

Press Freedom in Germany

Updated 2013

Germany ranks 17th out of 179 countries in *Reporters Without Borders'* Worldwide Press Freedom Index, putting it somewhere in the midfield among the European countries. The most striking aspect here is the dwindling diversity of its press: owing to a lack of funds, fewer and fewer newspapers have their own full editorial staff and several editorial departments closed down entirely in 2012. In many regions there are no longer competing print media. At the same time the amount of content paid for by companies and mixed up with journalistic content - in a way that is barely perceptible for the reader - is growing.

Furthermore, journalists frequently have problems obtaining information from government authorities. Authorities are often slow to react to requests and demand high fees, and five German states have yet to pass their own laws on freedom of information. Then there are the discussions about a new federal law on data retention, which poses a threat to journalistic sources and deters potential whistle-blowers. On a positive note, in August 2012 a federal law was passed which offers journalists conducting investigative research better protection against police searches. On the other hand *Reporters Without Borders* has noted with concern a number of cases of neo-Nazi and Islamist groups threatening critical reporters.

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Press freedom in Germany - the issues

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1) Newspapers in crisis: less diversity; more concealed advertising

The trend has been evident for years now: fewer and fewer newspapers have their own full editorial staff. Instead, reporter pools and central newsdesks provide the same content to different newspapers. Competing print media have become a rarity in most regions, while the amount of content and publications commissioned by companies continues to rise.

A new trend in 2012, however, was the complete closure of several newspapers. The *Financial Times Deutschland*, which published its last edition on December 7, was the most prominent among them. At the end of February the small but long-established *Deister-Leine-Zeitung*, based in Barsinghausen in Lower Saxony, closed its doors after more than 125 years. The final edition of the *Abendzeitung*, one of Germany's oldest tabloids, was published on September 29. In

October the news agency *dapd* filed for bankruptcy, and in November the publisher of the *Frankfurter Rundschau* followed suit. Whether and how the two editorial departments will be able to continue their work in the long run remains for the most part unclear. Other publishers closed down their local editing departments owing to dwindling advertising revenues and sales, or outsourced them to subsidiaries that are not bound by collective tariff agreements (*Nordwest-Zeitung*, *Darmstädter Echo*). The WAZ media group announced in January 2013 that it was closing the editorial departments of the *Westfälische Rundschau*.

Moreover the reporting is increasingly being incorporated into national structures. The WAZ media group and the *Dumont Schauberg* media group have been setting an example for this since 2009/2010 by forming groups of editors that supply up to five independent newspapers with almost identical cover sections. In October 2012 the *Axel-Springer-Verlag* announced that it was teaming up the joint editorial department of the *Welt*-Gruppe and the *Berliner Morgenpost* with that of the *Hamburger Abendblatt*. The same is planned for the cover section editorial departments of the *Wiesbadener Tagblatt*, *Wiesbadener Kurier* and *Allgemeine Zeitung* (Mainz) from mid-2013.

At the same time, companies and PR agencies are investing growing sums to integrate their content into the media, with commercial content deliberately not being clearly identified as such but disguised as journalistic content or mixed up with it in a bid to boost its credibility. In view of the situation described above, this strategy has been highly successful since editors have less and less time to research and examine information. They are often forced to rely on pre-produced content that costs as little as possible. PR materials and hidden advertising are presented to readers as tests or products favoured by the editors in the form of articles or entire magazines paid for and published by the companies, but which the readers mistake for journalistic products.

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2) The difficult path to transparency: access to official information

While the Freedom of Information Law (**Informationsfreiheitsgesetz - IFG**) grants citizens access to government-held information at the national level, five German states have yet to pass their own freedom of information laws (Hessen, Lower Saxony, Saxony, Baden-Württemberg and Bavaria, where however 50 communities at least have their own freedom of information statutes). In **Baden-Württemberg**, the Green-Social Democratic government promised in its coalition agreement of April 2011 that it would quickly pass its own IFG, but still hasn't presented even a draft law to date. In **Thuringia**, the Social Democrats and the Christian Democrats agreed at the end of 2012 on a new IFG to replace the old one, which had expired. This was preceded by fierce debates because a first draft of the law foresaw a ban on the commercial use of official information, which would have reduced the law to absurdity for journalists. While this passage has been removed from the new draft, the law still contains numerous exceptions which prevent the publishing of official information.

Good news came from **Hamburg**, where a very progressive transparency law came into effect in October 2012. Under the new law the Hamburg municipal authorities are obliged to publish reports, contracts and senate agreements online automatically, rather than upon request. Furthermore, within the next two years an information register is to be created and published online which lists the salaries of all leading officials and the data of companies in which the municipal authorities have a stake.

In practice, however, the individual authorities have different approaches to implementing the laws on freedom of information. Many journalists complain of authorities being very slow to answer their requests, which hampers and in some cases entirely prevents reporting. Then there is the matter of the deliberately high fees sometimes charged by authorities. One example was the request of two journalists, who in May 2011 asked the Federal Interior Ministry for information on the sports associations' Olympic medal targets and had to pay more than 7000 euros in fees. Although the IFG stipulates a processing deadline of four weeks, the application still hadn't been completely processed 14 months later. In July 2012 the journalists sued the Interior Ministry for the information on the medal targets at the Berlin administrative court– and won the case. (<http://bit.ly/MkkIYP>, <http://bit.ly/Qxihjt>)

3) Protection of sources and data retention

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On 1 August 2012, after 18 months of discussion in the German Bundestag, a press freedom law came into effect which offers journalists greater protection against state abuses in their investigative work. They can no longer be prosecuted for aiding and abetting the disclosure of secrets when they accept, analyse or publish material supplied by sources who work for the state - barring cases in which there are strong reasons to suspect involvement in a criminal offence. The law was set in motion after a police search of the offices of Cicero magazine in 2005 and a trial against a free-lance journalist who had quoted from the classified files of the Federal Criminal Police Office (BKA). However the new press freedom law protects only editorial offices from searches, not the offices of free-lance journalists. Aiding and abetting the disclosure of secrets remains a punishable offence, which means journalists who research and ask questions on the basis of vague leads may face problems.

Another risk for journalistic sources is posed by so-called data retention, or in other words the storage of call detail records from computers and mobile phones for investigational purposes. In the past the automatic retention of such data (in the absence of concrete suspicions) has led sources to break off contact with journalists for fear of being exposed. The background to the data retention policy is an EU directive of 2006 which obliges member states to store such data. The directive prompted the passing of a corresponding law in Germany, which however was declared null and void by the Federal Constitutional Court in 2010. In May 2012 the European Commission referred Germany to the European Court of Justice for failure to comply with the EU Data Retention Directive. In the debate about a new law, Reporters Without Borders calls for call records not to be automatically stored but retained only when there are concrete reasons to suspect a criminal offence.

4) "Sachsensumpf": the trial against investigative reporters

In November 2012, the verdict against the Leipzig-based journalists Thomas Datt and Arndt Ginzel in the so-called "Sachsensumpf" trial was appealed at the district court in Dresden. The judges acquitted the two journalists of defamation and in doing sent an important signal that criminal law could not be applied against journalists. Six days later, however, the public prosecutor's office in Dresden lodged an appeal against the ruling, with the result that the proceedings are still dragging on. In 2008 Datt and Ginzel had reported on alleged contacts between high-ranking officers of justice in Saxony and the red-light district in Leipzig. Leipzig's chief of police brought charges against the journalists, and in August 2010 they were ordered to pay a fine of 2,500 euros each. (<http://bit.ly/W2ehZP>)

5) Neo-Nazis and Islamists threaten reporters

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There have been repeated cases of journalists being threatened by radical groups after publishing critical reports. In the German town of Spremberg, the editorial offices of the *Lausitzer Rundschau* were attacked in early May 2012 after the newspaper reported on a meeting of neo-Nazis. Unidentified persons sprayed the glass façade of the building with the words "Shut up, lying press!" and plastered it with large photos of a Neo-Nazi demonstration with people wearing masks and carrying torches. On the following night they smeared the building's façade with the blood and entrails of a slaughtered animal.

Several threatening videos by radical Islamists have circulated on the Internet. After television broadcasters aired images of demonstrators of the right-wing extremist Pro NRW association with Mohammed cartoons, a German Islamist living in Pakistan called for the reporters to be "hunted down, killed and taught a lesson they'll never forget!" Also in May 2012, another video made by a German-Tunisian Salafist and directed against a specifically named journalist working for the *Frankfurter Rundschau* surfaced. The aim was to "call attention to a person who for a long time has been fomenting hatred against Muslims and preachers", the man explained in the video and continued: "We are in possession of a considerable amount of data about you. For example we know where you live, which club you belong to, and what your mobile phone number is."

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