

# I. Why is an independent media necessary in a democratic state of law?

In its report on the rule of law, the European Union outlines four areas whose strength and smooth functioning it considers crucial to the rule of law. These areas are the justice system, corruption prevention, free media and other elements - including civil society, human rights institutions or protection from abuse.

In turn, the oft-quoted definition of the rule of law by the United Nations reads as follows :

*a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.*<sup>1</sup>

It is clear, then, why the European Union has chosen the designated areas to examine the rule of law. The justice system is state institutions that hold the authorities accountable for their submission to the rule of law. The Ombudsman scrutinizes the authorities as they respect human rights. The Supreme Audit Institution audits compliance with the law and care for public money. A good anti-corruption law is a muzzle imposed on the potential arbitrariness of power, and it is, among other things, to which power must submit.

The media, which is a separate issue, or civil society, which is treated by the European Commission as part of the system of balancing power, do not belong to the world of public institutions. Their existence in the system of protection of the rule of law is not so much regulated, but should not be restricted. They are private entities, outside of government. Their role is to check whether the whole system really works. And - if it doesn't work - in the case of civil society to take action to change it, and in the case of the media to publicize it, to bring it to light.

This image of the rule of law applies to all levels and types of government. An authority is the Parliament, the Senate, the Prime Minister, the President, a minister, a politician or politician belonging to a party in power, but also a mayor and a councilors from his/her camp. An authority is the director of a hospital or school or the head of an institution responsible for granting licenses and permits or quality control.

The authority has strictly defined tasks. Their fulfillment is based on the law. And the law regulates things so that the rules are transparent, predictable and non-discriminatory. However, there are

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<sup>1</sup> <https://www.un.org/ruleoflaw/what-is-the-rule-of-law-archived/>

factors that potentially interfere with the lawful operation of power. Those in authority are ordinary participants in society. They have family ties, financial needs, owe loyalty and reciprocity to someone, and adhere to some ideas important to specific groups of citizens. At the intersection of these interests and the opportunities given to those in power by the power to make decisions, there can be corruption, abuse, improper execution of work by controlling institutions. And this is where the role for the media comes in. **But in order for them to appear and fulfill their role, they must exist at all, be strong, competent and independent.**

Out of the wide area of government actions and opportunities to exercise control over it, in this text we choose a key element - the daily experience of the rule of law by citizens. Where does it take place? At the local level. It is here that our attitudes toward democracy are formed, our sense of the power of our own voice against the power of authority, it is here - with the greatest likelihood - that our rights can be violated. Therefore, this is where we need the media to keep an eye on power and its decisions.

Do such media locally exist? If so, are they strong and independent? How do we create the conditions for such strong and independent media to exist locally?

## II. Definitions

### What is local media?

In the Polish context, local media usually cover one or several counties. Counties in Poland can range from 20 to 366 thousand inhabitants. Local media tend to operate outside large cities, in counties with up to 150,000 inhabitants. Although there are quite rare exceptions to this rule. Local media **have local coverage and deal with local issues**. They treat individually the problems of each community they cover. They rarely feature content that goes beyond local topics. Local media can be either print press, as well as radio, television or Internet portals. If it is the press, it is usually published **once a week**. In Poland, local media are mostly owned by individual smaller publishers. Some are affiliated with the Association of Local Newspapers<sup>2</sup>, another part with the Association of Local Media<sup>3</sup>. There is no obligation to belong to any of them. Publishers organized themselves to collectively improve the quality of newspapers, learn and advocate for better legal solutions.

### What is regional media?

In Polish context, local media should not be confused with regional media, which are present in large cities and voivodeships (regions). They are usually **daily newspapers**. Their ownership is characterized by a very high concentration of capital, i.e. many titles belong to one owner.

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<sup>2</sup> <http://gazetylokalne.pl>

<sup>3</sup> <https://localpress.pl/>

They come out in the form of a regional edition of a national newspaper, such as Gazeta Wyborcza, or they are owned by a single owner bringing together regional newspapers - currently the oil conglomerate PKN Orlen S.A., in which the state treasury has a huge influence on the selection of the board of directors.

Various regional titles owned by a single owner **sometimes duplicate the same content**. There are relatively few such newspapers. PKN Orlen S.A. owns 20 such dailies<sup>4</sup>. There is the same number of regional mutations of Gazeta Wyborcza<sup>5</sup>.

There are also regional newspapers that do not belong to any of these networks. For example, journalists who left Dziennik Bałtycki after it was taken over by PKN Orlen S.A. founded the newspaper Zawsze Pomorze<sup>6</sup>. Dziennik Wschodni, on the other hand, is published in Lublin, for which journalists fought a major battle with the majority shareholder<sup>7</sup>. They won it<sup>8</sup>. And then they were forced to sell their shares and were fired<sup>9</sup>. It is difficult for single owners to stay in business, especially if they want to remain independent.

Also present at the regional level are the regional branches of the public television stations of Polish Television SA. There are 16 of them<sup>10</sup> and 17 Polish Radio S.A. radio stations.<sup>11</sup> According to the inventory of licenses granted by the National Broadcasting Council<sup>12</sup>, there are also two terrestrial regional television stations. The first, TVC<sup>13</sup>, reaches residents of central Poland, i.e., the Lodz Voivodeship and the northern part of the Silesian Voivodeship. The second is TVT<sup>14</sup> and reaches residents of Upper Silesia. In addition, there are about 90 regional cable TV stations and about 200 licensed regional and local radio stations.

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<sup>4</sup> Dziennik Bałtycki, Dziennik Łódzki, Dziennik Zachodni, Gazeta Krakowska, Głos Wielkopolski, Kurier Lubelski, Polska Metropolia Warszawska, Express Ilustrowany, Gazeta Krakowska, Dziennik Polski, Gazeta Lubuska, Gazeta Pomorska, Kurier Poranny, Gazeta Współczesna, Nowa Trybuna Opolska, Echo Dnia, Gazeta Codzienna Nowiny, Głos Dziennik Pomorza, Express Bydgoski and Nowości Toruńskie.

<sup>5</sup> Białystok, Bydgoszcz, Częstochowa, Gdańsk, Gorzów Wielkopolski, Katowice, Kielce, Kraków, Lublin, Łódź, Olsztyn, Opole, Płock, Poznań, Radom, Rzeszów, Szczecin, Warszawa, Wrocław, Zielona Góra  
<https://www.ogloszeniadogazety.pl/mapa-zasiegu>

<sup>6</sup> <https://www.zawszepomorze.pl/>; <https://www.gdansk.pl/wiadomosci/Zawsze-Pomorze-Odeszli-z-Dziennika-Baltyckiego-stworzyli-nowy-tygodnik-regionalny,a,209488>

<sup>7</sup> <https://oko.press/cena-za-krytyke-betonozy-deweloper-przejmuje-dziennik-wschodni>;  
<https://www.prawo.pl/biznes/likwidacja-dziennika-wschodniego-sad-uchylil,507187.html>

<sup>8</sup> [https://www.press.pl/tresc/70390,corner-media-nie-zostanie-rozwiązane\\_-\\_dziennik-wschodni\\_-wygrywa-w-sadzie-z-wiekszosciowym-udzialowcem?](https://www.press.pl/tresc/70390,corner-media-nie-zostanie-rozwiązane_-_dziennik-wschodni_-wygrywa-w-sadzie-z-wiekszosciowym-udzialowcem?)

<sup>9</sup> <https://jawnylublin.pl/dziennikarze-sprzedali-swoje-udzialy/>

<sup>10</sup> <https://regiony.tvp.pl/> Białystok, Bydgoszcz, Gdańsk, Gorzów Wielkopolski, Katowice, Kielce, Kraków, Lublin, Łódź, Olsztyn, Opole, Poznań, Rzeszów, Szczecin, Warszawa, Wrocław.

<sup>11</sup> Polish Radio (PR) Białystok, PR Gdańsk, PR Katowice, PR Kielce, PR Koszalin, PR Kraków, PR Lublin, PR Łódź, PR Olsztyn, PR Opole, PR Pomerania and Kujawy, PR Poznań, PR RDC, PR Rzeszów, PR Szczecin, PR Wrocław, PR West. There are also sometimes urban mutations of these stations.

<sup>12</sup> <http://www.archiwum.krrit.gov.pl/dla-nadawcow-i-operatorow/koncesje/wykaz-koncesji-i-decyzji/results,1,2,0,0,1,1,0,0,0,0.html>

<sup>13</sup> <https://pl.wikipedia.org/wiki/TVC>

<sup>14</sup> <https://telewizjatvt.pl/>

### III. Laws governing the media

Media activities are regulated by the Press Law<sup>15</sup>, which was enacted back when Poland was not a democracy, in 1984. And while there is a lot of criticism of this law because of its archaic nature - for many years there have been provisions for means of communication that have long since expired; and there is a lack of regulation of the situation of the media on the Internet, there is also a lot of concern in the environment about changes that politicians may propose. Especially since this law is used, discussed and contains quite a few interesting solutions. One of them, for example, is the ban on suppressing press criticism.

**Article 43** *Whoever uses violence or unlawful threats to force a journalist to publish or refrain from publishing press material or to undertake or refrain from intervening in the press (...) shall be punished with imprisonment of up to 3 years.*

**Article 44** *(1) Whoever obstructs or suppresses press criticism (...) shall be subject to a fine or restriction of liberty. (2) The same punishment shall be imposed on anyone who, abusing his position or function, acts to the detriment of another person because of press criticism published in a socially legitimate interest.*

At the same time, the press law emphasizes the controlling role of the press:

**Article 1** *The press, in accordance with the Constitution of the Republic of Poland, shall enjoy freedom of expression and shall realize the right of citizens to be fairly informed, public life open, and public scrutiny and criticism.*

The problem is that many of these laws do not work in practice. Indeed, it is more common to see journalists sued or accused as a result of the texts they write, rather than journalists enforcing their rights. The fact that journalists do not defend their rights is due to a lack of resources and time.

Another well-intentioned but unfulfilled provision is the press diversity and pluralism provision:

**Article 2** *The state authorities, in accordance with the Constitution of the Republic of Poland, shall create the conditions necessary for the press to perform its functions and tasks, including making it possible for editors of daily newspapers and magazines that are diverse in terms of their program, subject matter and attitudes presented to operate.*

The legal requirement that the state institutions create environment supportive for diversity and pluralism is not fulfilled in any way. On the contrary, state institutions use public money to support a press close to them ideologically or politically. This happens through state subsidies and the ordering of advertisements. In different institutions this process takes place with varying degrees of intensity. However, there is certainly no system to make pluralism compulsory.

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<sup>15</sup> <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu19840050024>

Moreover, in practice, entities associated with the government - state-owned companies - violate the law's provisions on not obstructing the distribution of the press without suffering consequences. Indeed, the provisions of the Press Law stipulate, in **Article 3**, that:

*A printing and distribution employee shall not restrict or otherwise impede the printing and acquisition of daily newspapers, magazines or other press publications accepted by the company for printing and distribution because of their program line or content.*

Meanwhile, Ruch S.A. - a state-owned company which is a distributor of the press - has refused to distribute<sup>16</sup> the new newspaper Zawsze Pomorze, founded by journalists who left Dziennik Bałtycki, after it was taken over by Orlen - also a state-owned company. It is worth mentioning that PKN Orlen S.A. holds a majority stake in Ruch S.A.

Another aspect that is worth noticing refers to quality control. The advantage of the press law is that a press title is relatively easy to register. On the other hand, there is no verification of the quality of the press, there is no self-government of journalists, and the journalistic community is polarized. There is a few competing professional associations that represent journalists close to different political groups. Slightly different is the issue of radio and television, which operate on the basis of licenses granted by the National Broadcasting Council. Described by the Broadcasting Law<sup>17</sup>. It is possible to submit a complaint regarding the quality of the content of a given material. This body is politicized, therefore the quality of its „judgements” is not highly valued.

There are also sometimes problems with defining who a journalist is. In turn, this causes practical problems. For example. A December 2022 ruling of the Court of Justice<sup>18</sup> speaks of a legitimate interest in accessing data about the real owners of companies. As experts point out<sup>19</sup>, it can be a problem to define who has such an interest. This is because Polish law lacks a definition that corresponds to the reality<sup>20</sup>. A journalist is defined by the press law as a person who cooperates with the editorial board:

**Art. 7(2) point 5** *a journalist is a person engaged in editing, creating or preparing press materials, who is in an employment relationship with an editorial office or who engages in such activities for and under the authority of the editorial office*

The ease of title registration also poses a kind of problem in the context of local governments and public institutions registering their press titles. Especially in the context of the provision in Article **8. 1**.

*A publisher may be a legal, natural or other organizational entity, even if it does not have legal personality. In particular, the publisher may be a state body, state enterprise, political organization, trade union, cooperative, local government and other social organization, as well as a church and other religious association.*

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<sup>16</sup> <https://www.polityka.pl/tygodnikpolityka/kraj/2158979,1,powrot-cenzury-tej-gazety-ruch-sprzedawal-nie-bedzie.read>

<sup>17</sup> [http://www.archiwum.krrit.gov.pl/Data/Files/\\_public/Portals/0/prawo/polska/d2020000080501.pdf](http://www.archiwum.krrit.gov.pl/Data/Files/_public/Portals/0/prawo/polska/d2020000080501.pdf)

<sup>18</sup> <https://eur-lex.europa.eu/legal-content/PL/TXT/?uri=CELEX:62020CJ0037>

<sup>19</sup> [https://www.batory.org.pl/blog\\_wpis/niejawni-beneficjenci-krok-w-tyl-w-walce-z-korupcja/](https://www.batory.org.pl/blog_wpis/niejawni-beneficjenci-krok-w-tyl-w-walce-z-korupcja/)

<sup>20</sup> <https://lexplay.pl/czy-bloger-to-tez-dziennikarz-definicja-dziennikarza-wedlug-prasowego/>

This provision causes courts to register local government press titles. Meanwhile, local governments have no legal basis for publishing presses. And according to Article 7 of the Constitution - the principle of the rule of law, public authorities can act only on the basis and within the limits of the law.

As for other media regulations, the biggest problem is the criminalization of defamation, contained in Article 212 of the Criminal Code<sup>21</sup>. This topic has been repeatedly criticized, and the journalistic community, social organizations and the Ombudsman have been calling for a change in these regulations for years.

*§ 1. Whoever slanders another person, a group of persons, an institution, a legal person or an organizational unit without legal personality of such conduct or qualities that may bring him or her into disrepute in public opinion or expose him or her to the loss of confidence necessary for a given position, profession or type of activity, shall be subject to a fine or the penalty of restriction of liberty.*

*§ 2. If the perpetrator commits the act specified in § 1 by means of mass communication, he shall be subject to a fine, restriction of freedom or imprisonment for up to one year.*

*§ 4. Prosecution of the offense specified in § 1 or 2 shall be by private prosecution.*

## IV. Local media as a controlling entity

This is how the President of the Association of Local Newspapers, Andrzej Andrysiak, described the role of the independent media<sup>22</sup> local media mainly have a control function.

*Information functions at the local level the media (...) perform in a smaller role. (...) The development of social media and the Internet is (...) tremendous. Also, the professionalization of offices in government offices is so great that information on events (...) is available to the public. Therefore, local media, what they can do and what they can offer the reader is primarily a control function.*

The approach of the Citizens Network Watchdog Poland is similar. We are looking for and want to protect such local media that are able to perform a control function and be allies in the control activities of civil society. Indeed, often, in the absence of such media, activists themselves register newspaper titles, blogs and social media activities. However, their efforts need to be supplemented. Someone who runs a medium in their spare time and - out of necessity - focuses mainly on document analysis, and often lacks the experience and adequate knowledge of running a media outlet, needs the support of professionals. Journalists have a much broader catalog of information acquisition,

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<sup>21</sup> <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu19970880553>

<sup>22</sup> Statement during the debate "Independence of local media - how to support it?", taking place on June 22, 2022, carried out within the framework of the project "Crisis of local journalism in the Visegrad countries and the specific role of local government newspapers in causing and deepening this crisis" supported by the International Visegrad Fund. The project leader was the Czech organization Oživení, z.s, and partners were the Hungarian Mérték Médiaelemző Műhely Közhasznú Nonprofit Kft. (Mertek Media Monitor), Civic Network Watchdog Poland, and Transparency International Slovakia. Recorded <https://youtu.be/h1HGPFpG4B8> statement at 1:38:22 - 1:38:24

including, in particular, building relationships with and obtaining information from local community members, the ability to attend and observe events, and the ability to conduct journalistic investigations - alone or as part of a team. A local activist-watchdog can cooperate with journalists, suggest topics, ask them to publicize them. It will not replace truly independent local media.

## How many independent local media are there in Poland?

Thinking about the local media - mainly the press - which has the ability to exercise a full-scale control role, we created the following definition, which we use in our study.

*An independent press is a medium that is registered with the court in accordance with the press law, employs journalists who adhere to journalistic ethics<sup>23</sup>, is paid, and obtains advertising from a variety of sources.*

The reasons for this definition are practical - a registered entity can protect whistleblowers, and it is also entitled to privileges under the press law, such as the prohibition on suppressing press criticism imposed on institutions. Both of these factors allow it **to safely perform its control function.**

In contrast, an entity employing at least a few journalists is able to use a whole range of journalistic tools - interview, on-site observation, journalistic provocation and documentation. This provides an opportunity **to perform an effective control function.**

On the other hand, diversifying the source of revenue - both from advertising and from readers - and adhering to ethical principles are **the best guarantee of independence.**

Wanting to identify such media, we found that they are most likely to be concentrated in two associations - the Association of Local Newspapers and partially in the Association of Local Media . Together, these organizations bring together some 90 titles. The latter often brings together newspapers that are exclusively available on line.

According to the estimates of the President of the Local Newspaper Association, there are about 120 to 140 independent newspapers in Poland. This is because there are also unaffiliated entities. However, without some kind of intermediary - in the form of a professional association upholding minimum rules or an in-depth analysis - we are unable to determine which newspapers these are. We have a similar problem with possible independent radio and television stations.

Therefore, we are forced to assume that our study is subject to an error of underestimation. We have made very conservative assumptions. We mapped all the municipalities covered by local newspapers concentrated in the Local Newspaper Association (green) and all the municipalities covered by our selected titles from the Local Media Association (blue). In the latter case, we mainly paid attention to the topics covered by these media. After plotting our data on the map, we see that the most northwestern regions (the area around Koszalin, Kołobrzeg, Międzyzdroje and Świnoujście) and

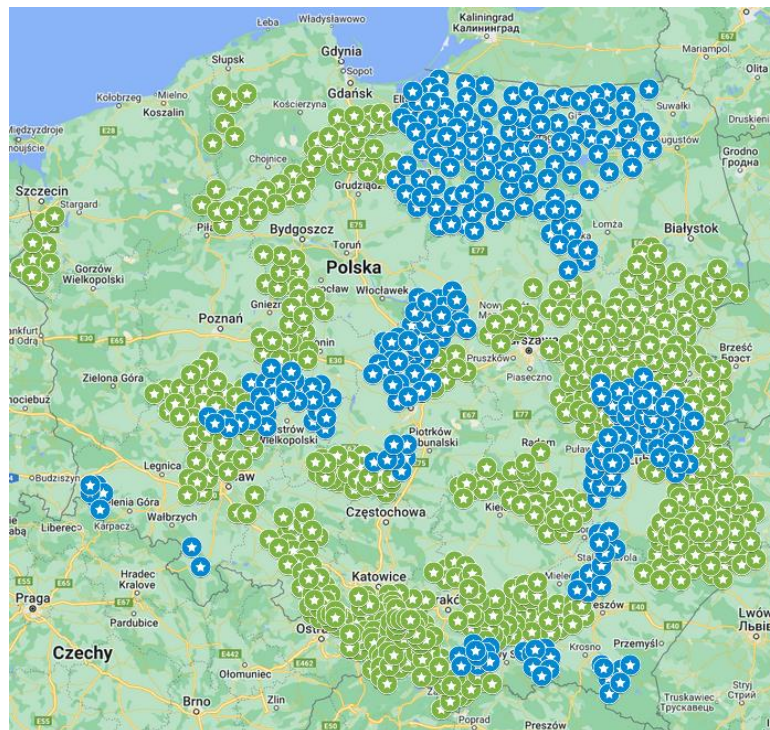
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<sup>23</sup> [https://pl.wikipedia.org/wiki/Etyka\\_dziennikarska](https://pl.wikipedia.org/wiki/Etyka_dziennikarska)



Lubuskie Voivodeship - between Gorzów Wielkopolski and Zielona Góra - should be of particular concern.

[https://www.google.com/maps/d/viewer?mid=1M\\_mLGnsg5Jn4R\\_t1qixeBPufjYAqodw&usp=sharing](https://www.google.com/maps/d/viewer?mid=1M_mLGnsg5Jn4R_t1qixeBPufjYAqodw&usp=sharing)



## V. Problems with the implementation of the controlling role of the media

To fulfill their controlling role, the media must be independent of local government, have competent journalistic teams, and be free from financial and legal anxieties. In practice, however, they do not have this luxury. As a result, few entities recognized by residents as local media can fulfill this role. And those that do fulfill this role constantly face problems and challenges. We write about why this is the case in the following chapters.

### Problem one - media run by the authorities versus independent media

According to various estimates<sup>24</sup>, more than 55% to 60% of Polish municipalities run newspapers that pretend to be part of the local media market. They write about local issues, much like independent

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<sup>24</sup> Estimates by the Citizens Network Watchdog Poland in 2018, which were further verified in 2022, indicate that about 58% of municipal governments run their media (data after excluding missing data). The data comes from 80% of local governments (comunes). Nominally, there are about 1160 newspaper titles, 23 TV stations and 7 radio stations. In contrast, data from the National Institute of Local Government from 64% of municipalities shows that 55% of them run their newspapers. [https://www.nist.gov.pl/files/zalacznik/1669792175\\_BADANIA%20I%20RAPORTY%2014%202022.pdf](https://www.nist.gov.pl/files/zalacznik/1669792175_BADANIA%20I%20RAPORTY%2014%202022.pdf)



media. They mainly perform an informative role. The problem is that they present an embellished picture, are usually propaganda of success and do not contain alternative content .

As was pointed out during the debate "Independence of local media - how to support it?", they create **a false impression created as if they were a real newspaper**. They pretend to be something they are not.

*They pretend to be the press, but do not meet the standard expected of the press. The authors of the articles are often not journalists, but officials, if it is a newspaper run directly by the authority - and there are such (...) 61%, they are often employees of promotion departments, which reflects well the tasks set for the authority's newspapers. 33% are employees of local government cultural institutions. (...) What reason would these people have to say that residents are dissatisfied with something, there are some fields of conflict in the municipality, some ideas of the authority have failed? Reading some of the (...) newspapers, we sometimes could not get rid of the impression that in many localities we would very much like to live. These localities were governed by enterprising, modern mayors or good and friendly mayors. They looked at their flocks of residents with an economic eye. (...) Many residents have no expectations of the local press, as they only know one that does not fill the role of 'fourth power'.<sup>25</sup>*

At the same time, as these media often even visually resemble daily or weekly newspapers, residents may regard them as part of the media market and media pluralism. Meanwhile, this phenomenon has nothing to do with pluralism.

These newspapers are unfair competition if they sell ads. And this happens quite often. Of the 463 newspapers that responded to us about selling ads, 113 confirmed that they do so (24%). They also tend to be free material (83% of those 463 newspapers that answered the question). If citizens stop understanding how a paid newspaper differs from a free one, and an independent newspaper from a local government newspaper, the existence of local government newspapers is a threat to both democracy and the survival of independent local newspapers.

However, when it comes to the power of newspapers to influence citizens' views, the power imbalance is not as great as it appears at first glance. Local government newspapers are most often quarterly, bimonthly or monthly - at least 71% of the 1160 surveyed. The independent press is usually published weekly. For the dependent press, this is a relatively rare phenomenon - we identified only 15 weekly and 26 biweekly newspapers. Local press titles are also fewer in number than local government newspapers, but if one counts that, according to data from the Local Newspaper Association website, 62 weeklies cover 813 municipalities<sup>26</sup> , and media outlets centered in the Local Media Association cover 297 municipalities, and these are not the only independent newspapers, the difference is not so striking.

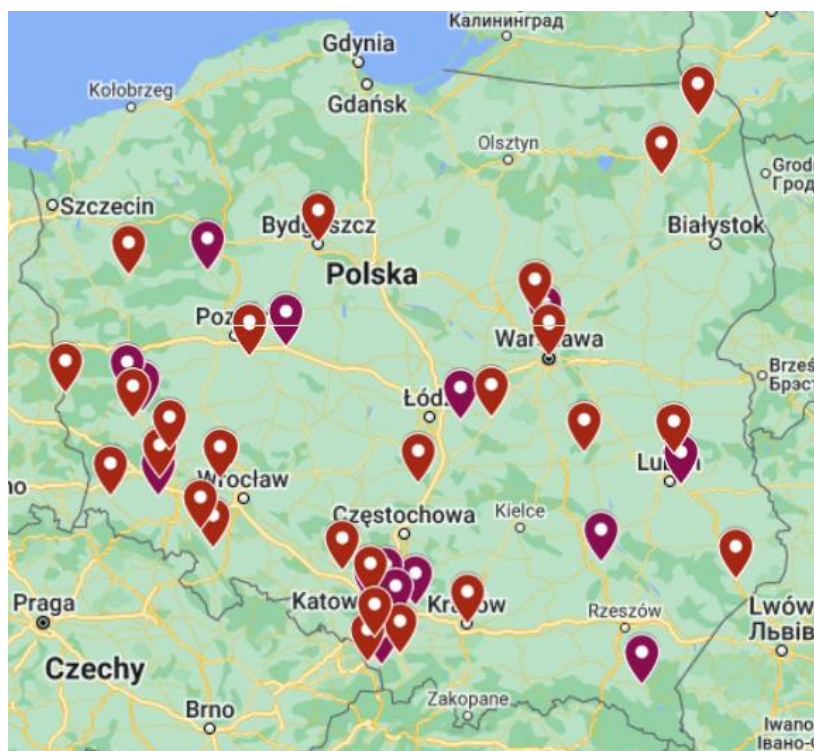
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<sup>25</sup> Report "What the authorities' papers are buzzing about" p. 3

[https://backend.sprawdzamyjakjest.pl/media/annotations/mission/report\\_file/SJJ\\_gazety\\_wladzy\\_raport.pdf](https://backend.sprawdzamyjakjest.pl/media/annotations/mission/report_file/SJJ_gazety_wladzy_raport.pdf)

<sup>26</sup> Ibidem, p. 6

The map shows that weeklies and biweeklies run by local governments are quite rare. What is striking, however, is that in Lubuskie Voivodeship (western Poland), where a probable lack of independent media has been diagnosed, as many as 5 weeklies or biweeklies are run by local governments - in Gubin, Kozuchow, Nowa Sol, Strzelce Krajeńskie, Zielona Gora.



The issue of the harmfulness of these local government newspapers was presented at the aforementioned conference by Andrzej Andrysiak, President of the Local Newspaper Association,

*Even newsletters are a form that is competitive with the media. But it is not competitive in the sense that it takes away their readers, only that it causes information dysfunction. If a newspaper comes out in a particular area of a local community that describes what's going on, and a bulletin comes out that may be on nicer paper and comes out less often, but looks like some kind of news magazine, and in which it says that everything is great, let's be happy, let's rejoice, because our government cares about our well-being; and from the first page to the last there are pictures of investments, and there are no problems that affect local communities, then the appearance of something like this on the market (...) it also causes informational dysfunction.<sup>27</sup>*

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<sup>27</sup> Statement during the debate "Independence of local media - how to support it?", taking place on June 22, 2022, carried out within the framework of the project "Crisis of local journalism in the Visegrad countries and the specific role of local government newspapers in causing and deepening this crisis" supported by the International Visegrad Fund. The project leader was the Czech organization Oživení, z.s, and partners were the Hungarian Mérték Médiaelemző Műhely Közhasznú Nonprofit Kft. (Mertek Media Monitor), Civic Network Watchdog Poland, Transparency International Slovakia. Recorded <https://youtu.be/h1HGPFpG4B8> 1:39:56 - 1:41:00

Another problem is the cost of these newspapers. Especially in large cities, they amount to several hundred thousand zlotys each. In cities with many different media, these costs are completely unnecessary.

And finally, these media are highly detrimental to democracy. According to the Constitution, "The organs of public power act on the basis and within the limits of the law." (Art. 7.). That is, public authorities can only do what they are authorized to do by law. The local government authorities have obviously found such justification. It is to be found in Article 10 of the Law on Municipal Management, according to which the municipality may engage in "consulting, promotional, educational and publishing activities for the benefit of local government" outside the sphere of public utility. In addition, according to Article 7 of the Municipal Self-Government Act, among the municipality's own tasks are matters related to "promotion of the municipality" and "support and dissemination of the idea of local self-government."

The Ombudsman disagrees with this approach. The Ombudsman first addressed this issue to the Minister of Culture and National Heritage in 2016. He received a reply that the abolition of newspapers is "an extremely sensitive issue." Restricting the right of local government units to publish newspapers could be perceived as a **restriction on the freedom of expression of local government bodies**" [emphasis Watchdog Poland]. This is a kind of personification of local self-government units and the conversion of their role from an authority that must act on the basis and within the limits of the law (Art. 7 of the Polish Constitution) to individuals who are entitled to rights and freedoms (Art. 20-86 of the Polish Constitution). This statement alone shows how the existence of undemocratic solutions contributes to further incomprehensible and harmful interpretations.

## Problem two - buying media

The second problem is the **discretionary nature of the commissioning of advertising and any paid materials by public institutions and related entities**. This is a universal problem, not just at the local level.

An increasingly disturbing phenomenon in Polish democracy is "media buying." Advertisements by local government and state-owned companies are targeted at selected media outlets, regardless of their circulation and how that circulation is purchased. Professor Tadeusz Kowalski's research shows this phenomenon at the central level<sup>28</sup>.

Unfortunately, there is a lack of similar studies at the local and regional level, and Poland does not yet have an electronic and public register of contracts.

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28

THE PERIOD OF THE RULE OF THE UNITED RIGHT. Analysis of advertising expenditures of state-owned companies (SSPs) from 2016 to 2021. Appendix. Advertising expenditures of ministries and central offices in 2021. (Based on monitoring by Kantar Media)  
[https://www.researchgate.net/publication/359603356\\_OKRES\\_RZADOW\\_ZJEDNOCZONEJ\\_PRAWICY\\_Analiza\\_wydatkow\\_reklamowych\\_spolek\\_skarbu\\_panstwa\\_SSP\\_w\\_latach\\_2016-2021\\_Aneks\\_Wydatki\\_reklamowe\\_ministerstw\\_i\\_centralnych\\_urzedow\\_w\\_2021\\_roku\\_na\\_podstawie\\_monito](https://www.researchgate.net/publication/359603356_OKRES_RZADOW_ZJEDNOCZONEJ_PRAWICY_Analiza_wydatkow_reklamowych_spolek_skarbu_panstwa_SSP_w_latach_2016-2021_Aneks_Wydatki_reklamowe_ministerstw_i_centralnych_urzedow_w_2021_roku_na_podstawie_monitorin)  
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For the regional level, we made our own check in several cities. We sent public information questions to three major cities - Bydgoszcz, Lublin and Wrocław. It turned out that advertising orders are inconsistent with circulation and coverage.

The examples of Lublin and Wrocław are particularly striking.

In addition to the two newspapers published by the local government and its company, there are several media outlets in Lublin. The last two years have been marked by a struggle for the survival and independence of the widely read Dziennik Wschodni, an independent print newspaper with a long tradition. The majority owner of the company that ran the newspaper wanted to change the company's management. The journalists - who also owned shares in the company - expected that this would lead to a change in the newspaper's management (the majority owner is a local developer), so they successfully blocked the change. Then the owner decided to liquidate the company, brought in a liquidator, and the liquidator threw out the editorial staff. After a long struggle, they managed to prevent the liquidation of the company. However, financial matters were going worse and worse, especially in the face of huge inflation in Poland and rising paper prices. Journalists did not stop their controlling role, so - despite a sizable audience - Dziennik Wschodni could not count on municipal orders. In fact, this can be seen in the numbers - while still in 2019 the Dziennik Wschodni received orders from the city hall for 58 thousand zlotys, in 2020 it received about 1,200 zlotys, and in 2021 less than 25 thousand zlotys<sup>29</sup>. And it was in 2019 that the battle began in the city over the construction of one of the green areas - the Górki Czechowskie. The Dziennik wrote about the ambiguities surrounding the situation. The bad financial situation of the Dziennik Wschodni led the journalists to sell their shares in the company in the fall of 2022. The new owner immediately changed the editorial staff, which included employees from the commercial department. Until December 2022, it was possible to write critical texts about the Lublin authorities. However, this possibility also began to run out. As JawnyLublin.pl reported:

*On Friday [December 9], the paper edition of Dziennik Wschodni (DW) published a recent article by Agnieszka Mazuś, until recently deputy editor-in-chief. It concerned the real estate development activities of former Lublin City Council chairman Piotr Kowalczyk. The board of the publishing house did not agree to its publication on the daily's web portal. In response, Paweł Buczkowski resigned from his position as deputy editor-in-chief.*

*The case was announced by the author herself, on one of the social networks. She also explained what would be found in her text:*

- *Names of people who participate in "family trips" to Italy with President Zducha and Kowalczyk. They are Dariusz Piątek (real estate developer) and Piotr Więckowski (speedway).*
- *The first plots of land in the field (today tightly built up with blocks of flats), which Piotr Kowalczyk buys while he is still Chairman of the Lublin City Council (and which he does not show in his asset declaration).*

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<sup>29</sup> <https://fundacjawolnosc.org/wydatki-urzedu-miasta-na-reklame-w-mediach/>; <https://jawnylublin.pl/o-tym-jak-prezydent-lublina-finansuje-lokalne-media/>

- *The history of the school, where today one of Kowalczyk's companies sells expensive apartments, sold by the City of Lublin in 2017.*
- *Another struggle with Lublin City Hall officials by neighbors of a plot of land on Karmelicka Street in the very center of Lublin, which a developer wants to develop with tall apartment buildings.<sup>30</sup>*

So you can see how simply increasing the financial difficulties of independent newspapers leads to their liquidation.

In Wrocław, on the other hand, city companies outright buy media to use in their political struggle. In 2022, about a year and a half before the local elections, a little-known (less than 3 thousand observers on FB) Lower Silesian portal, - TuDolnySlask.info published a text about Akcja Miasto - a Wrocław urban movement that often criticizes the actions of the Mayor of Wrocław. It suggested that the organization fraudulently obtained funding and labeled the organization "Law and Justice." He promoted the post with this message on social media. At the same time, the portal did not write about anything relevant beyond that. It relayed what could be found on the offices' websites. However, readers' attention was drawn to the fact that two city companies advertised on the portal.

These examples are not far from the norm in many local governments and have been observed for years. This is indicated by statements from local activists and journalists. There is no legal impetus to change the situation of media addiction with money, and press pluralism, as described in the press law, is not a value implemented in policies for commissioning advertising, announcements and promotions.

## Problem three - lawsuits filed against local journalists.

A third problem is lawsuits against local journalists. It is difficult to assess exactly how many such cases occur, but many of them are high-profile. Even if they do not end in an unfavorable court verdict for publishers and editors, they effectively involve their time and money. In 2022, the Case - Coalition Against SLAPPs in Europe<sup>31</sup> established a Polish group to collect cases of lawsuits by authorities and businesses against journalists and activists. The initiative is new and has included several cases of civil lawsuits.

At the same time, private prosecutions for defamation, under Article 212 of the Criminal Code, are a great threat. Poland regularly loses cases under Article 212 before the European Court of Human Rights. This is a systemic problem and can only be solved by changing the law<sup>32</sup>.

The perniciousness of this phenomenon, in the context of local media and their ability to control them, is perfectly illustrated by a story that ended in December 2022. It is described by press.pl, a portal dedicated to media problems.

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<sup>30</sup> <https://jawnylublin.pl/artykul-o-piotrze-kowalczyku-ocenzurowany/>

<sup>31</sup> <https://www.the-case.eu/>

<sup>32</sup> <https://siecobywatelska.pl/artykul-212-postulujemy-dekryminalizacje-znieslawienia/>

A local journalist, he described the activities of one of the candidates for mayor of Bytom during the 2018 election campaign. This candidate was the director of an indebted public hospital. Despite this, a PR firm was hired to handle the hospital. The same company handled the hospital director's election campaign as a presidential candidate. For writing about this, the journalist was sued under Article 212 of the Criminal Code. The case ended in conditional discontinuance. The court set the condition at one year. This means that for a year the journalist will have to write about Bytom with extreme caution.

## The fourth problem - access to information

Another problem of journalists in Poland, including local journalists, is the silence of institutions. At a conference on judicial protection of the right to information, this was mentioned by a journalist of national media - Ewa Siedlecka<sup>33</sup>, during a discussion on media reliability - the head of Gazeta Radomszczanska - Andrzej Andrysiak, in a comment on social media a local watchdog from the mierzyn.pl portal - Grzegorz Krakowiak.

*Reaching out with an objective and not just iced message is not an easy task, and independence costs money, especially "costs". It's not only the cost of maintaining the portal (financially), but mainly the cost of time involved in getting to the information, analyzing it, confirming it and describing it. Pro-municipal media have it easier, because not only are they paid to do so, but by publishing content in line with the expectation of the authorities they often get the information on the spot and are informed or even invited to important events, having priority in creating the message.*

*The independent media must strive for this information, strive for it, sometimes several times. The publication must be absolutely reliable in order to be effective and credible, and this is sometimes difficult when the information obtained is sometimes incomplete, off topic or not there at all.<sup>34</sup>*

The Law on Access to Public Information, to which journalists are referred by the press law, is non-functional and needs to be amended. The procedures are protracted, allow people to avoid answering, and there are negligible sanctions for silence. This issue is being raised by social organizations expecting changes.

## VI. Summary and recommendations

There is a whole range of minor problems of local media. We have selected those that are most critical to the existence, reliability and sustainability of local media. Each of them can be solved by changing

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<sup>33</sup> [https://youtu.be/nGKL\\_XwAqe0](https://youtu.be/nGKL_XwAqe0) From 20:00:00 to 22:40:00

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[https://www.facebook.com/SiecObywatelskaWatchdogPolska/posts/pfbid0T6PfX1XMZKc9bDEMxZJPs9QcBZY56Jqm9nvf85HzMXcnCD1wAAUEhjTSUvbbjvTwi?\\_\\_cft\\_\\_\[0\]=AZWZrvnNjr\\_E2HqIS8BcYq1wonrl9uj5F4bgPb5PAJ9aOC-AbOLfCFrPEIsHlyoTmAxOri24vEigw2gvNfvQ3ZlgA7dhZsV3kKIVwtLI1RG8HUE3Cune0jRQ27EUi9v6FR3MRgUq7c\\_Ok6Dy5HYt4ZhkAvQqwzc5qpol\\_0c0bkw4iCPD5-86\\_ilGDoZXmzNXo78gx-tXAsCG5kfJe3\\_BE&\\_\\_tn\\_\\_=%2CO%2CP-R](https://www.facebook.com/SiecObywatelskaWatchdogPolska/posts/pfbid0T6PfX1XMZKc9bDEMxZJPs9QcBZY56Jqm9nvf85HzMXcnCD1wAAUEhjTSUvbbjvTwi?__cft__[0]=AZWZrvnNjr_E2HqIS8BcYq1wonrl9uj5F4bgPb5PAJ9aOC-AbOLfCFrPEIsHlyoTmAxOri24vEigw2gvNfvQ3ZlgA7dhZsV3kKIVwtLI1RG8HUE3Cune0jRQ27EUi9v6FR3MRgUq7c_Ok6Dy5HYt4ZhkAvQqwzc5qpol_0c0bkw4iCPD5-86_ilGDoZXmzNXo78gx-tXAsCG5kfJe3_BE&__tn__=%2CO%2CP-R)

state policy or existing laws. Although these are not the only solutions, and on an ad hoc basis, other measures can also be tried.

1. Regarding the first problem, the existence of power media, we have been advocating for years, along with other organizations, to eliminate the possibility of registering newspaper titles. It is also necessary to prohibit the sale of advertising by these periodicals.

However, this is not enough, given that formally unregistered titles will perform a similar function. Since - from a legal point of view - it may be difficult to prohibit the publication of unregistered guides, it is necessary to strengthen the independent voice in these guides by mandating the inclusion of the voices of the opposition, community organizations and residents. Then, presumably, many local governments will themselves abandon them. If not, they will be real bulletins about what is important to the entire local government community.

2. When it comes to media buying by the authority - not just local, but at every level - rules should be introduced for the management of promotion and information orders directed by public institutions to external entities. These rules would have to take into account the diversity of media outlets and their coverage.
3. Regarding the issue of lawsuits, Poland should implement legislation against SLAPPs, drawing on the experience of the discussion happening in the European Union. In addition, defamation should be decriminalized, a demand that has been raised for years. Before these changes are implemented, private donors in cooperation with lawyers and civil society organizations should provide support for journalists.
4. On the issue of access to information, there are a number of demands from social organizations on how to change the Law on Access to Information<sup>35</sup>. Organizations of journalists should work together with other organizations to seek these changes.
5. The state should also adopt a public program to support the distribution, production, upgrading and subsidization of the paper, so that local media operations can continue.

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<sup>35</sup> <https://siecobywatelska.pl/pakt-dla-jawnosci/>