[DE] Comprehensive revision of Saarland media law with new rules for public service broadcasting and media regulation

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On 17 October 2023, the Saarland state parliament adopted a law modernising Saarland media law. Under the reform, a separate law concerning the public service broadcaster *Saarländischer Rundfunk* (SR) was created, with structural changes to its management and internal control. Meanwhile, the provisions relating to the supervisory body, the *Landesmedienanstalt Saarland* (LMS), were amended, including changes to its governing bodies and director election procedure as well as the broadening of its remit.

SR is one of the nine regional public service broadcasters in Germany. Under the amendment, the rules governing it, previously contained in the *Saarländische Mediengesetz* (Saarland Media Act – SMG), were incorporated in a separate *SR-Gesetz* (SR Act), bringing the legal situation into line with that of the other regional broadcasters. In terms of content, SR's future programming should improve regional news reporting, including cross-border cooperation with partners in neighbouring France and Luxembourg. The requirements in terms of public service programming were also more clearly explained, and entertainment, for example, was specifically mentioned as part of the public-service remit, provided it retained the appropriate profile.

The most hotly debated changes concern organisational matters. The SR director-general, who previously had sole overall control of the broadcaster, will instead form part of a three-person board of directors along with an administrative and technical director, and a programming and information director. In response to widespread criticism of the proposals, another important change was approved during the last parliamentary session before the final vote. As a result, the director-general will remain responsible for determining overall policy and will have the casting vote at board meetings. At the same time, the director-general's salary will be capped in order to increase public acceptance of the use of the revenue generated by the broadcasting levy paid by every household in Germany to fund public broadcasting. The salary, currently set at EUR 245,000, will be limited to EUR 180,000. Further organisational changes concern the internal supervision of programming by the *Rundfunkrat* (Broadcasting Council), which will be significantly smaller in size. Four other amendments are particularly notable. Firstly, in order to increase the broadcaster's independence and separation from

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the state, the federal state government will no longer have a representative on its Broadcasting Council. For the same reason, although some Broadcasting Council members will still be appointed by parliamentary groups from the Saarland state parliament, these members will no longer have voting rights and will be limited to an advisory role. Secondly, in order to increase social diversity within the Broadcasting Council, organisations that appoint members will no longer be named in the law (e.g. Saarland Chamber of Crafts), but rather the types of organisation they represent will be specified (e.g. chambers of commerce and professional associations). This should make the Broadcasting Council's structure more dynamic and open to social changes. Thirdly, one such group of organisations, which was not previously included, is defined in the law as "digital society and digital economy". From this sector, for example, media platform representatives will be appointed in order to reflect the growing importance of the digital revolution and the platform economy. In principle, the Broadcasting Council will have equal numbers of male and female members. Male members will always be replaced by a female at the end of their terms and vice versa. Fourthly, the Broadcasting Council's work will be made more transparent through the live broadcast of its meetings and the development of public dialogue forums.

As one of Germany's 14 *Landesmedienanstalten* (state media authorities), the LMS issues licences to private broadcasters in Saarland, monitors their compliance with the law and undertakes further tasks, such as protecting media pluralism. Under the amended law, its remit has been broadened and now includes the possibility of promoting local journalism for the first time. From an organisational point of view, its political independence will be increased since, as is already the case with the other state media authorities, its director will no longer be appointed by the *Landtag* (state parliament), but by the independent *Medienrat* (Media Council). In order to increase its independence, the *Medienrat*, which supervises the programming of private broadcasters, will undergo the same changes as the SR Broadcasting Council, in particular with regard to its composition. In terms of both the LMS's remit and providers' obligations, the law takes account of accelerating digitisation and the use of artificial intelligence in the media sector.

The newly revised SMG is the first piece of legislation in Germany to expressly state that the use of artificial intelligence (AI) or virtual elements does not release media from their obligation to exercise journalistic due diligence. Responsible media use of AI should, on the one hand, be transparent in terms of identifying AI-produced content. On the other, media should prevent manipulation and discrimination, and guarantee the authenticity of their reporting. By setting out these requirements, the legislator has emphasised the importance of media freedom and diversity when AI is used.

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After its adoption by the *Landtag*, the law entered into force the day after it was promulgated and replaces the previous SMG.

Gesetz Nr. 211 zur Modernisierung des saarländischen Medienrechts vom 17. Oktober 2023

https://www.landtag-saar.de/File.ashx?FileId=69226&FileName=G2113.pdf

Act no. 211 modernising Saarland media law, 17 October 2023

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