Union sets news legislation concerning digital media. In 2019, the **Directive on Copyright in the Digital Single Market** came into force. "The main objective of the directive is to modernise the European copyright framework and adapt it to the requirements of the digital age. By contributing to the harmonisation of practises across member states, it will also increase legal certainty in the digital single market." (https://www.consilium.europa.eu/en/press/press-releases/2018/05/25/copyright-rules-for-the-digital-environment-council-agrees-its-position/)

The directive explicitly targets to better protect press publications and to encourage a better cooperation between the rightsholders of the content and the online platforms who provide the content and profit from distributing this content (see https://www.consilium.europa.eu/en/press/press-releases/2018/05/25/copyright-rules-for-the-digital-environment-council-agrees-its-position/).

The directive was embraced by journalists and publishers, but opposed by tech companies, most internet users and human rights advocates who raised concerns about the negatives consequences for freedom of speech (see https://www.zeit.de/digital/2019-02/eu-urheberrechtsreform-europaparlament-zustimmung-upload-filter-leistungsschutzrecht). The member states of the EU have to implement the directive within two years; the German Federal Ministry of Justice and Consumer Protection drafted the introduction of two new legal instruments regarding copy right law in order to comply with the directive in 2020. The legislative proposal will be passed by the German Federal Cabinet end of January 2021. The law is criticised for deviating to strongly from requirements set by the directive of the EU (see https://www.faz.net/aktuell/wirtschaft/digitec/der-streit-um-urheberrechte-spitzt-sich-zu-17160237.html).

Another directive of the EU is the **Audiovisual Media Services Directive** (AVMSD), signed by the legislators in November 2018, which aims to "govern[…] EU-wide coordination of national legislation on all audiovisual media, both traditional TV broadcasts and on-demand services." (https://ec.europa.eu/digital-single-market/en/audiovisual-media-services-directive-avmsd).
The directive was integrated in the already mentioned Interstate Media Treaty (*Medienstaatsvertrag*), implemented in 2020 (see European Audiovisual Observatory 2020).

2.5 Status of Media Literacy

In Germany federal institutions like the State Minister for Media and Culture or the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth support different projects and initiatives promoting media literacy (see https://www.bundesregierung.de/breg-de/bundesregierung/staatsministerin-fuer-kultur-und-medien/medien/medienkompetenz and https://www.bmfsfj.de/bmfsfj/themen/kinder-und-jugend/medienkompetenz), but the responsibility for legislations on media literacy lie within in the responsibility of the *Länder* (states). Furthermore, the state media authorities (*Landesmedienanstalten*) are inter alia responsible for the promotion of media literacy (see https://www.die-medienanstalten.de/themen/medienkompetenz).

As already stated in the introductory remarks of this review, this is due to the federal system in Germany granting partly sovereignty to the *Länder*, including the areas education and culture. This is one of the reasons why there is no consistent policy on media literacy in Germany (see 3. Policy Analysis on p. 18). Also, there is "no legal definition of media education and related concepts for Germany. And there is no central body that is in the position to decide on such a legal definition […]." (Hasebrink/Kammerl 2014, p. 4)

For this reason, the following section will focus on respective legislative initiatives in Bavaria.

The Bavarian State Ministry for Education and Culture gives a broad definition of media literacy on its website:

> "Being media-competent means far more than being able to operate digital devices. Without sound media literacy, for example, it will be difficult to deal with social media and the information offered by the World Wide Web in a self-determined way. Children and young people should have the values, skills and knowledge as well as the necessary critical understanding to address the challenges of digital technologies and the Internet and to benefit from a wide range of opportunities." (https://www.km.bayern.de/eltern/erziehung-und-bildung/medien.html, unofficial translation)

Media literacy is also referred to as digital education or media education. The *Kompetenzrahmen für Medienbildung an bayerischen Schulen* (Competence Framework for Media Education in Bavarian Schools) sets the framework for the teaching of media literacy in Bavarian schools. The framework focuses on five areas: basic competences, searching and process relevant content, communicating and cooperating, producing and presenting, analysing and reflecting.

The Competence Framework serves as a starting point for the elaboration of the schools' individual media curricula. It is universal in the sense that it its applicable for all forms of schools, school subjects and grades. Therefore, there is no separate subject for media literacy in Bavarian schools, but schools are asked to implement the Competence Framework in their media curricula (see https://www.mebis.bayern.de/medienkonzepte/leitfaden/kompetenzrahmen-zur-medienbildung/).

Media literacy is also covered in a directive of the Bavarian State Ministry for Education and Culture and defined as a priority and as an essential element of general education (see https://www.gesetze-bayern.de/Content/Document/BayVwV270223/true).

Recently, the Bavarian State Ministry for Education and Culture has also invested in the optimisation of the digital education infrastructure, enabling schools to provide their IT-classes with a modern equipment. The requirement for schools to apply for these grants is the elaboration of individual media curricula. In this way, the Bavarian State Ministry for Education and Culture encourages Bavarian schools to promote media literacy (see https://www.km.bayern.de/lehrer/meldung/6585/ausbau-der-digitalen-bildungsinfrastruktur-an-bayerischen-schulen.html).

2.6 Legal Framework for Media Literacy Education

Regarding the legal framework for media literacy education, we again focus on the situation in the Danube region state of Bavaria.

Like already briefly mentioned above, the Bavarian State Ministry for Education and Culture covers media education in a directive from 24 October 2012, implemented on 1 November 2012 called *Medienbildung. Medienerziehung und informationstechnische Bildung in der Schule* (Media Education. Media Literacy and IT-Education in Schools). Media education is divided into four categories:

- media studies (knowledge of the technical, procedural, economic, legal, aesthetic, organisational and social conditions in the use of media)
- IT-education (handling of information and technology technologies, *IuK-Techniken*)
- media didactics (studying the theory and practice of the use of media as supporters of teaching and learning content and as aids in teaching)

- media literacy education (stimulating and accompanying those learning processes that enable the adolescent to act independently, competently, responsibly and legally impeccably with media)

Media education mandatorily has to be taken into account in the curricula of all schools, grades and subjects. Regarding the elaboration of the media curricula, schools can receive support from the 149 Bavarian Reference Schools for Media Education (*Referenzschulen für Medienbildung*). However, there is no control, if schools do implement the media curricula.

Media pedagogy is also embedded in the training for Bavarian teachers as an exam subject. Furthermore, the directive also institutionalises decentral consultants for media education and IT-related issues. The consultants support teachers and educators in the areas of media technology, IT-education, media didactics and media education and are also included in the training of teachers and educators. The consultants are coordinated by the Academy for Teacher Training and Personnel Management (*Akademie für Lehrerfortbildung und Personalführung*) (see https://www.gesetze-bayern.de/Content/Document/BayVwV270223/true and https://www.mebis.bayern.de/infoportal/service/initiativen/rfm/).

It can be concluded that there are directives regarding media education by the Bavarian Ministry for Education and Culture, but there are no legally binding instruments regarding the implementation of media literacy – whether on the level of the states nor on the national level (see Hasebrink/Kammerl 2014, p. 6).

3. Policy Analysis

On both levels – federal and on the level of the *Länder* – the key word "Digital education" has been introduced in recent years as a specific focus of education policy. This endeavour is highly complex for several reasons (see Aßmann 2017, p. 137):

- "Digital education" is envisaged to follow the principle of life-long learning. Target areas include therefore early childhood education up to senior's education.
- All educational processes should be included (formal, non-formal and informal contexts)
- The area of business and entrepreneurship is equally addressed as the area of schools and universities

- "Digital Education" may involve other areas depending on the specific context (e.g., infrastructure, research ethics)
- The endeavours on Digital Education are aimed to take a stand regarding technological developments (e.g., Big Data, Internet of Things), whose effects on society are not yet fully predictable

3.1 Policy proposals/Initiatives on Media Literacy

As already indicated above, there is no general policy on media literacy in Germany. An expert report by the Hans Bredow Institute subsumes that "media education policies are rather a by-product of other policy areas than a policy field in its own right. As a result, there is a discrepancy between media education and media literacy being intensively discussed and asked for in connection with a broad range of topics on the one hand, and a lack of concrete and binding policies: The issue is rather omnipresent, and a lot of single projects are implemented again and again, while a consistent, nationwide, and sustainable strategy to support media literacy is almost absent." (Hasebrink/Kammerl 2014, p. 24)

Even if there is no nationwide strategy, there are nevertheless several policies regarding media literacy, which will be presented in the following. Again, some policies originate from Bavarian institutions.

- The policy "Media Education. Media Literacy and IT-Education in Schools" (*Medienbildung. Medienerziehung und informationstechnische Bildung in der Schule*) is a legal announcement of the Bavarian State Ministry for Education and Culture from 24 October 2012. The policy addresses media education and media literacy in schools and in teacher training (see pp. 17/18) and encourages the elaboration of media curricula in the schools. The policy is effective since 01 November 2012. (Available at: https://www.gesetze-bayern.de/Content/Document/BayVwV270223)

- The policy paper "Digital Education in Schools, Universities and Culture" (*Digitale Bildung in Schule, Hochschule und Kultur*) of the Bavarian State Ministry for Education and Culture was formulated in January 2016. It addresses the challenges for schools, universities and cultural institutions regarding the increasing digitalisation. It evaluates the status quo in Bavaria regarding digitalisation in these areas and formulates inter alia the following strategic objectives and measures for these areas to better adapt to challenges in the context of digitalisation:

- Training of Bavarian students to become digitally literate, creative but also critical media consumers when dealing with new technologies
- Confident handling and use of digital media by Bavarian teachers
- Schools ought to use the potential provided by digital media systematically for improvement of teaching
- Providing schools with modern IT-equipment and professional support

(Available at: https://www.km.bayern.de/epaper/Digitale_Bildung_in_Schule_Hochschule_Kultur/files/assets/basic-html/page-1.html)

- "Education Offensive Strategy for a Digital Knowledge Society" (*Bildungsoffensive für die digitale Wissensgesellschaft*) is a policy of the Federal Ministry of Education and Research from October 2016. The policy addresses challenges in the field of education policy regarding an increasingly networked and digitalised world. The policy especially sets impulses for imparting digital education. It evaluates the status quo in Germany regarding digital education and media literacy and points out the following fields of action that should be ideally achieved by 2030 (Digital Education World 2030).

  - Enabling of all learners (kindergartners, students, VET students, university students, students in further education) to competently use digital media and to participate in the digital word in a self-determined and responsible way
  - Equipment of all German educational institutions with an efficient and barrier-free digital infrastructure with standardised interfaces
  - Establishing a modern legal framework for the production and use of digital educational offers, especially in regard to data protection and copyright laws
  - Strategical development of all educational institutions regarding the implementation of digital education
  - Using the potentials of internationalisation so that Germany will become an even more attractive location for education, work and residence.

(Available at: https://www.bmbf.de/files/Bildungsoffensive_fuer_die_digitale_Wissensgesellschaft.pdf)

- „Education in the Digital World" (*Bildung in der digitalen Welt*) is a policy of the Standing Conference of the Ministers of Education and Cultural Affairs of the *Länder*

(*Kultusministerkonferenz*), a body which is not part of the federal government and can therefore not pass immediately effective directives (see Gayer/Reip 2012, p. 22). The policy was passed on 06 December 2016 and is an attempt to coordinate the education policy of the *Länder*. Therein, inter alia the following joint goals regarding digitalisation are defined:

> ➢ The handling of digitalisation in the area of education (schools and universities) has to be integrated in pedagogical concepts. Students should have access to internet and a digital learning environment until 2021 when deemed pedagogically useful

> ➢ Formulation of a mandatory competence framework for an education in the digital world

> ➢ All stakeholders in vocational education must ensure to provide the necessary equipment in order to keep up with the technological developments in their respective fields

> ➢ Prioritisation of digital education in teacher training

(Available at: https://www.kmk.org/fileadmin/pdf/PresseUndAktuelles/2018/Digitalstrategie_2017_mit_Weiterbildung.pdf)

- The "Master plan Digital Bavaria II" (Masterplan Bayern Digital II) is a catalogue of measures of the Bavarian government inter alia addressing the digitalisation in Bavarian Schools and providing financial resources for the upgrade of the IT and educational offers for media education in schools. It was formulated in May 2017 and budgets investments amounting to 3 billion Euros during the period 2018-2021. (Available at: https://www.bayern.de/wp-content/uploads/2014/09/17-05-30-masterplan-bayern-digital_massnahmen_anlage-mrv_final.pdf) (see Bayerischer Landtag 2018)

- The "Competence Framework for Media Education in Bavarian Schools" (*Kompetenzrahmen zur Medienbildung an bayerischen Schulen*) is an important document that sets the framework for the teaching of media literacy in Bavarian schools (see pp. 16/17). It was formulated in 2017 by the Bavarian State Institute for Quality of Education and Educational Research (*Staatsinstitut für Schulqualität und Bildungsforschung*), which supports and advises the Bavarian State Ministry of

Education and Culture. (Available at: https://www.mebis.bayern.de/wp-content/uploads/sites/2/2017/03/Kompetenzrahmen-zur-Medienbildung-an-bayerischen-Schulen-1.pdf)

- The policy "Media Concepts in Bavarian Schools" (*Medienkonzepte an bayerischen Schulen*) is a guideline by the Bavarian State Institute for Quality of Education and Educational Research for schools. It was formulated in August 2018 and includes the following suggestions:
  - ➢ Detailed recommendations and templates for the formulation of media curricula for different types of schools (primary schools, *Mittelschule, Realschule, Gymnasium* (secondary schools), special schools, business schools, VET schools)
  - ➢ Schedules for teacher training events regarding media education
  - ➢ Guideline for the digital equipment of schools

  Available at: https://www.mebis.bayern.de/wp-content/uploads/sites/3/2017/10/ISB_-Medienkonzepte-an-bayerischen-Schulen.pdf)

- The "Pact on Digitalisation regarding Schools 2019-2024" (*DigitalPakt Schule 2019-2024*) is an administrative agreement between the Federal government and the governments of the *Länder* from May 2019. It contains the assurance of financial resources in the amount of 5 billion Euros for the development of the digitalisation in schools from the federal government to the *Länder*. The agreement is linked to the already mentioned policies „Education Offensive Strategy for a Digital Knowledge Society" (*Bildungsoffensive für die digitale Wissensgesellschaft*) from October 2016 and Education in the Digital World" (*Bildung in der digitalen Welt*) from December 2016. For the implementation of the policy, it was necessary to change the constitution because education policy is the responsibility of the *Länder* (see https://www.zeit.de/politik/deutschland/2018-11/digitalpakt-fuer-schulen-bundestag-beschliesst-grundgesetzaenderung). (Available at: https://www.kmk.org/fileadmin/pdf/Themen/Digitale-Welt/VV_DigitalPaktSchule.pdf)

- The "Report on the protection of minors and media literacy" (*Jugendschutz- und Medienkompetenzbericht der Landesmedienanstalten*) is an evaluation of the media regulatory authorities, firstly issued in 2013 and initiated by the Federal Ministry of

Family, Senior Citizens, Women and Youth. The reports comprise expert's opinions on the state of media literacy in families and educational institutions and provide a data base on institutions and projects fostering media literacy in Germany. This report, which latest version has been issued in 2019, "come[s] closest to an assessment of the state of media literacy in Germany" (Hasebrink/Kammerl 2014, p. 6). The report from 2019 especially highlights the following points:

➢ Hazard potential of witnessed and experienced hate speech online among youths

➢ Hate speech and cyberbullying as challenges for media education

➢ Right-wing extremist online strategies

➢ Best practices regarding media literacy projects in the *Länder*, implemented by the regional media authorities (*Landesmedienanstalten*)

(Available at: https://www.die-medienanstalten.de/publikationen/jugendschutz-medienkompetenzbericht)

It can be concluded that there are numerous policies on media education and media literacy. Challenges lie in the harmonisation of the different policies from the federal governments and the governments in the *Länder* (see Schmid 2016). Furthermore, the policies predominantly focus on the provision of financial resources for the equipment of schools and for the facilitation of a modern IT-education and the teaching of technical skills. The teaching of media literacy however, has retreated rather in the background of these policies. This evaluation is also shared by the already quoted expert report from 2014 on media literacy by the Hans Bredow Institute: "In order to assess the current situation correctly, it must be made clear that the implementation of media education at school often remains at a technical level and does not result in imparting media literacy." (Hasebrink/Kammerl 2014, p. 11). Even if the financial resources regarding the adjustment of educational environments to a digitalised world were increased, there is still no real strategic and harmonised concept regarding media literacy.

3.2 Formulation and Implementation

All of the policies mentioned above have been already formulated. The status of implementation however is hard to assess as these policies are often rather suggestions, assessment reports or assurances of financial resources and do not entail obligations for the addressed institutions.

- The policy "Media Education. Media Literacy and IT-Education in Schools" (*Medienbildung. Medienerziehung und informationstechnische Bildung in der Schule*) was formulated by the Bavarian State Ministry for Education and Culture and is asked to be implemented by Bavarian schools.

- The policy "Digital Education in Schools, Universities and Culture" (*Digitale Bildung in Schule, Hochschule und Kultur*) was formulated by the Bavarian State Ministry for Education and Culture and is asked to be implemented by Bavarian schools, universities and cultural institutions (e.g., libraries, museums).

- The policy "Education Offensive Strategy for a Digital Knowledge Society" (*Bildungsoffensive für die digitale Wissensgesellschaft*) was formulated by the Federal Ministry of Education and Research and addresses all institutions that are in charge of the implementation of digitalisation strategies.

- The policy „Education in the Digital World" (*Bildung in der digitalen Welt*) was formulated by the Standing Conference of the Ministers of Education and Culture and targets the implementation of digitalisation strategies in schools, VET schools, universities and other training facilities.

- The investment program "Master plan Digital Bavaria II" (Masterplan Bayern Digital II) was formulated by the Bavarian government and provides financial resources of the digitalisation of schools.

- The "Competence Framework for Media Education in Bavarian Schools" (*Kompetenzrahmen zur Medienbildung an bayerischen Schulen*) was formulated by the Bavarian State Institute for Quality of Education and Educational Research and is asked to be implemented in Bavarian schools.

- The policy "Media Concepts in Bavarian School" (*Medienkonzepte an bayerischen Schulen*) was formulated by the Bavarian State Institute for Quality of Education and Educational Research and is asked to be implemented in Bavarian schools.

- The policy "Pact on Digitalisation regarding Schools 2019-2024" (*DigitalPakt Schule 2019-2024*) was formulated by the Federal government and the governments of the *Länder*. The financial resources that the pact entails can be requested by German schools.

The "Report on the protection of minors and media literacy" (*Jugendschutz- und Medienkompetenzbericht der Landesmedienanstalten*) was formulated by the national representation of the regional media regulatory authorities (*die medienanstalten*) and initiated by the Federal Ministry of Family, Senior Citizens, Women and Youth (BMFSFJ).

3.3 Target Groups

It can be stated that all policies on media literacy especially target schools and educators and therefore the youths. Some policies cover more target groups and also include for example universities and other educational institutions. When it comes to imparting media literacy and media education the target groups clearly are schools, the students and their educators.

3.4 Stakeholders

In the process of debating over media literacy policy and its formulation and implementation, the most important stakeholders on the federal level are the following:

- Federal Ministry of Family, Senior Citizens, Women and Youth (*Bundesministerium für Familie, Senioren, Frauen und Jugend*)Federal Ministry of Education and Research (*Bundesministerium für Bildung und Forschung*)
- Standing Conference of the Ministers of Education and Cultural Affairs (*Kultusministerkonferenz*)
- National representation of the state media regulatory authorities (*die medienanstalten*)

These stakeholders can only formulate directives as education policy lies within the responsibilities of the *Länder*, which has been already pointed out repeatedly. An exception is the "Pact on Digitalisation regarding Schools 2019-2024" for which a change of the constitution was necessary. This policy however only provides financial resources from the federal government for the *Länder* and does not interfere with the education policy of the *Länder*.

The most important stakeholders in the *Länder* regarding media policy (hereby demonstrated for the case of Bavaria) are the following:

- Bavarian State Government and Bavarian State Chancellery as highest state authority (*Bayerische Staatsregierung* and *Bayerische Staatskanzlei*)
- Bavarian State Ministry for Education and Culture (*Bayerisches Staatsministerium für Unterricht und Kultus*)
- Bavarian State Institute for Quality of Education and Educational Research (Institut für Schulqualität und Bildungsforschung)

- Bavarian media regulatory authority (*Bayerische Landeszentrale für neue Medien*) with the Bavarian Forum for media-pedagogy (*Forum Medienpädagogik*)

The expert report by the Hans Bredow Institute explicitly names the (state) media authorities as "key partners for policies in media education". (Hasebrink/Kammerl 2014, p. 16)

Important societal stakeholders debating over media literacy policy are inter alia the following:

- Professional Association for Media Education, Media Literacy and Communication Culture (registered, non-profit organisation) (*Gesellschaft für Medienpädagogik und Kommunikationskultur e.V., GMK*)

- Institute for Media Research and Media Education (*JFF – Institut für Medienpädagogik in Forschung und Praxis*)

- Amadeu Antonio Foundation (*Amadeu Antonio Stiftung*)

- Clearing Center for Media Literacy of the German Bishops Conference at the Catholic University Mainz (*Clearingstelle Medienkompetenz der Deutschen Bischofskonferenz an der KH Mainz*)

- Confederation of German Employers' Associations (*Bundesvereinigung der Deutschen Arbeitgeberverbände, BDA*)

- The klicksafe project (mutual project promoting media literacy of the Central Authority for Media and Communication Rhineland-Palatinate (LMK) and the Media Authority of North Rhine-Westphalia)

- German Federal Council of Parents Associations (*Bundeselternrat*)

- German Trade Union Confederation (*Deutscher Gewerkschaftsbund, DGB*) and especially the Union for Education and Science (*Gewerkschaft für Erziehung und Wissenschaft, GEW*)

- Schoolbook publishing houses (Cornelsen, Ernst Klett, Westermann)

- Bertelsmann Foundation (*Bertelsmann Stiftung*)[4]

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[4] The Bertelsmann foundation is a German civil law foundation (*Stiftung bürgerlichen Rechts*) whose lobbying and influence on politics and society has repeatedly been criticised for being too comprehensive for a non-profit organisation (see Munzinger 2018). The foundation also publishes a large number of surveys regarding the situation of the German education sector, which are regularly criticised for being too scandalising. One of its main activity fields is the digitalisation of education (especially with regard to higher education). The "Monitoring of Digital Education" (*Monitor Digitale Bildung*) measures how well-prepared German educational institutions are in regard to an increasing digitalisation (see Warnecke 2016).

Also, the big tech companies increasingly gain influence regarding the digitalisation of schools and therefore as well over the debate on media literacy. The board of the German National Association of Consumer Advice Centers (*Bundesverband der Verbraucherzentralen*) recently warned about the influence of learning materials from German industries that are not quality-assured and teacher trainings by tech companies like Apple and Microsoft that will inevitably lead to the corporate branding of schools for marketing purposes. Furthermore, it was criticised by the board of the German National Association of Consumer Advice Centers that the education ministers have failed to develop quality-assured digital offers (see Füller 2020). The tech companies are eager to fill this gap.

3.5 Results

Unfortunately, there is a lack of systematical evaluations of media literacy programmes and policies and there are also "no legal mechanisms to ensure and measure the efficiency of media education policies" (Hasebrink/Kammerl 2014, p. 19), which do exist in other fields (e.g., nationwide minimum standards regarding reading literacy) (see Hasebrink/Kammerl 2014, p. 19).

Regarding the "Pact on Digitalisation in Schools 2019-2024" (*DigitalPakt Schule 2019-2024*) however, it can be observed that until June 2020 only a small part of the funds (15.7 million of 5 billion euros) provided by the state governments for the *Länder* has been called upon (see Bundesministerium für Bildung und Forschung 2020). Given the fact that the funds can only be retrieved based on an application process which includes the schools having set up a media education and IT concept, it can be speculated that the competency to develop such concepts to a convincing standard, is not yet very widespread. Any competency development in the area therefore has to address the teachers as well as the students.

Also, regarding the "Masterplan Digital Bavaria II" an inquiry by a member of the Bavarian state parliament (*Landtag*) in 2020 disclosed, that the desired policies regarding media education and digital education (IT-equipment, teacher training) are still being implemented (see Bayerischer Landtag 2020).

Even if there are no systematical evaluations regarding media literacy policies, there are evaluations from foundations and non-profit associations assessing the status of digital education and media literacy in German educational institutions, like the Bertelsmann foundation (see footnote 4 on p. 20) or the Bavarian Business Association (*Vereinigung der bayerischen Wirtschaft, vbw*). The latter for example, conducted a survey in 2017 among

Bavarian teachers evaluating the conditions for and the embedding of digital learning in Bavarian schools and also their own media-related competences. The results revealed that regarding the conditions for digital learning in schools, there has been progress in recent years, but that there is still a lot to accomplish. Imparting media literacy is frequently embedded in the school curricula (around 75%, of the Bavarian schools formulated their own media curriculum) a systematic integration is however still missing. (see vbw 2017).

It can be concluded that there are numerous initiatives in the policy field of media education and media literacy in Germany. Also, high funding amounts have been made available in the education sector. These are however often targeted towards the upgrading of technical equipment in educational institutions and the general use of digital media and and not at imparting media literacy skills.

Despite the fact that progress in this policy field due to conflicting and unclear political competences is rather slow, the public awareness for the importance of media literacy has been clearly raised in recent years by macrosocial educational campaigns especially targeting students, educators and parents (also in light of the increasing danger emerging from negative internet phenomena like hate speech and the spreading of disinformation and conspiracy narratives).

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