

MONITORING MEDIA PLURALISM IN THE DIGITAL ERA

APPLICATION OF THE MEDIA PLURALISM MONITOR IN THE EUROPEAN UNION, ALBANIA, MONTENEGRO, THE REPUBLIC OF NORTH MACEDONIA, SERBIA & TURKEY IN THE YEAR 2021

Country report: Montenegro

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Research Project Report

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1. About the project

1.1. Overview of the Project

The Media Pluralism Monitor (MPM) is a research tool designed to identify potential risks to media pluralism in the Member States of the European Union and in candidate countries. This narrative report has been produced on the basis of the implementation of the MPM carried out in 2021. The implementation was conducted in 27 EU Member States, as well as in Albania, Montenegro, The Republic of North Macedonia, Serbia and Turkey. This project, under a preparatory action of the European Parliament, was supported by a grant awarded by the European Commission to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

1.2. Methodological notes

Authorship and review

The CMPF partners with experienced, independent national researchers to carry out the data collection and to author the narrative reports, except in the case of Italy where data collection is carried out centrally by the CMPF team. The research is based on a standardised questionnaire that was developed by the CMPF.

In Montenegro the CMPF partnered with Daniela Brkic (Independent Researcher), who conducted the data collection, scored and commented on the variables in the questionnaire and interviewed experts. The report was reviewed by the CMPF staff. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly evaluative questions (see Annexe II for the list of experts). For a list of selected countries, the final country report was peer-reviewed by an independent country expert.

Risks to media pluralism are examined in four main thematic areas: Fundamental Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area (see Table 1).

Fundamental Protection	Market Plurality	Political Independence	Social Inclusiveness
Protection of freedom of expression	Transparency of media ownership	Political independence of media	Access to media for minorities
Protection of right to information	News media concentration	Editorial autonomy	Access to media for local/regional communities and for community media
Journalistic profession, standards and protection	Online platforms concentration and competition enforcement	Audiovisual media, online platforms and elections	Access to media for women
Independence and effectiveness of the media authority	Media viability	State regulation of resources and support to media sector	Media Literacy
Universal reach of traditional media and access to the Internet	Commercial & owner influence over editorial content	Independence of PSM governance and funding	Protection against illegal and harmful speech

Table 1: Areas and Indicators of the Media Pluralism Monitor

The digital dimension

The Monitor does not consider the digital dimension to be an isolated area but, rather, as being intertwined with the traditional media and the existing principles of media pluralism and freedom of expression. Nevertheless, the Monitor also extracts digital-specific risk scores, and the report contains a specific analysis of risks related to the digital news environment.

The calculation of risk

The results for each thematic area and indicator are presented on a scale from 0 to 100%.

Scores between 0 and 33%: low risk

Scores between 34 and 66%: medium risk

Scores between 67 and 100%: high risk

With regard to indicators, scores of 0 are rated 3% while scores of 100 are rated 97% by default, in order to avoid an assessment of total absence, or certainty, of risk.

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF, nor the position of the members composing the Group of Experts. It represents the views of the national country team that carried out the data collection and authored the report. Due to updates and refinements in the questionnaire, MPM2022 scores may not be fully comparable with those in the previous editions of the MPM. For more details regarding the project, see the CMPF report on MPM2022, available on: <http://cmpf.eui.eu/media-pluralism-monitor/>.

2. Introduction

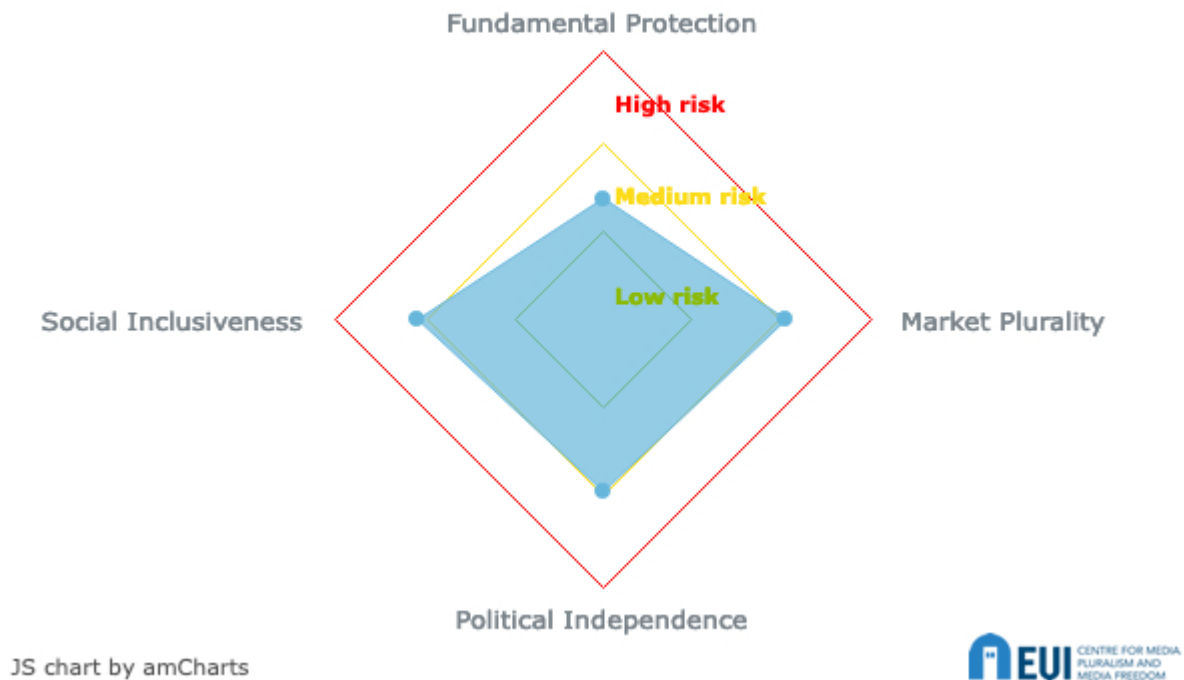
- **Country overview:** Montenegro is a country in the Western Balkans with more than 620,000 inhabitants and a territory of 13,812 square kilometres. Montenegro restored its state independence in a referendum in 2006 when it broke off the union with Serbia, which it found itself in after the dissolution of Yugoslavia.
- **Languages spoken:** The official language is Montenegrin, and Serbian, Bosnian, Croatian and Albanian are in official use.
- **Minorities:** Montenegro is a multinational and multi-religious state. According to the last census from 2011, Montenegrins make up 44.98% of the population, Serbs 28.73%, Bosniaks 8.65%, Albanians 4.91%, Muslims 3.31%, Roma 1.01% and Croats 0.97%.
- **Economic situation:** The Montenegrin economy dominantly relies on tourism and trade. For this reason, it was hit hard by the COVID-19 pandemic in 2020 when the real GDP took a dive of -15,3% and stood at 6,737 euro per capita. A strong peak summer season in 2021 brought rapid recovery of tourism revenues, thanks to which the annual projections show an economic rebound by an estimated 10.8 percent. The public debt is very high (over 80% of GDP) due to large infrastructure projects started in the last decade and the unemployment rate stood at 16.6% in 2021. The high cost of the state and unfinished restructuring of state-owned enterprises are still hampering the private sector development and the full transformation into a market economy.
- **Political situation:** 2021 in Montenegro was marked by high political instability, which emanated from the historical results of the parliamentary elections in August 2020. After three decades, the first government was formed without the Democratic Party of Socialists, led by the current president of the state Milo Djukanovic. The main reason for the political change was the underlying conflict with the influential Serbian Orthodox Church in Montenegro, which additionally mobilized dissatisfied citizens. The new administration formed by a minimal majority in the parliament, made up of mainly pro-Serbian parties, was toppled in no-confidence vote in early 2022.
- **EU integration:** Montenegro is a member of the NATO alliance since 2017. Montenegro started negotiations for membership in the European Union (EU) on 29 June 2012.
- **Media market:** There is a large number of media in Montenegro, but this number does not lead to the expected wealth in content and quality. Four daily newspapers are published in Montenegro, a total estimated circulation of 15,000 copies. There are four TV stations with national coverage, one of which is public, and 15 local, regional and cable only broadcasters. In addition to the national public television, which has three channels, there are also six local public TV stations. There is also a national public radio with two programs and 16 local public radio broadcasters. There are 37 registered commercial radio stations and over a hundred online media, but only several major news portals.
- **Regulatory environment:** Regulators are independent of the government, but the Parliament is responsible for adopting the financial plans and reports and has the right to amend them. Agency for Electronic Media has very limited sanctioning powers, which diminishes its efficiency in regulating the AV market. There is an active trade union of the media, which invests efforts in strengthening regulation and working conditions of media workers. When it comes to media content, however, professional journalistic organisations have no significant influence and self-regulation is very weak. In

2021, the Government embarked on drafting the media strategy with an action plan as a framework document for future improvements of the socio-economic position of journalists and their safety, media market and its viability, self-regulation, public service media, hate speech and media literacy.

- **COVID-19:** The COVID-19 crisis left little mark on the media business. The advertising revenues showed no decrease and no jobs were lost in the media sector. The government extended the assistance measures introduced in 2020 to help the commercial media and provided additional support through the newly established Fund for support of the media pluralism.^[1]

3. Results of the data collection: Assessment of the risks to media pluralism

Montenegro: Media Pluralism Risk Areas



Montenegro scores a medium risk for Fundamental Protection (45%) and Political Independence (64%) areas, and a high risk for Market Plurality (68%) and Social Inclusiveness areas (69%).

The **Fundamental Protection** area has a stronghold in a legal framework that is mostly aligned with European standards, but with shortfalls in its implementation. In 2021, the government embarked on drafting a mid-term media strategy (2022-2026) to map the remaining challenges and propose improvements to the media regulatory system. New legislation is expected in the area of audio-visual media, which should provide the regulator with more efficient sanctioning powers. Citizens' access to information is heavily burdened by the institute of secrecy, the silence of information and inefficient appeal mechanism. Journalists' standards and protection are at a very low level, as the physical attacks are on the record rise, and working conditions in the media are characterised by low salaries, pressures, and fear. Professional organisations are too weak to contribute to raising ethical standards, and self-regulation is under-developed.

The **Market Plurality** area records very high-risk indicators in the field of media concentration and the commercial and owners' influence over editorial content. Regulation and self-regulation do not have mechanisms to protect journalists and editors from owners' influence. Beneficial and final owners of the media founded by foreign capital are not known. Media concentration rules do not apply to online media and the state has not yet established a reliable system for identification of their owners and editors. There are no safeguards to ensure that state resources allocated to local and national public service media (PSM) do not cause disproportionate effects on competition and overall capacities for the protection of competition in the media sector are weak.

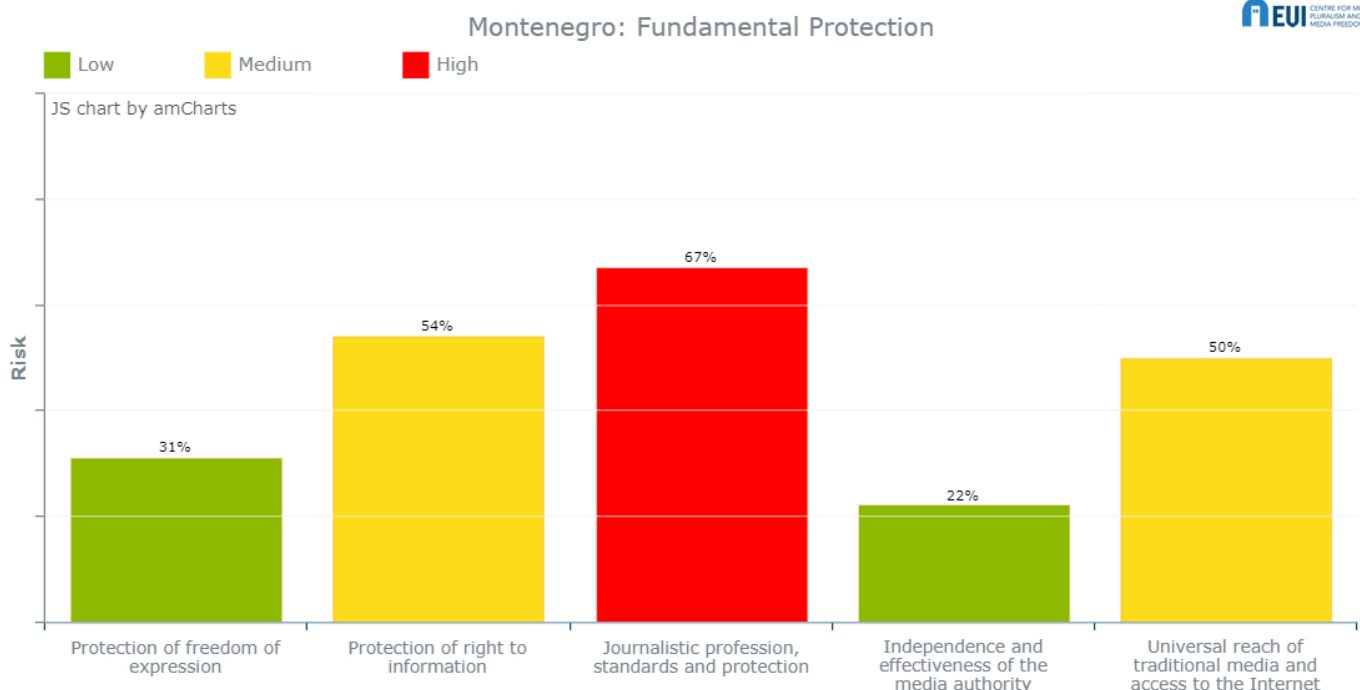
The **Political Independence** area is marked by an overall medium risk score (64%), thanks to the recent efforts of authorities in introducing more control in the state aid to the media sector. However, the indicators for political control over media outlets, editorial autonomy and independence of PSM funding and

governance are high risk. The mainstream media in Montenegro are mostly politically affiliated, with editorial policies subdued to partisan interests. The independence of public service media is still not sufficiently secured as the parliament is in full charge of the election of the PBS governing body.

The **Social Inclusiveness** area scores high risk (69%). One of the main risks in the area is linked to the indicator Protection against illegal and hateful speech (83% - high risk), which reflects the growing presence of disinformation and hate speech on social media platforms and comments on online media. The state has not provided a systematic or efficient solution to this issue yet. A high risk is also associated to the Access to media for local/regional media and community media (81% - high risk), linked to the absence of legal recognition of community media in the country and support schemes for local and regional media. It is also important to notice the pronounced underrepresentation of women in governing and executive positions in the media and in the content of news programmes. As far as Access to media for minorities is concerned, sign language is not legally regulated and is hardly present in the media, while the audio description for the visually impaired is almost non-existent, which leaves persons with these disabilities, short of even the basic media content.

3.1. Fundamental Protection (45% - medium risk)

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



Montenegrin legislation provides for freedom of expression and free access to information, but the silence of administration and ineffectiveness of sanctioning measures continue to pose a serious hamper on the exercise of the latter legal right. Independent broadcast regulator lacks sufficient sanctioning power to fulfil its role effectively. Furthermore, the most serious risks are those related to the journalistic profession and the protection of journalists. Professional regulation and self-regulation are still very weak and a record

number of attacks on journalists in 2021 lowered the score for the area by 2 percentage points to 45 in overall scoring.

The indicator **Protection of freedom of expression** scored a low risk (**31%**) three percentage points lower than in the previous year. Montenegrin legal framework for the protection of freedom of expression is largely aligned with the European standards. Freedom of expression is granted by the Constitution and the Law on Media (82/2020)^[2] with restrictions aligned with international human rights standards. There are several available mechanisms for remedying infringement of freedom of expression, as provided by the general media law and the Criminal code (70/2003)^[3], but the effectiveness of the judiciary is limited. The courts have largely harmonized their decision-making processes with the case-law of the ECHR and legal remedies allow for proportionate responses to the publication or broadcasting of defamatory statements^[4]. However, the average duration of proceedings due to claims of violation of personality rights before Montenegrin Basic Courts is two years (Facts v. Lawsuits - ten years since decriminalization of defamation in Montenegro, 2021). Self-regulatory mechanisms are very weak.

The indicator **Protection of the right to information** scored a medium risk (**54%**), 6 percentage points lower than the previous year. Access to information held by public service has serious limitations in practice. One-third of all requests for free access to information is being fully or partially rejected, and the number of appeals filed annually almost equals the number of requests. Three-quarters of them are deemed justified by competent authorities, and around one-quarter of appeals refer to the silence of administration. In 2021, the Government finalized the revisions of the Law on free access to information^[5] that started in the spring of 2019. Its implementation should start in 2023, as the institutional capacities of the relevant authority, the Agency for Personal Data Protection and Free Access to Information, need to be strengthened first.

A legal framework for the protection of whistleblowers has been established^[6], but in more than four years of the implementation of the relevant law, only four persons have been granted such protection. In 2021, however, following the change management of the competent agency, there was a significant increase in the number of reports on corruption - 75 in the first 6 months (28 in the comparative period of 2020), and the relevant Agency for prevention of corruption has approved protection for 3 whistle-blowers, while also actively encouraging cooperation with the civic sector, media and citizens.

The indicator on **Journalistic profession, standards and protection** scored a high risk (**67%**), and it is the highest in the area of Fundamental Protection, rising additionally by 3 percentage points in comparison to the previous year. In 2021, there were 25 reported attacks on the physical safety of journalists in Montenegro, which is a significant increase (47%) in comparison to the previous year. What is especially worrying is the number of death threats, as a more serious offence is on the rise. (Report on court proceedings in case of attacks on journalists, 2021). Furthermore, in 3 out of 5 reported cases of physical attacks the victims were women, and 5 out of 9 reported threats and verbal attacks happened to female journalists.

The most severe cases that happened in Montenegro (one murder in 2004 and two attempted murders in 2008 and 2017) remain unsolved. In an attempt to address these growing threats to media freedoms, in April 2021, the government established a new ad-hoc commission for monitoring violence against media. Also, in December 2021, the Parliament of Montenegro unanimously voted to pass amendments to the criminal code which prescribe special criminal protection for journalists. The amendments were strongly advocated by civil society.

Professional associations of journalists do not have the power to provide guarantees of editorial independence or respect for professional standards. The national media union is warning of poor material status of journalists, pressures, work overload and fear. (Socio-economic position of media workers, 2021). The freelancers and self-employed journalists are not protected by social security schemes.

Although announced in 2019, there is still no law that contains explicit rules on the protection of journalists and their data from illegal surveillance by the law enforcement sector that transposes provisions of the General Regulation on Personal Data Protection (GDPR). In early 2021, criminal investigations were opened against the former head of the National Security Agency and several officers for alleged unlawful surveillance that included two journalists.^[7]

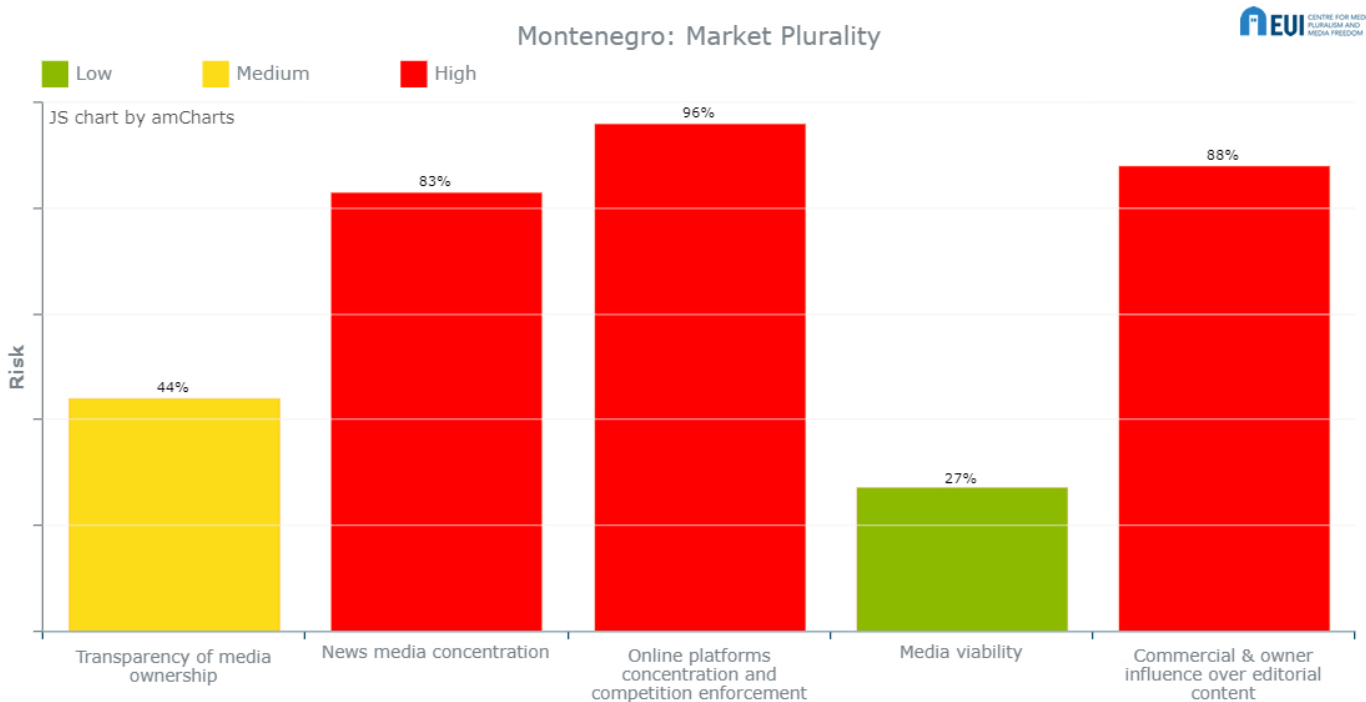
There were no reported cases in which journalists were asked to disclose sources of information, but the Law on media leaves this possibility to the state prosecutor if needed to protect the "interests of national security, territorial integrity and health protection".

The indicator on **Independence and effectiveness of the media authority** scored a low risk (**22%**), and it is the best-score indicator in the Fundamental Protection area. The regulatory Agency for electronic media (established in 2010 by the Law on electronic media, 046/10)^[8] generally exercises its mandate in a professional and very transparent manner. Its efficiency in regulating the broadcasting market is, however, limited in practice as the regulator can only issue warnings as the mildest and often ineffective measure and exercise the strongest sanction of revocation of the licence. The Agency is governed by the Council whose members are appointed by the Parliament, while its members are being nominated by the academia, non-governmental sector, Montenegrin PEN centre and commercial broadcaster association.

The **Universal reach of traditional media and access to the Internet** scored a medium risk (**50%**). Universal coverage of the PSM is legally guaranteed and currently, the signal of the national public broadcaster covers more than 98% of the territory of Montenegro. The percentage of households with Internet access in the house has increased in 2021 by 0,5% and reached 80.8%, while the average Internet speed in the country is 40.14 Mbps. However, in Montenegro, there are no regulatory safeguards regarding net neutrality and it is not possible to determine if ISPs manage network traffic in a way that is transparent, impartial and neutral.

3.2. Market Plurality (68% - high risk)

The Market Plurality area focuses on the economic risks to media pluralism which derive from a lack of transparency and the concentration of ownership, the sustainability of the media industry, the exposure of journalism to commercial interests. The first indicator examines the existence and effectiveness of provisions on the transparency of media ownership. Lack of competition and external pluralism are assessed separately for the news media (production of the news) and for the online platforms (gateways to the news), and we consider separately horizontal and cross-media concentration; the concentration of the online advertising market; and the role of competition enforcement. The indicator on media viability measures the trends in revenues and employment, in relation to GDP trends. The last indicator aims to assess the risks to market plurality that are posed by business interests, in relation to the production of editorial content, both from the influence of commerce and owners.



The area of **Market Plurality**, with a high risk level at 68%, increased risk level by 6 percentage points in comparison to the previous year. The regulatory framework on media ownership's concentration does not cover online media. The role of intermediaries in news consumption is growing and the commercial and owners' influence is strong. Contrary to these trends, media proved viable even in the midst of the COVID-19 crisis, but the reasons are more political than economic.

The indicator on **Transparency of media ownership** scored a medium risk (**44%**). The Law on media (82/2020) prescribed for all media "to provide simple, direct and permanent access" to data on their owners and related persons, but, by the end of 2021, the authorities haven't managed to achieve full compliance with this provision. The ownership data for audio-visual media are for the major part available to the public through the regulatory agency website. The print media registry is not public, and partial data on publishing companies are available only through the Central Registry of Commercial Entities of the Tax Administration. Sanctioning provisions for noncompliance with transparency obligations exist, but they have never been applied. The ultimate owners of media founded by foreign capital are not known. This is especially important since 2021, following two changes of ownership and a third one pending, all national

TV stations, except for the PSM, will be owned by foreign entities. The media and civic sector organizations have often questioned foreign media interests and their partisan connections.

The indicator on **News media concentration** scored a high risk (**83%**) which is a 9 percentage points increase from the previous year. The legal framework is fit to address media ownership concentration for the traditional media, but not for the digital. There are no reliable verifiable or publicly available data on media circulation, sold copies, or audience share that could serve as the basis for regulation in the media sector. The market is very small, so in the audiovisual sector, the 4 biggest companies make 76 percent of total revenues (PBS RTCG 58%, TV Vijesti 9%, Nova M 5%, TV Prva 3%). With radio stations, the competition is bigger but the top4 owners make up 60% of the market. There are only 4 daily newspapers, and according to their 2020 financial reports, they divide the market like this: Dan 33%, Vijesti 32%, Pobjeda 29% and Dnevne novine 5%. On December 31 2021, Dnevne Novine announced the shutdown of the print edition.

The indicator on **Online platforms concentration and competition enforcement** has the highest score (**96%**), which is up by 21 percentage points from last year. The online media market in Montenegro is vastly unregulated, and there are no precise financial data for this area. In 2021 there were 109 news portals and 78 of them were digital natives. Out of those, business data for 2020 were available only for 48 of them (Socio-economic position of media workers, 2021). The Top4 ranked sites (Alexa.com) in Montenegro are Facebook.com 20%, Youtube.com 18%, Google.com 17%, and Vijesti.me 8%, but there are no data on the revenues of big online platforms collected for advertising in the Montenegrin territory.

The role of intermediaries in the distribution of news is increasing, as it shows that only one quarter of traffic to the ten most highly ranked websites in the news and media category in Montenegro is generated by direct access, while 60 percent is driven via search engines and social networks.

There is no any form of taxation of digital services in Montenegro or beneficial financial schemes between digital intermediaries and news media producers for the usage of their copyright material.

Also, there are no regulatory safeguards ensuring that state funds granted to PSM do not cause disproportionate effects on competition, although they account for 52% of the entire media market.

The indicator on **Media viability** scored a low risk (**27%**), which is a 17 percentage points decrease from the previous year. The official financial data of media companies' results for 2021 were not available at the time of making this report, but the estimations confirm the continuation of the trend of 2020 when the media businesses in Montenegro collected 41.8 million euros of revenues with a positive balance of 2.7 million euros. The resilience of the media market has to do with the fact that more than half (52%) of the media are funded directly from the local and national budgets, often at fixed rates. Another reason is the COVID related state aid to the media sector^[9] and new entrants to the market.

In 2021, the newly established Fund for Encouraging Media Pluralism and Diversity started operating. Through this scheme, the state funds projects in the media sector with at least 0,09 percent of the state budget. The total available amount for 2021 was 860.093,95 euros. The first grants from this Fund were awarded in December 2021.

The forecasted advertising revenues in 2021 in Montenegro grew almost 8% from 10.3 to 11.1 million euros. There were no significant lay-offs in the media sector in 2021, while the number of registered media increased in comparison to 2020.

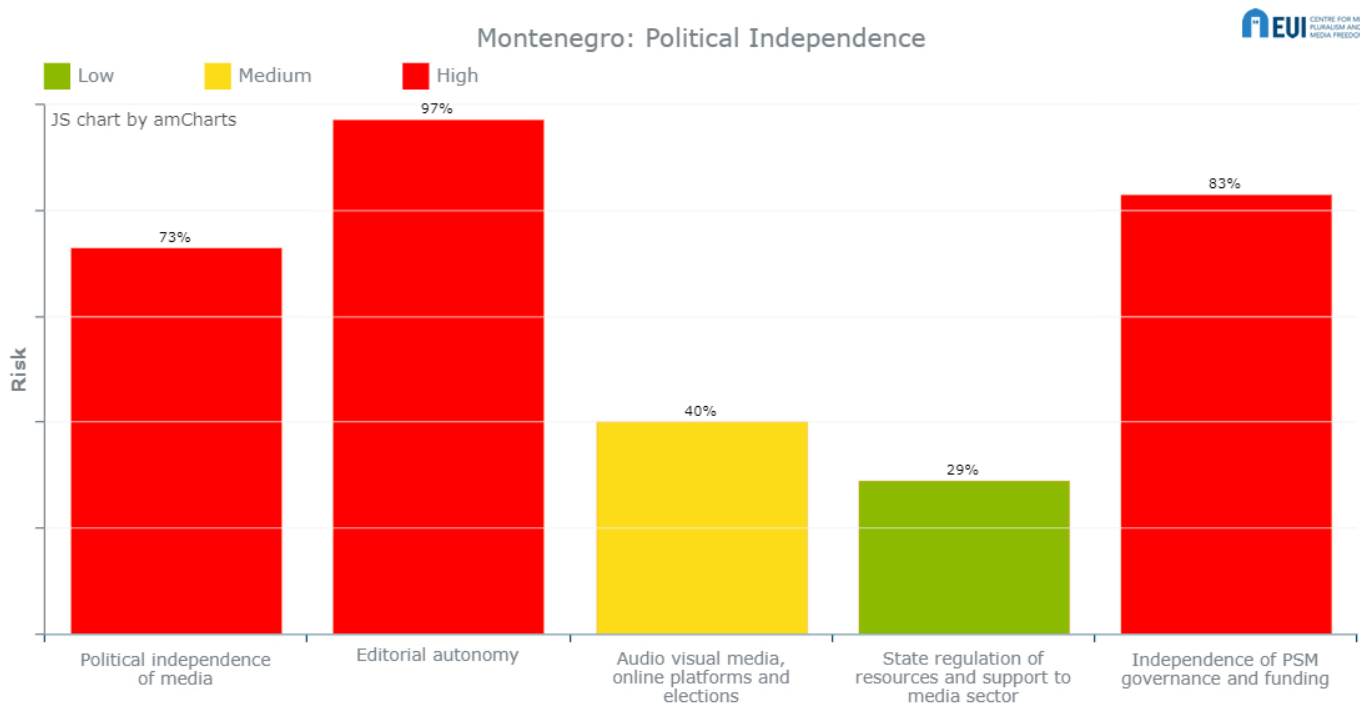
The indicator on **Commercial and owner influence over editorial content** scored a high risk (**88%**), which is up by 13 percentage points from the last year. Montenegrin legislation and regulation do not provide any mechanisms granting social protection to journalists in the case of changes of ownership or editorial line.

Moreover, such safeguards do not exist even for appointments and dismissals of editors-in-chief. Participation of journalists in advertising activities is mentioned solely in the Code of Ethics for Journalists, which states that "a journalist must not engage in advertising and propaganda work", but the Code is generally not closely adhered to in practice.

Owners' influence over editorial content is deemed as one of the main reasons for self-censorship in the media, which is recognized as one of the overarching problems by the Trade Union of Media in Montenegro (Camović-Veličković and Laković-Konatar, 2021). According to their research in media freedoms and security, covert pressure is present in many newsrooms when it comes to the selection of topics, desirable interlocutors and points of view. Their survey further states that hidden advertising and writing in favour of advertisers can be found in almost all media on a daily basis. Based on anonymous interviews given to the media union, in the most blatant cases, Montenegrin media, for the major part, do not have internal regulations on the separation of newsrooms and journalists from marketing and managers. It is, for example, quite common for news anchors to engage in commercials and voice-over the advertising messages.

3.3. Political Independence (64% - medium risk)

The Political Independence indicators assess the existence and effectiveness of regulatory and self-regulatory safeguards against political bias and political influences over news production, distribution and access. More specifically, the area seeks to evaluate the influence of the State and, more generally, of political power over the functioning of the media market and the independence of the public service media. Furthermore, the area is concerned with the existence and effectiveness of (self)regulation in ensuring editorial independence and the availability of plural political information and viewpoints, in particular during electoral periods.



The mainstream media in Montenegro are mostly politically affiliated, and often editorially, and to an extent economically, dependent on the political interests behind them. The total score for the area is unchanged in comparison to the year before, although the indicators of editorial autonomy and independence of PSM governance and funding increased the risk levels, fueled by political changes following the 2020 parliamentary elections. On the other side, more control has been introduced into the state's support of the media sector.

The indicator **Political independence of media** scored a high risk (73%). It is legally forbidden for politicians to have ownership in media, but indirect influences are overwhelmingly present. The link between politics and media in Montenegrin society became even more obvious in 2021, soon after the August 2020 elections and the fall of the 30-year-long regime of veteran leader Milo Đukanović and his Democratic Party of Socialists. The new political structure in the Parliament elected new management of national public broadcaster RTCG, previously notoriously close to the ex Djukanovic's regime. As the dominantly pro-Serbian opposition assumed power, another national broadcaster, Prva TV has changed manager and editor, one of them even being an ex-MP of the winning party. During the year, several new entrances to the market came along the political line. For example, a company with foreign capital and Serbian management, which media connect with local pro-Serbian politicians, Adria MS, bought a majority stake in TV A1 and one

local radio station. On the other hand, the local parliament of the capital city Podgorica, which is still predominantly run by Djukanovic's party DPS, put in operation radio and television station Gradski radio and TV, which should function as public service media, but soon was faced accusations for its reportedly biased and exaggerated critics of the new ruling parties.

The indicator **Editorial autonomy scored a high risk (97%)**, 9 percentage points higher than the year before. The independence of the editorial board is not guaranteed by any law or internal acts in the media. The founders and owners of the media have the main say in choosing the editor-in-chief and the entire editorial network in the media. In that way, they are the ones who, through their loyal editors, provide control of the content in the media. There are no examples of the Self-Regulation Council or media ombudsmen ever publicly reacting to protect editorial independence from political influence. The public perception of editorial independence is also very low. The public poll conducted by the Centre for Democracy and Human Rights – CEDEM from February 2021 on the topic of media and media freedoms, showed that around 40 percent of citizens consider that media work in the interest of politicians, and their owners respectively. This leaves only 20 percent of citizens believing that media work in the interest of citizens.

The indicator **Audio visual media, online platforms and elections** is at medium risk (**40%**), slightly lower than the year before. Regulatory framework for equitable representation of various political actors and views in audiovisual media, especially during election campaigns, as well as regulation of political advertising is mostly applied in practice. In 2021, several local elections were held, and according to the monitoring reports of the regulator - the Agency for electronic media, RTCG, the national PSM did provide a balanced representation of political actors. However, the local PSM did not, confirming once again the partisan influence of the local authorities. After the political changes following the 2020 parliamentary elections, new RTCG management has been appointed, which as a result provided a more politically balanced representation in their program. The Law on the Election of Councilors and Deputies prohibits public officials from abusing their media appearances as public officials to advertise their political program during the election campaign, but this is often not enforced in practice. There is no national regulation in online news media or online platforms that would ensure equal opportunities and transparency of political advertising during the election campaign.

The indicator **State regulation of resources and support to media sector** is at low risk (**29%**), sliding down 21 percentage points from the previous year. There is no clear legal framework for direct state assistance to the media in Montenegro, but a complementary framework has been introduced in the area. The Law on Media (2020) obliged public sector bodies to publish all the records on payments to the media based on advertising and other contracted services on their website. The effects of this measure will be visible later in 2022. In 2021, the state has set up the Fund for Encouraging Pluralism and Diversity of the Media and allocated 0.08% of the adopted annual budget. The first grants were awarded in December 2021 in fair and transparent procedure. There are no yet systematised reports on the help provided as a response to the COVID-19 crisis. However, media research (*Od svakog pomalo ni od kog dovoljno*, 2021) show that during 2020 and 2021 the state has provided around 2,5 million euros worth of both direct and indirect help to the media to combat the effects of the COVID-19 crisis.

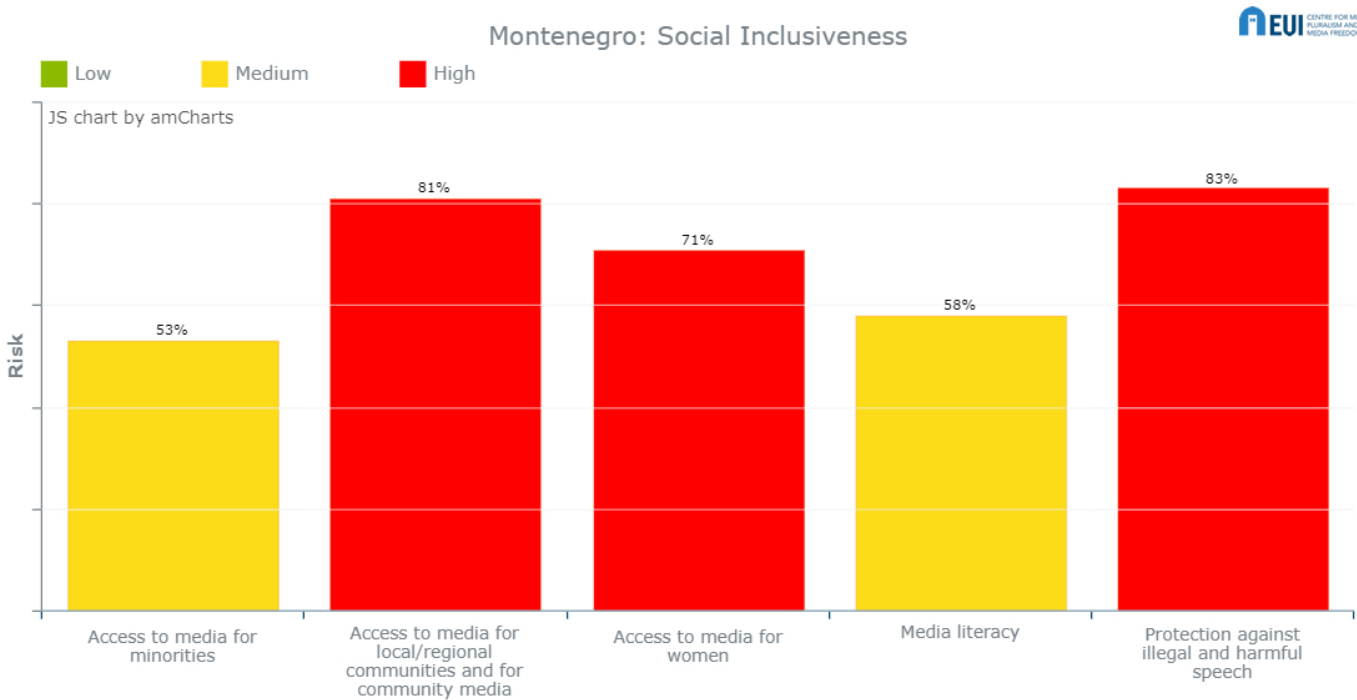
The indicator **Independence of PSM governance and funding has a high-risk score (83%)**, which is 16 percentage points up from the previous year. The national PSM has for years been under the government's control. The election of the PSM Council is firmly in the hands of the parliament, so in 2021, following the parliamentary elections, the new administration appointed a new RTCG Council, and the subsequent management change followed. In 2021, domestic courts declared illegal the dismissals of former members

of the RTCG Council and subsequently its management from 2018, which indirectly confirmed the past practice of undue political interference and pressure on the RTCG.

PSM is primarily financed from the state budget. A special law specifies that 0.3% of the country's GDP is allocated for the basic activity of the national PSM. The Law on Electronic Media stipulates that the budget of local self-government units provide part of the money for "exercising the constitutionally and legally guaranteed rights of citizens to information, without discrimination". It is not specified what percentage of that amount should come from the budget. There are no safeguards that PSM funding adequately covers the public service missions or that isn't distorting competition with private media actors. PSM broadcasters make up 52% of the entire media market.

3.4. Social Inclusiveness (69% - high risk)

The Social Inclusiveness area focuses on the access to media by specific groups in society: minorities, local and regional communities, women and people with disabilities. It also examines the country's media literacy environment, including the digital skills of the overall population. Finally, it also includes new challenges arising from the uses of digital technologies, which are linked to the Protection against illegal and harmful speech.



The Social Inclusiveness area remains at high risk (69%) with 4 percentage points decrease in comparison to the previous year. The positive impact is made with the establishment of a state fund for Encouraging Media Pluralism and Diversity, which opened the possibility for otherwise non-existent support for local and regional media. Another, though slight, positive change is in the representation of women in the governing body of the national PSM. Disinformation risks, on the other side, keep an upward trend in the environment of political instability and lack of systematic response from the state.

Access to media for minorities is at medium risk in Montenegro (53%). Public broadcasters are legally obliged to produce and broadcast programs in minority languages^[10]. In Montenegro, Albanians and Roma are the only minority whose languages differ significantly from the language of the majority. The content in these two languages is broadcasted at national public broadcaster RTCG, and local public broadcaster

Radio Ulcinj, as in the municipality of Ulcinj Albanians make up the majority of the population. Albanians and Roma do not have access to private TV and radio stations that have a national frequency, but there are several local and regional stations with programs in the Albanian language.

Regarding the access to media for people with disabilities, the specially adapted programs for this audience group are at a worryingly low level, both in terms of quantity and diversity. The first program of the national PSM is the only television channel that provides content in sign language, and only for a small part of the central news show. Private media do not provide sign-language interpretation or audio description. The exception is Radio Homer, a non-profit company that produces programs for the visually impaired. This radio broadcasts approximately 3,000 minutes of non-musical, informative and educational content per week. Sign language is still not legally regulated and officially recognized in Montenegrin legislation.

Access to media for local and regional communities and for community media is at high risk (**81%**), which is 16 percentage points less than in the previous edition of the MPM. The community media are non-existent in Montenegro, or at least such form of media organisation and operation is not foreseen by the current media legislation. There are no special guarantees or reservations for local/regional media nor does the state have any legal support schemes for local/regional media. In 2021, the state Fund for Encouraging Media Pluralism and Diversity, which is financed with 0,09% (approx 0,8 mil euros) of the current budget has been established (Art 17– 23, Media Law 82/2020). The Ministry of Public Administration, Digital Society and Media, which decides on the distribution of the budget for print media and online publications, granted in December 2021 309 thousand euros to 32 selected media projects. The remaining 60 percent portion of funds are earmarked for commercial and nonprofit AV media, to be distributed by the Agency for electronic media in 2022. Part of the funds is specially allocated for local and regional media.

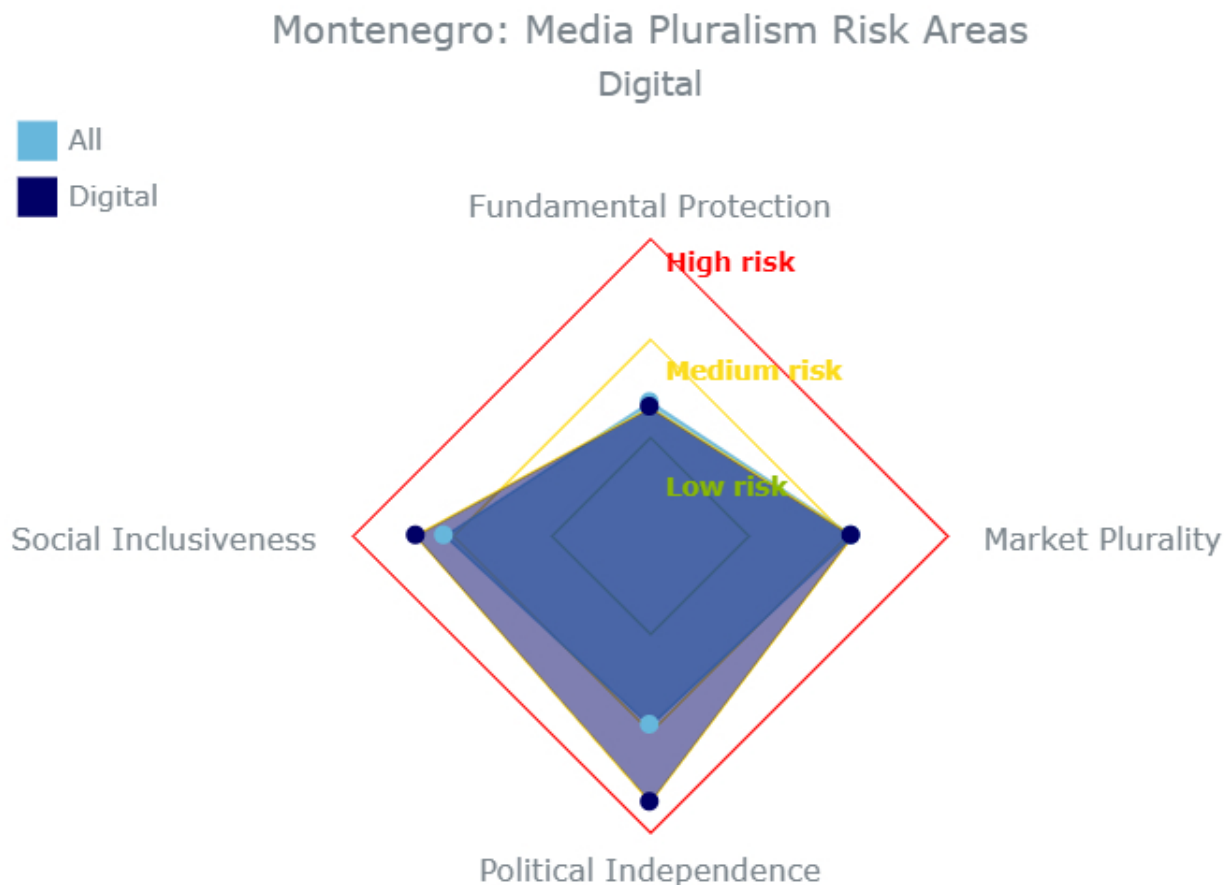
Access to media for women is at high risk (**71%**), but slightly lower than the year before. Montenegrin PSM does not have a gender equality policy, and women are occupying one-third of governing and directorial positions. The same percentage of women is found in executive positions of leading private televisions. There is even fewer women in positions of editors-in-chief, only 2 out of 8 analysed leading news providers. Women are underrepresented also in the very content of news programs. According to the Analysis of Visibility of Women and Men and the Use of Gender-Sensitive Language in Central News of National Televisions, done by the regulatory agency AEM in March 2021, women gave only 23 percent of all statements^[11].

The indicator on **Media literacy** scored medium-risk (**58%**). Thanks to numerous initiatives of civil society in the last few years, raising awareness of the danger of disinformation, media literacy has received renewed attention focus. In 2021, the newly elected government has started working on the media strategy (2022-2025), which includes programs for raising media literacy. In formal education, media literacy was present as an elective course in the second or third grade of grammar school since 2009 and is taught for three semesters in journalism studies at the State University since 2018. At the level of high schools, the course was taken by just several hundred out of 32 000 students each year. In 2021, the National Coalition for media literacy proposed to the educational authorities that media literacy becomes an elective subject in all high schools and primary schools in Montenegro. Replying to the initiative, the national Bureau for education recommended the introduction of media literacy for the final grades of primary schools. The Bureau has already trained around 150 teachers of media literacy, and more received informal training through civic sector initiatives, mainly initiated by Montenegro Media Institute. It is still difficult to evaluate the effect of these initiatives and see their impact on the risk level for the indicator.

The indicator on **Protection against illegal and harmful speech** scored high-risk (**83%**), slightly higher than last year. In Montenegro, disinformation is powerfully present as a tool in internal political competition used particularly by the long-standing DPS-dominated government to discredit its opponents. Although Djukanovic's regime has been changed in late 2020, with dominantly pro-Serbian parties forming the government, deep divisions in the society continued to fuel the propaganda war. For example, during the campaign for local elections in Niksic in March 2021, the intensity of disinformation was equally high^[12]. Such political campaigns often promote ethnic divisions and historical revisionism, which is also helped by the strong presence of Serbian and Russian media.

Self-regulatory mechanisms are very limited and ineffective, and the state has attempted to curb disinformations by applying the criminal offence of "causing panic and disorder" (Article 398, Criminal Code). For the duration of 2021, the authorities embarked on drafting a mid-term media strategy and the change of the set of media laws that would regulate this area. Strategic directions in this process are strengthening media literacy and currently hardly existent self-regulation. There are indications that this approach is desirable, as the surveys^[13] show that more than half of citizens are either not familiar with the term "fake news" or they do not know what it means. In addition, less than a quarter of citizens believe that they can recognise false information.

4. Pluralism in the online environment: assessment of the risks



JS chart by amCharts



Fundamental Protection (43% - medium risk)

The Fundamental Protection area in the online environment scored medium risk, with no significant differences to the offline media and last year's score. With regard to freedom of expression, online media are treated equally as traditional ones by the general Media law (82/2020). Both rights and restrictions are set in line with international standards, but the mechanisms for prevention of illegal, offensive or misleading content online prove insufficient. Online media are obliged to block inappropriate users' comments, to delete comments that are not in line with the law or internal rules of the media within 60 minutes. All users can complain to the content of comments, and the media is obliged to respond to complaints in writing within 12 hours.

In May 2021, a first-instance court issued the first decision awarding compensation in the case against the government publicizing on its official websites data on persons subject to COVID19 measure of self-isolation in spring 2020. The act was declared to be in violation of the Constitutional right to privacy by the Constitutional Court in July 2020. Several hundred such claims are currently pending before the courts. ^[14]

Cases of endangering the safety of journalists online are taking a growing trend in the past several years. In 2021 there were 7 reported cases of threats to journalists and media via social networks including death threats. In 2020, there were 4 such cases and in 2019 only 1. Online treats targeted female journalists also. In June 2021, the editor of the Parliamentary channel of Radio and Television of Montenegro (RTCG) Slavica Kruščić Vasović, reported to the police that she was receiving offensive messages, photos and explicit video content via electronic communication. The perpetrator was arrested under the misdemeanour charges (Civic Alliance, 2021).

Although announced in 2019, there is still no law that contains explicit rules on the protection of journalists and their data from illegal surveillance by the law enforcement sector that transposes provisions of the

General Regulation on Personal Data Protection (GDPR). Additionally, in early 2021, criminal investigations were opened against the former head of the National Security Agency and several officers of the Agency for alleged unlawful surveillance of former opposition parties' representatives, leaders of the Serbian Orthodox Church and two journalists (Jovanovic, 2021).

According to official statistics, in 2021, 80.8% of households had access to the Internet, while its average speed was 40.14 Mbps which ranks Montenegro 57th in the world.

Net neutrality is not yet specifically treated in Montenegrin legislation. There is no evidence that the State or ISPs have been arbitrarily filtering, blocking or removing online content or services.

Market Plurality (68% - high risk)

In the digital environment, the risk associated to the Market Plurality area is high, and it increased by 8 percentage points in comparison with the previous year's assessment. Media law (2020) obliges digital media, "to provide simple, direct and permanent access to data on legal and natural persons that directly or indirectly have more than 5% share in the founding capital of the media", under the threat of non-compliance fee range of 1.000 to 8.000 euro. It is obvious, however, that the legal norms are not fully respected in practice, as there are still online media with a considerable audience that operate without proper Impressum. For example, the portal IN4S (www.in4s.net) lists Cuban boxer Félix Savón as its editor-in-chief.

The supervising authority, in charge of keeping the registry of online media, is the Ministry of Public Administration, Digital Society and Media, founded in December 2020, but such a public register is still not formed.

It is not possible to calculate the size of the online news media market in the country, as they often operate within larger companies, not necessarily in the media domain, and their business performance is not reported separately. Also, those registered by NGOs or private persons do not file financial reports to the Revenue and Customs administration registers, which is the only available source of business data.^[15]

Additional problem is that legal provisions on media concentration, as prescribed in the relevant Law on electronic media, do not apply to digital native media. Online media mostly rely on advertising revenues, as none of the local online news media has subscription fees and alternative sources of revenue in Montenegro are very limited.

Online media are able to compete for state funds for media pluralism and diversity, along with traditional media. In 2021, 32 online media received support for encouraging media pluralism.

Political Independence (91% - high risk)

Some of the most influential online media are notorious for their open political preference and political control. Those considered supportive to the ex-regime, and owned by businessmen close to the Democratic Party of Socialists, led by the state president Milo Djukanovic, were characterized by the lack of reports on corruption and government-related crimes, as well as the harsh criticism of their political rivals. On the other hand, the news portals In4S and Borba, are under the direct influence of political parties that are considered pro-Serbian and pro-Russian. In 2021, their political bias was the most obvious in election periods. The analysis of media reporting prior to local elections in Niksic (March 2021), done by of Digital Forensic Centre^[16], shows that portals CDM and Analitika strongly supported the DPS party, and Borba and IN4S the pro-Serbian opposition. Their report even indicates that clusters of online media organised along political affiliations acted in an organized manner, and under foreign influence, mainly from Serbia.

When it comes to elections, there is no regulation that would ensure equal opportunities and transparency of political advertising in online news media during the election campaign. Political advertising on online platforms is also vastly unregulated. The only applicable regulation is that of the social network Facebook introduced in August 2020 which requires all political ads to pass the authorization of the advertiser and to

contain information about who paid for the ad (statement of responsibility "Paid by").

The Law on financing political subjects and electoral campaigns obliges political parties to report on the election campaign costs to the Agency for prevention of corruption, which then makes the reports available to the public. Following the local elections in Nikšić (March 2021) and Herceg Novi (May 2021) the reports published by the Agency, contain only the total amounts spent on two related categories - internet advertising, and advertising through banners/online portals. It is impossible to tell, however, how the money was spent on online platforms.

Civic sector researchers (Local elections of regional importance, 2021) point out to detrimental processes in the online sphere that could influence voters' behaviour, by identifying fake pages, groups and profiles that share politically motivated content, which in many cases contain inappropriate and defamatory content.

Social Inclusiveness (79% - high risk)

In this area the digital score is 26 percentage points higher than the year before mainly because of the lack of proper response to curb the growing spread of disinformation and online hate speech. The new state administration (from late 2020) broke with the practice of arresting journalists for publishing fake news but failed to find a proper solution to dealing with this problem. Previously, authorities retorted to criminal prosecution of distributors of fake news on the charges of "causing panic and disorder" (Article 398, Criminal Code), as the most applicable legal solution. Civic initiatives^[17] challenged this practice with the Constitutional court, claiming that the criminal offence of "causing panic and disorder," which sanctions "false news" as a form of defamation, deviates from the legal order of Montenegro since it contains the punishment of imprisonment and formulations that depart from international standards of freedom of expression.

Self-regulatory mechanisms are very limited and ineffective, especially since Montenegro does not have a single self-regulatory body that would gather considerable membership and thus significantly contribute to the promotion and improvement of professional standards. Since August 2020, Raskrinkavanje.me, together with the Agency France-Presse (AFP), has become a part of an independent fact-checking program in Montenegro launched by the social platform Facebook.

Hate speech is penalized by both media and criminal legislation, but remains very present, especially on social media, and it affects ethnic and religious groups, minorities, and women. The police data show^[18] that between November 1, 2019 and April 15, 2021, police initiated 64 cases concerning the incitement of national, religious and racial hatred, causing panic and disorder and endangering security on the Internet.

This sentencing track record, however, did not contribute to curbing hate speech. In its 2021 report on Montenegro's progress toward EU membership, European Commission noted that incidents of ethnically and religiously motivated attacks, hate crimes and hate speech continued to rise.

The Office of the Protector of Human Rights and Freedoms also noted an increased number of hate speech complaints (2019:1, 2020:7, Sep 2021:13). The Ombudsman office states^[19] that on a far greater number of occasions, instead of formally lodging complaints, citizens inquire about available mechanisms to have a comment they perceive as hate speech removed from social networks or portals as soon as possible. Currently, none of the state authorities has the mandate to monitor social media or the comments on news websites, and therefore it is not possible to quantify, analyse and systematically counter the incidents of hate speech on social media.

5. Conclusions

Fundamental Protection

Long court proceedings diminish the effectiveness of processing offences against freedom of expression and a large number of appeals indicate the ineffectiveness of mechanisms of free access to information.

Recommendations

- **Further strengthening of institutional capacities of the Agency for protection of personal data and free access to information and relevant regulatory framework.**

Political Independence

Existing legal solutions allow political power to control the PSM at the national and local levels. Direct and partly unregulated financing from the state or local budgets makes the dependent position of PSM more pronounced. Political influence on commercial media is also strong, with no available safeguard to protect editorial and journalistic independence from owners and commercial interests that may be politically motivated.

Recommendations

- **The law on national public broadcaster RTCG should introduce safeguards as to the election of Council members to prevent the influence of the political authorities on their work and indirectly the selection of managers and editorial teams in the PSM.**
- **The law on electronic media should further define the manner and scope of financing of local public service broadcasters from the municipal budgets, and introduce safeguards that would prevent political influence in the election of council members of local PSM.**
- **Strengthen the role of editors and conditions for their appointment and dismissal through media legislation. In addition, the legislation should provide sanctions for non-compliance with professional and program standards.**
- **Introduce a clear set of rules and limitations for transparent monitoring of online and social media campaigns in the Rules on electoral advertising to limit undue political influence on digital native media and through online platforms.**

Market Plurality

Transparency of media ownership is limited, especially in cases of media founded by foreign capital and online media. Rules on illegal media concentration do not encompass online media, which poses a risk to market competition and transparency.

Recommendations

- **State media authority should establish a register of beneficial owners of the media.**

- **Expand horizontal and cross-media concentration limitations to include digital media. It would also be recommendable to establish a single ownership register for all media and a single regulatory authority that would monitor compliance with cross-ownership rules.**
- **Introduce rules in financing public service media that would take into consideration not only the national budget but also the scale of the media industry, as safeguards of market competition and media plurality.**

Social Inclusiveness

Disinformation and hate speech in online media and social platforms is very present with no adequate response from the state authorities in limiting it. The social inclusiveness of media is limited by the lack of content with persons with disabilities and the underrepresentation of women.

Recommendations

- **Introduce monitoring services within relevant media authorities that could identify and sanction illegal content in online media.**
- **Strengthen the cooperation of media authorities with law enforcement agencies in combating hate speech. Establish the cooperation of national media authorities and global internet and social media platforms to facilitate the identification and prevention of dissemination of offensive and illegal media content.**
- **Improving curricula and practices of formal and non-formal education of journalists and other media professionals**
- **Encouraging the development and maintenance of community media, especially media intended for vulnerable and marginalized social groups, with money from the state fund for media pluralism and diversity.**
- **Introduce gender equality policy in public service media and obligatory content quota of programs for persons with disabilities.**

6. Notes

- [1] As introduced by the amended Law on media (82/2020), as of 2021, the state will allocate at least 0.09 percent of the national budget to the Fund for Encouraging Pluralism and Diversity of Media for funding projects of commercial and non-profit media aimed to increase the volume, structure and diversity of their program content dedicated to thematic areas of public interest.
- [2] Law on Media, Official Gazette of Montenegro, no. 82/2020, available at: <https://wapi.gov.me/download-preview/101e4ce0-3a5e-4c04-a81a-5287551a6a82?version=1.0>
- [3] Criminal Code of Montenegro, Official Gazette of the Republic Montenegro 70/2003, 13/2004, 47/2006 and Official Gazette of Montenegro 40/2008, 25/2010, 32/2011, 64/2011, 40/2013, 56/2013, 14/2015, 42/2015, 58/2015, 44/2017 and 49/2018, available at: https://www.legislationline.org/download/id/8406/file/Montenegro_CC_am2018_en.pdf
- [4] The Trade Union of Media of Montenegro's (TUMM) analysis "Facts v. Lawsuits - ten years since decriminalization of defamation in Montenegro" from February 2021 showed that during the ten-year period since defamation was decriminalized, the media have been sued as many as 210 times claiming the total sum of 3 million Euros. However, the final ordered sum by the first instance courts was about 90% less than claimed.
- [5] The Draft law on the amendments to the Law on free access to information has been adopted in December 2021. <https://www.gov.me/en/article/cabinet-adopts-draft-law-on-amendments-to-the-law-on-free-access-to-information>
- [6] Chapter III of the Law on the Prevention of Corruption ("Official Gazette of Montenegro" No. 53/14), which was enacted in 2014 and came into force in 2016, regulates the procedure for filing a whistleblower report, the manner of deciding upon it, and the procedure for the protection of whistleblowers. Full text of the Law is available here: https://www.rai-see.org/php_sets/uploads/2021/04/RAI-Law-on-Prevention-of-Corruption-Montenegro-EN.pdf
- [7] Jelena Jovanovic, Peruničić opet pod lupom zbog prislušivanja, vijesti.me, available at: <https://www.vijesti.me/vijesti/crna-hronika/571561/perunicic-opet-pod-lupom-zbog-prislusivanja>
- [8] Electronic media law, Official Gazette of Montenegro no. 046/10 of 6 August 2010, 040/11 of 8 August 2011, 053/11 of 11 November 2011, 006/13 of 31 January 2013, 055/16 of 17 August 2016, available at: <http://aemcg.org/wp-content/uploads/2011/11/Electronic-Media-Low-17.08.2016.pdf>
- [9] In 2021 the relevant Ministry supported 22 media projects aimed at informing the public on COVID vaccination with 150 thousand euros and provided aid to commercial media in paying the broadcasting fees to the amount of 377 thousand euros.
- [10] The Law on electronic media (055/16, 2016) prescribes that the public broadcaster should exercise the public interest, among other things, by "producing and transmitting programmes in languages of minority nations and other minority communities within the areas where they reside", Art 74, para 6. It also states that public broadcasters should "produce and transmit programmes expressing Montenegrin national and cultural identity, and cultural and ethnic identity of minority nations and other minority communities", Art 74, para 5
- [11] aemcg.org/wp-content/uploads/2021/03/Analiza-vidljivosti-zena-i-muskaraca-mart-2021.pdf
- [12] Zastave i dezinformacije bitnije od programa za građane, CDT, <https://www.raskrinkavanje.me/analize/zastave-i-dezinformacije-bitnije-od-programa-za-gradane/>
- [13] Media and media freedoms, CEDEM, <https://www.cedem.me/en/publications/empirical-research/other-opinion-polls/send/32-opinion-polls/1995-media-and-media-freedom>
- [14] <https://www.slobodnaevropa.org/a/obestecenje-crna-gora-spisak-kovid-samoizolacija/31624362.html>
- [15] The research conducted by the Trade Union of Media "Socio-economic position of media workers

2021" showed that in 2021 there were 109 news portals and 78 of them were digital natives. Out of those, business data for 2020 were available only for 48 of them. Their total revenues amounted to one million and 479 thousand euros.

- [16] Local Elections of Regional Importance, Digital Forensic Center, 2021, <https://dfcme.me/en/publications/other-publications/>
- [17] A statement on the occasion of invoking the provisions related to the criminal offence "Causing panic and disorder" and imprisonment of journalists on that occasion, Human Rights Action, 2020, <https://www.hrraction.org/2020/01/13/saopstenje-akcije-za-ljudska-prava-povodom-primjene-krivichnog-djela-izazivanje-panike-i-nereda-i-zatvaranja-novinara-tim-povodom/>
- [18] Call to Lynch: The War of Words Threatening Montenegro's Delicate Balance, Balkan insight, <https://balkaninsight.com/2021/08/02/call-to-lynch-the-war-of-words-threatening-montenegros-delicate-balance/>
- [19] Bogdanovic Milica, National regulatory and self-regulatory framework against hate speech and disinformation: <https://seenpm.org/wp-content/uploads/2021/12/Factsheet-Montenegro-Resilience-project.pdf>

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Andela Radovanović, program manager at the Association of Youth with Disabilities of Montenegro

Nevena Kovačević, Union of the Blind of Montenegro

ANNEXE I. COUNTRY TEAM

First name	Last name	Position	Institution	MPM2022 CT Leader
<i>Daniela</i>	<i>Brkic</i>		<i>Independent Researcher</i>	X

ANNEXE II. GROUP OF EXPERTS

The Group of Experts is composed of specialists with a substantial knowledge and recognized experience in the field of media. The role of the Group of Experts was to review the answers of the country team to 16 variables out of the 200 that make up the MPM2022. Consulting the point of view of recognized experts was aimed at maximizing the objectivity of the replies given to variables whose evaluation could be considered as being subjective, and, therefore, to ensure the accuracy of the final results of the MPM. However, it is important to highlight that the final country report does not necessarily reflect the individual views of the experts who participated. It only represents the views of the national country team that carried out the data collection and authored the report.

First name	Last name	Position	Institution
<i>Vuk</i>	<i>Vukovic</i>	<i>Assistant Professor, Producer</i>	<i>Faculty of Dramatic Arts, University of Montenegro</i>
<i>Vesna</i>	<i>Rajkovic Nenadic</i>	<i>Program Coordinator, also member of the board of Association of professional journalists</i>	<i>Montenegro Media Institute</i>
<i>Goran</i>	<i>Djurovic</i>	<i>Director</i>	<i>Media Center</i>
<i>Milan</i>	<i>Radovic</i>	<i>Program Director</i>	<i>Civic Alliance (CA)</i>
<i>Boris</i>	<i>Jevric</i>	<i>Assistant Director</i>	<i>Agency for Electronic Communications and Postal Affairs</i>
<i>Mihailo</i>	<i>Jovovic</i>	<i>Program Director</i>	<i>Daily Vijesti</i>
<i>Jadranka</i>	<i>Vojvodic</i>	<i>Deputy Director</i>	<i>Agency for Electronic Media</i>

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