Media Pluralism in Austria

A Test implementation of the Media Pluralism Monitor 2015

Author:

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October 2015

¹ Data collection was carried out with the help of Maren Beaufort, MA.
**About the project**

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the Member States of the European Union. This narrative report has been produced within the framework of the second pilot test implementation of the MPM, which was carried out in 2015. The implementation was conducted in 19 EU Member States with the support of a grant awarded by the European Union to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

The Monitor’s methodology is based on research carried out by national country teams in the 19 countries, except for Malta where data collection was carried out centrally by the CMPF team. The research is based on a standardised questionnaire and apposite guidelines that were developed by the CMPF. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly sensitive questions (see Annexe I for the list of experts).

Risks to media pluralism are examined in four main thematic domains, which are considered to capture the main areas of risk for media pluralism and media freedom: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area. The Basic Protection domain consists of four indicators; Market Plurality has three, while Political Independence and Social Inclusiveness each contain six indicators.

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<th>Basic Protection</th>
<th>Market Plurality</th>
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<tbody>
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<td>Protection of freedom of expression</td>
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The results for each domain and indicator are presented on a scale from negligible to 100%, a negligible risk being the lowest, and 100% risk being the highest score. Scores between negligible and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.
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Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team who carried out the data collection.²

² The only exception regards the assessment of ‘negligible risk’ for indicators ‘Politicisation of control over media distribution networks’ and ‘Availability of media platforms for community media’. National team does not fully agree with the final evaluation resulted from the applied methodology.
1. Introduction

After a long period of relatively stable market conditions, the Austrian media system is undergoing profound changes. In the last decade, the dual system of public and private broadcasters, introduced as late as 2001, has led to a decline in the audience share of Public Service Broadcasting, while the growing market share of free daily newspapers has intensified the competition in the newspaper industry. In contrast to the delayed introduction of the dual broadcasting system, new communication technologies have diffused rapidly throughout the country, and the use of online media, particularly of social network services, is rising dramatically. The print media is characterised by a small number of large, nationally distributed newspapers and magazines, a few regional newspapers, particularly distributed in the Western and Southern provinces, and a declining degree of concentration of ownership in a former highly concentrated market. At the same time, cross-media concentration is on the rise (Lohmann & Seethaler 2016).

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3 All data on market shares and concentration rates mentioned in this paper are based on this study.
2. Results from the data collection: assessment of the risks to media pluralism

Figure 1 Media Pluralism Monitor 2015 - Austria, Results by Risk Domain

The implementation of the MPM2015 for Austria seems to indicate low and medium risks for media pluralism in the country. Two domains (‘Basic Protection’ and ‘Social Inclusiveness’) score low risk, while the other two (‘Market Plurality’ and ‘Political Independence’) score medium risk. Furthermore, 11 of 19 indicators assess a medium or high risk. Risks to media pluralism in Austria are primarily due to the lack of protection for the right to information, the politicisation of control over media outlets, political bias in the media, the concentration and lack of transparency in media ownership, influence over the financing of publicly supported media, limited access to the media of different social and cultural groups, and the tendency to the centralisation of the media system. There are also insufficiencies in broadband coverage.
2.1 Basic Protection (25% risk - low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

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<tr>
<td>Protection of freedom of expression</td>
<td>3% risk (low)</td>
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<tr>
<td>Protection of right to information</td>
<td>88% risk (high)</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>4% risk (low)</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td>6% risk (low)</td>
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</tbody>
</table>

The MPM analysis shows that freedom of expression is well protected in Austria (low risk). Freedom of expression is recognized in Article 13 of the December Constitution of 1867, to which the Austrian Federal Constitution of 1930 refers to in Article 149. Austria ratified the European Convention on Human Rights (ECHR), protecting freedom of expression in Article 10, in 1958. Since 1964, the Convention is part of the Austrian constitution, and all restrictions are in accordance with Article 10 ECHR. In addition, Austria ratified the International Covenant on Civil and Political Rights ICCPR in 1978, but regulations of implementation are still missing.

In case of violations of freedom of expression a citizen may appeal to the Austrian Constitutional Court and the European Court of Human Rights. Today, the legal remedies against violations of freedom of expression can be considered as effective; however, in prior years, the European Court of Human Rights (ECHR) has overturned a considerable number of national courts’ decisions. To date, there have been no serious violations of freedom of expression online.

Regarding the sensitive question of criminalisation of defamation, Article 111 of the Austrian Criminal Code allows for increased prison sentence for defamation and insult (there is a separate “insult” law in addition to libel laws), when defamation has been made accessible to a wider public by means of the mass media, particularly in cases of insult to state symbols. Moreover, Article 6 of the 1981 Media Act provides for strict liability of the publisher. On the other hand, according to a 2014 report by the International Press Institute, there are specific clauses in law protecting journalists from liability as long as they have observed basic journalistic duties (Article 29 of the 1981 Media Act), and Austria is one of only two EU countries, which currently provide statutory caps on non-pecuniary damages in defamation cases involving the media.

The MPM results point to a high risk regarding the protection of right to information. Article 20(4) of the
Federal Constitution states that there is a right to information. However, the obligation of administrative authorities to maintain secrecy has precedence. In case of denial to access information, there is only the right to lodge a judicial appeal with the Federal Administrative Court, in line with the General Administrative Procedures Act. However, there are no clear procedures (including timelines) in place for dealing with such appeals; in the appeal process the government does not bear the burden of demonstrating that it did not operate in breach of the rules; requesters have no right to lodge an external appeal with an independent administrative oversight body. In line with the high risk score revealed by the MPM, the situation concerning the right to information was considered the worst among 103 countries in a 2013 study done by Access Info Europe and the Centre for Law and Democracy.\(^4\)

The indicator ‘Journalistic profession, standards and protection’ scores a low risk. Access to the journalistic profession is free and open. In a corporatist country like Austria, a broad section of journalists are represented by professional associations, but the organizational degree of Austrian journalism is in steady decline: from a representation of over 85% in the 1970s to slightly more than 40% in the last years. In the Journalistic Code of Ethics it is stated that economic interests of the owner of the media company should not influence editorial work; however, there is no recent data available on journalists’ perceived influences of media owners or commercial entities. Due to increasing economic pressure, social and job insecurity are on the rise. There are no cases of attacks or threats to the physical or the digital safety of journalists. Article 31 of the Media Act 1981 provides strong protection for the confidentiality of journalists’ sources. So far, there is no specific whistleblowing legislation in Austria.

The indicator ‘Independence and effectiveness of national authority’ scores a low risk.\(^5\) In 2001, the Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR) was established. RTR consists of two divisions (Media Division and Telecommunications and Postal Service Division) and provides operational support for the Austrian Communications Authority (KommAustria), the Telekom-Control-Commission (TKK) and the Post-Control-Commission (PCK). They all are separate legal entities, and fully independent from the government. Appointment procedures are transparent; duties and responsibilities are defined in detail in the law. KommAustria has regulatory and sanctuary powers. Decisions must be published and can be appealed before the Federal Administrative Court. RTR is financed by the markets as well as by federal funding, depending on the kind of activities. The organization’s business operations and annual financial statements are reviewed by external auditors. Its transparent work (and the independent status) has made KommAustria/RTR highly respected.

One of the central tasks of the Federal Competition Authority (established in 2002) is examining


\(^5\) NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).
notifiable mergers according to competition law. It can apply fines at the cartel court. In this regards the Authority’s decisions can affect the media market. Appeals of its decisions have to be addressed to the Independent Administrative Chamber. The members of the Federal Competition Authority are appointed by the Ministry of Economics and several corporatist organizations; rules on incompatibility have to be observed (according to the 1983 Act on Incompatibilities). The Director General is independent from orders of the ministry. Unfortunately, funding of the competition authority is not specified in law in accordance with a clearly defined plan, and it was sometimes criticized as being somewhat insufficient.

![Figure 2 Media Pluralism Monitor 2015 - Austria, Basic Protection Domain, results by indicators](image)

2.2 Market Plurality (38% risk - medium risk)

*The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.*

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<tr>
<td>Transparency of media ownership</td>
<td>38% risk (medium)</td>
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<tr>
<td>Concentration of media ownership</td>
<td>36% risk (medium)</td>
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</tbody>
</table>
All three indicators in the ‘Market Plurality’ domain show medium risk. In terms of transparency in media ownership, Media companies are obliged to publish their ownership structures on their website or in records/documents that are accessible to the public. This information has to be updated every year. Media law provides for administrative penalties to be imposed on companies that do not disclose information on their ownership structure. Nevertheless, some shareholders or investors and/or the amount of their investment (sometimes when banks are involved) remain unknown.

Concerning ‘Concentration of media ownership’, the legislation for the audiovisual and radio sectors contains specific restrictions regarding areas of distribution to prevent horizontal and cross-media concentration. However, these restrictions are not so tight, because – according to the private radio law and the private television law of 2001 – a media company is allowed to own several radio or TV stations if the areas of distribution do not overlap – even when the whole area of Austria is covered by these stations. The market share of the Top 4 audiovisual media owners is 56% (including foreign television stations with special “Austrian windows; without foreign television stations with special “Austrian windows”: 99%); the market share of the Top 4 radio owners is 93%. Audience concentration for the audiovisual media market is 43%, for the radio market 52% (2014). The market share of the Top 4 newspapers owners is 81%; readership concentration for the newspaper market is 71% (2013). Although cartel law includes particular rules concerning the plurality of the media, however, it was, at least in the past, ineffective in preventing mergers of big media companies (1988: “Mediaprint”; 2001: “Formil”-Deal). Unfortunately, no data are available on market shares, either for the TOP 4 Internet Service Providers, or for the TOP 4 Internet content provider owners.

In terms of the ‘Concentration of cross-media ownership’, in addition to the aforementioned restrictions regarding areas of distribution so as to prevent cross-media concentration, media companies that control more than 30% of the newspaper, magazine or radio market are not allowed to own a TV station. There is no similar regulation in the radio sector, thus opening the door for (almost all) Austrian provincial newspaper publishers to acquire regional and local radio channels. There is therefore quite a high degree of cross-ownership in the radio and newspaper sector.

Unfortunately, due to insufficient data, the ratio between the TOP 8 revenues across the different media sectors, and the whole revenue market across media sectors cannot be calculated. Based on estimates by the Austrian daily newspaper “Der Standard”, the eight biggest media companies make up 76% of the revenues of the 19 most important media companies.
2.3 Political Independence (41% risk - medium risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the media market, with a focus on state advertisement and public service media.

<table>
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<th>Indicator</th>
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<tr>
<td>Political bias in the media</td>
<td>39% risk (medium)</td>
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<tr>
<td>Politicisation of control over media outlets</td>
<td>50% risk (medium)</td>
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<tr>
<td>Politicisation of control over media distribution networks</td>
<td>Negligible</td>
</tr>
<tr>
<td>State advertising</td>
<td>58% risk (medium)</td>
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<tr>
<td>Independence of PSM governance and funding</td>
<td>50% risk (medium)</td>
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<tr>
<td>Independence of news agencies</td>
<td>50% risk (medium)</td>
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</tbody>
</table>

The indicator on ‘Political bias in the media’ shows medium risk. Media law imposes rules aiming at fair, balanced and impartial representation of political viewpoints in news programmes on PSM channels. The “Publikumsrat” (Viewers’ and Listeners’ Council) is tasked to actively monitor compliance with these rules and to hear complaints, but it does not have sufficient sanctioning powers. Besides the legal
obligations, in 2009, ORF implemented a quality-safeguarding system. Nevertheless, from time to time, there is public debate about whether ORF fulfils its obligation to create objective and well-balanced content.

Since 2002, political advertising in PSM is not allowed during election campaigns. Buying political advertising is allowed only in private channels. Equal conditions have to be guaranteed because of Article 7 of the Federal Constitution, which refers to the principle of equal opportunities for all political parties.

No obligation for fair, balanced and impartial reporting is mentioned in the Code of Ethics for the Austrian Press, which was first adopted in 1983 by the Austrian Press Council, and which was amended in January 1999. Actually, several content analyses provide evidence of some bias in political coverage on commercial channels and newspapers, whereas PSM channels offer a more balanced and impartial representation of the various political parties (Seethaler & Melischek 2014).

The indicator on the ‘Politicisation of control over media outlets’ indicates medium risk. There is no TV or radio channel owned and/or controlled by a specific political group, and the share of newspapers owned by politically affiliated entities is only 0.5% (2013). Some media owners may have political affiliations. However, there is currently no systematic research on this topic and the related data is not publicly available.

The two largest radio channels and the two largest TV channels (all PSM) have editorial statutes in place. Unfortunately, this does not apply to the two largest newspapers that, moreover, are not members of the Austrian Press Council.

The risk of the ‘Politicisation of control over media distribution networks’ is coded as negligible risk. However, the author underlines that this aspect of media pluralism cannot be fully assessed due to lack of studies relating to political affiliations and control over media distribution networks.

The indicator on state advertising show medium risk. According to the 2012 law on the transparency of media advertising and sponsoring, the government, public bodies and state-owned corporations are obliged to disclose their relations with the media (through advertisements and other kinds of support) each quarter. The Austrian regulatory authority KommAustria is required to publish the information, including the total amount paid to each named media company, on a quarterly basis. The National Court of Auditors has to check whether the published information is complete.

No reliable data is available on the share of state advertising as part of the overall TV, radio or newspaper advertising market. Nevertheless, there is public discussion about questionable practices in state advertising, because advertising orders are mainly given to a few important media outlets, but are not distributed amongst all media outlets (proportionally to their audience shares). From the viewpoint of liberal democracy, this seems to be problematic, because political autonomy is considered a necessary prerequisite for the functioning of the media system. The ‘Independence of PSM governance’ and funding is also assessed as being at medium risk. The law provides fair, objective and transparent appointment
procedures for the management and the board functions in PSM, but there is no administrative or judicial body tasked with actively monitoring the compliance with these rules and/or hearing complaints. On several occasions, conflicts have been publicly discussed concerning the appointments and dismissals of managers and board members of PSM, because of political/governmental attempts to influence these appointments.

The wages of PSM employees are specified in collective bargaining agreements. Due to missing legal regulations, provincial governors are allowed to use license fees partly for a purpose other than the one originally intended, but there is no direct government financing for the PSM.

The indicator on ‘Independence of news agencies’ shows medium risk: There is only one big news agency in Austria (and this is the only reason why the MPM score indicates a “medium risk”): the Austrian Press Agency (APA), founded in 1946 as a co-operative of almost all Austrian newspapers and the ORF. It is independent from political groups in terms of ownership, the affiliation of key personnel, or of editorial policy – and it is, therefore, highly respected. Besides APA, there are only very small, specialized news agencies, like “Pressetext” and “Kathpress” (with the latter belonging to the Catholic church).

![Figure 4 Media Pluralism Monitor 2015 - Austria, Political Independence Domain, results by indicators](image)
### 2.4 Social Inclusiveness (31% risk - low risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

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<tr>
<th>Indicator</th>
<th>Risk</th>
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<tbody>
<tr>
<td>Access to media for different social and cultural groups, and local communities</td>
<td>56% risk (medium)</td>
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<tr>
<td>Availability of media platforms for community media</td>
<td>Negligible</td>
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<tr>
<td>Access to media for the physically challenged people</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Centralisation of the media system</td>
<td>33% risk (low)</td>
</tr>
<tr>
<td>Universal coverage of the PSM and the Internet</td>
<td>38% risk (medium)</td>
</tr>
<tr>
<td>Media literacy</td>
<td>33% risk (low)</td>
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</table>

The indicator on the ‘Access to media for different social and cultural groups’, and local communities shows a medium risk. According to the 1984 ORF law, the Austrian Public Service Broadcaster should consider the concerns of all age groups, of physically challenged persons, of families, of both sexes, and of all churches “in a reasonable way”. There is no similar obligation for all other media organizations, and there is no due monitoring and sanctioning system for access to airtime by different social and cultural groups. Moreover, the ORF is neither obliged to have a minimum proportion of regional or local communities involved in the production and distribution of content, nor does it have to keep its own local correspondents or to have a balance of journalists from different geographical areas.

Only six linguistic minorities (defined as “autochthonous groups” in the law) are legally recognized in Austria, and these minorities all fall below the MPM threshold of 1% of the population. The indicator on the ‘Availability of media platforms for community media’ is coded as negligible risk. In general, the role of community media in society is acknowledged, but not as third-tier broadcasting by the Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR). The independence of community media is fostered insofar as it is defined as being a precondition for subsidies. However, there is some risk related to minority media, which are supported as part of community media in Austria. Although a more significant representation of minority members as radio producers and program makers has started since the liberalization of the broadcasting legislation in the late 1990s, the existing legal situation is not sufficient for a successful development of minority media. For example, in a ruling from 2012, the Austrian Constitutional Court found that there is no right for the Slovenian minority media to have access to radio and TV networks.

The indicator on ‘Access to media for physically challenged people’ shows a low risk. The beginning of
state policy regarding access to media content by physically challenged persons dates back only to 2009 and is, so far, limited to public service television. Subtitles and sound descriptions are available for 65% of ORF’s programmes.

The ‘Centralisation of the media system’ is also at low risk. Regarding the printed press, the Press Subsidies Act of 2004 provides special subsidies for the preservation of diversity in regional daily newspapers. However, the amount of press subsidies, as a share of the GNP, is decreasing. Due to the most recent cuts in press subsidies, one of the few regional daily newspapers had to cease publication. Regional newspapers account for only 24% of the total circulation of Austrian newspapers (2013).

Regarding the radio market, private radio stations are primarily regional in their scope (the overwhelming majority of frequencies are reserved for regional radio channels). Public regional radio stations account for a considerable amount (35%) of the entire radio market, and private regional/local radio stations for an additional 16% (2014). Regarding the television market, there are only very small regional/local TV stations in Austria. No audience share data are available.

The indicator on the ‘Universal coverage of the PSM and the Internet’ shows a medium risk. Almost the whole Austrian population is covered by signals of the public TV and radio channels. Although broadband coverage is similarly high, the subscription rate is only 77%, and broadband speed is below 30Mbps (download) and 10Mbps (upload). Particularly the latter figure can be regarded as being extremely low.

The ‘Media literacy’ indicator shows a low risk. There are a lot of federal and local initiatives to foster media literacy; however, there is no well-developed policy on media literacy. For example, it is not compulsory in school curricula to learn how to use media effectively. According to Eurostat data, almost 80% of the Austrians are using the internet at least once a week, but about 37% have insufficient digital skills.
3. Conclusions

Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.

In comparing the quality of the laws on the right to information (RTI), Access Info Europe (AIE) and the Centre for Law and Democracy (CLD) have ranked Austria last of 103 countries worldwide. Presently, the relevant Act regulates the right to apply for information, but it does not guarantee a general right of access. Hence, state bodies can refuse to provide information without having to justify their decision. To address this legislative gap, the Council of Europe has recommended that Austria provide for precise criteria in a limited number of situations where access to information can be denied, and to ensure that such denials can be challenged by the person concerned (Council of Europe 2012). Based on these findings and on the MPM2015 analysis, the author recommends the government to improve the RTI law. Furthermore, a lot of the data are not easily publicly available, for example, regarding cross-media concentration, the share of state advertising as part of the overall TV/radio/newspaper advertising market, and the market shares of ISPs and Internet content providers. The author suggests that government address this lack of transparency, on the one hand, by imposing information duties on the actors in the
various sectors, and, on the other, by guaranteeing information rights and supporting research on these matters.

In recent years, the Austrian media system has become more diverse and concentration among the various media markets is declining. However, some of the regulations of the private radio law and private television law are fostering cross-media concentration. Moreover, little is known about the possible impact of state and political actors (through attempts to influence the appointment procedures for management and board functions in PSB, and the allocation of advertising) as well as of commercial entities (particularly banks) on media content. Self-regulatory measures (like editorial statutes) that stipulate editorial independence and foster internal plurality should therefore be obligatory for all media houses. In general (and in addition to the work of KommAustria and RTR), the author suggests introducing more effective monitoring of compliance with the existing rules in media governance, for example, regarding the appointment procedures at ORF, the transparency of ownership, and access to airtime, for different social and cultural groups.

Moreover, the MPM analysis has revealed that local community media, which is an increasingly important media sector in today’s democratic society, would benefit from more support from the government. In addition to the important role that local community media play for increased accountability to the public, more government support is imperative, because openness to participation by members of the community for the creation of media content will become a highly important feature in future media production. For the same reason, legally restricted use of social online networks by legacy media outlets should be reassessed.

In addition, the government should consider measures to improve the legal environment for the development and functioning of minority media. Finally, the government should develop an effective policy aimed at making media literacy a key component of the mandatory school curriculum.
Annex I. List of national experts who were consulted

Walter Berka
University of Salzburg

Alexandra Föderl-Schmid
"Der Standard", IPI

Dieter Henrich
Verband der Regionalmedien Österreichs (VRM)

Daniela Kraus
Forum journalismus und medien

Helga Schwarzwald
Association of Community Radios

Christian Steininger
University of Vienna
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http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC1&2%282010%291_Add_Austria_EN.pdf


Media Pluralism in Croatia

A Test Implementation of the Media Pluralism Monitor 2015

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The results for each domain and indicator are presented on a scale from negligible to 100%, a negligible risk being the lowest, and 100% risk being the highest score. Scores between negligible and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.
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Annexe I. List of national experts who were consulted

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection.
1. Introduction

Croatia is a post-communist country that gained its independence after the breakup of Yugoslavia. The restructuring of the media system has been a process that included market liberalisation, the introduction of democratic values and the continued influence of the state. Croatia entered the European Union in 2013. However, full acceptance of the legal framework and democratic values still remains an obstacle to the media system. The daily usage of media platforms is dominated by television (82% of the population), followed by the Internet (52%), radio (50%) and press (29%).

The detected risk levels per domain range between low and medium. The Market Plurality and the Basic Protection domains score low risk (28% and 29% respectively), while the Political Independence and the Social Inclusiveness domains score medium risk (40% and 55% respectively). The individual indicators that score high risk are ‘media literacy’ at 100% risk, and ‘state advertising’ at 83% risk.

2. Results from the data collection: assessment of the risks to media pluralism

*Figure 1 Media Pluralism Monitor 2015 - Croatia, Results by Risk Domain*
2.1 Basic Protection (29% risk - low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>35% risk (medium)</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>31% risk (low)</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>42% risk (medium)</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td>8% risk (low)</td>
</tr>
</tbody>
</table>

The ‘Basic Protection’ domain shows an overall low risk to media pluralism, but at its higher end. Two of its indicators score medium risk (‘Protection of freedom of expression’ and ‘Journalistic profession, standards and protection’), and one is on the verge of medium risk (‘Protection of right to information’).

The ‘Protection of freedom of expression’ indicator scores a medium risk (35%), primarily since there is evidence of occasional violations of freedom of expression, both offline and online. The relevant international conventions have been ratified, restrictions on the freedom of expression are clear and are narrowly defined, and citizens have legal remedies in cases of the infringement of their freedom of expression. However, these legal remedies are not always effective since the judicial system works with delays and has limitations of access. In addition, the country has not decriminalised defamation, and given that scope of defamation laws is not defined as strictly as is possible, politicians may use it as a way to curtail journalistic reports.

The ‘Protection of right to information’ indicator scores at the upper end of low risk (31%). All legal standards are in place, meaning that the right to information is recognised in the Constitution, its restrictions are narrowly defined and appeal mechanisms are in place. However, there are issues with the implementation of these legal safeguards. Specifically, the appeal procedures are occasionally misused, and there is evidence of some violations of the right to access information.

The indicator on ‘Journalistic profession, standards and protection’ shows medium risk (42%). There are no restrictions on accessing the journalistic profession, either in law or in practice. Moreover, it seems that professional associations in Croatia represent most of the journalists, although it is difficult to obtain data on the exact number of journalists in the country. Nonetheless, journalist organisations and unions are not effective in guaranteeing editorial independence and professional standards, as agreed by the majority of the panel of experts consulted. In addition, attacks and threats to the physical safety of
Journalists occur and there are some indications of threats to digital safety, although there are no systematic and recorded data on the issue. Further increasing the risk for this indicator is the fact that there are frequent irregularities in payments and there is high job insecurity. Finally, although there are legal safeguards aimed at protection of journalists from commercial entities, there is evidence to suggest that commercial entities and/or media owners systematically influence editorial content. All of the consulted national experts agree on this.

The ‘Independence and effectiveness of the national authorities’ indicator shows a low risk (8%). The Council for Electronic Media (VEM) is the designated media authority in the country. All legal safeguards aiming at the protection of its independence are in place, and it appears that they are also well implemented. Its decisional practice is in the interest of the public, as agreed by the majority of the experts on the panel. The Agency for Market Competition Protection (AZTN) is the competition authority involved in the regulation of the media sector, and as with the media authority, all relevant legal safeguards are in place. However, it has been reported that its budgetary resources are inadequate, and that the authority’s powers are not always used effectively in the interest of the consumers. All consulted experts agreed that the authority cannot exercise its powers effectively, since the media do not regularly report the changes in their ownership structures, as the law commands. Finally, the independence of the telecommunication authority, the Croatian Regulatory Authority for Network Industries, is also protected by law. However, similarly to the competition authority, not all of these legal safeguards are well implemented. In spite of this, the telecommunications authority effectively uses its powers in the decisional practice, what has also been confirmed by all of the experts on the panel.

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1 NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).
2.2 Market Plurality (28% risk - low risk)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency of media ownership</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Concentration of media ownership</td>
<td>49% risk (medium)</td>
</tr>
<tr>
<td>Concentration of cross-media ownership</td>
<td>8% risk (low)</td>
</tr>
</tbody>
</table>

The ‘Market Plurality’ domain shows an overall low risk (28%), with two of its indicators scoring low, and one medium risk (‘Concentration of media ownership’).

The ‘Transparency in media ownership’ indicator scores a low risk (25%). The media are obliged to report their structures to the public authorities, as well as any changes in these structures, and there are...
sanctions in cases of failure to respect these obligations. However, some owners are still unknown, so the media ownership is not completely transparent.

The ‘Concentration in media ownership’ shows a medium level of risk (49%). Media legislation includes restrictions on horizontal ownership concentration in the audiovisual, radio and print sector. Legal safeguards are well monitored and implemented in the audiovisual and radio sector, but are not equally efficient when it comes to preventing concentration in the print sector. Furthermore, high levels of horizontal concentration can be prevented via merger control rules, but the Agency for market competition protection does not continuously perform active monitoring. In spite of the fact that it recently self-initiated several investigations due to suspicions of ownership concentration, it continues to mostly react to companies’ reports. The fact that there are issues with horizontal concentration in the Croatian media market is further reinforced by the information about media’s market and audience shares. Market share analysis shows that main markets (audiovisual, radio, internet content providers, and internet service providers) are highly concentrated (i.e. Top4 companies have more than 50% of the market), and the same can be speculated about the print market although there are no reliable data for the market share of Top4 newspaper owners, and the official body did not provide such information. The audience shares information points to the same conclusion, with the exception of the radio market in which the Top4 companies hold 40% of the market, which is classified as medium risk.

The ‘Concentration of cross-media ownership’ indicator shows a low level of risk (8%). Media legislation includes specific cross-ownership restrictions, and a high degree of cross-ownership can be prevented via merger control rules. There are authorities monitoring compliance with these rules, but their powers are not always used in all the relevant cases. The information about Top8’s market shares has been excluded from the analysis since it is not publicly available, and no authority is tasked with gathering this information.
2.3 Political Independence (40% risk - medium risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the media market, with a focus on state advertisement and public service media.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political bias in the media</td>
<td>16% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media outlets</td>
<td>56% risk (medium)</td>
</tr>
<tr>
<td>Politicisation of control over media distribution networks</td>
<td>8% risk (low)</td>
</tr>
<tr>
<td>State advertising</td>
<td>83% risk (high)</td>
</tr>
<tr>
<td>Independence of PSM governance and funding</td>
<td>12% risk (low)</td>
</tr>
<tr>
<td>Independence of news agencies</td>
<td>62% risk (medium)</td>
</tr>
</tbody>
</table>

The ‘Political Independence’ domain scores a medium risk to media pluralism, with three of its indicators scoring low risk, two medium (‘Politicisation of control over media outlets’ and ‘Independence of news agencies’) and one high risk (‘State advertising’).
agencies’), and one high risk (‘State advertising’).

The ‘Political bias in the media’ indicator scores a low risk (16%). This is due to the fact that there are legal safeguards imposing rules that aim at the fair, balanced and impartial representation of political viewpoints on the PSM channels and services, and PSM also guarantees access to airtime to political actors during electoral campaigns. These legal provisions are actively monitored, and there is no evidence to suggest that there is political bias in either PSM reporting, or in commercial television stations’ programming. Consulted experts confirm these evaluations. The only issue which slightly increases the risk is this indicator is tied to the fact that there are no legal measures that impose restrictions to political advertising during electoral campaigns, and hence, there is neither active monitoring nor sanctioning. However, the buying of political advertising is allowed on equal conditions and rates of payment, and the regulatory framework ensures that the public is aware of paid political advertising. It should be noted that these regulatory safeguards are only partially implemented.

The indicator ‘ Politicisation of control of media outlets’ shows a medium level of risk (56%). There are no data on the shares of TV channels, radio channels and newspapers that are owned by politically affiliated entities, which points to a situation of low transparency and the problems in accessibility of data on media ownership. The Council for Electronic Media keeps a register for radio and television, while the Croatian Chamber of the Economy keeps a register for the print media. This creates problems in determining political affiliation, particularly in cases of cross-media ownership. All of the experts on the panel agree with this assessment. Furthermore, self-regulatory measures that stipulate editorial independence exist and there are various self-regulatory bodies, such as ethics committees and councils of honour, aiming to enforce them. However, the self-regulatory mechanisms fail to impose effective and proportionate remedies. Overall, self-regulation is weak in Croatia, systematically ignored and not implemented.

The ‘ Politicisation of control of media distribution networks’ indicator scores low risk (8%). There are no publicly available data on the political affiliation of the leading print distribution networks, but this isn’t deemed to be a transparency issue, while leading radio and television distribution networks are not politically affiliated.

The ‘State advertising’ indicator is the only one showing a high risk (83%) in this domain. There are no rules relating to the distribution of state advertising and no data on the share of state advertising as part of the TV, radio and newspaper advertising market, which is seen as a transparency issue due to recent cases in which state advertising has been abused by political actors. Specifically, state advertising was part of high level corruption cases with regard to the company Fimi-Media through which state funds were drawn and channelled to a secret fund. Among other indictments these were keys in sentencing the former Prime Minister Ivo Sanader. There is full agreement between consulted experts on this issue.

The ‘Independence of PSM governance and funding’ indicator scores low risk (12%). The law provides fair, objective and transparent appointment procedures for management functions of the PSM, and these
guarantee the independence of boards. Risk from PSM management is slightly increased by the fact that there is no body actively monitoring the compliance with appointment procedure rules. In addition, there are occasional conflicts, but no systematic evidence of conflicts, concerning appointments and dismissals procedures for PSM management. Its independence is further reinforced by the fact that the government does not decide on the wages of the PSM, although all public institutions are under close scrutiny due to the economic crisis. With regards to PSM funding, the media law prescribes transparent and objective procedures on determining it. The mechanism depends on the economic indicator set in the law, and the percentage of direct government financing for the PSM is under 1 percent, creating a low risk situation when it comes to potential political influence through PSM funding.

Finally, the ‘Independence of news agencies’ indicator shows medium risk (62%). There is no data on the market share of the leading news agencies, which is seen as representing a transparency issue. Furthermore, one of the largest agencies, public news agency HINA, is dependent on political groupings. There is full agreement between the experts on this issue.

![Figure 4 Media Pluralism Monitor 2015 - Croatia, Political Independence Domain, Results by Indicators](image)
2.4 Social Inclusiveness (55% risk - medium risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to media for different social and cultural groups, and local communities</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>Availability of media platforms for community media</td>
<td>58% risk (medium)</td>
</tr>
<tr>
<td>Access to media for the physically challenged people</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>Centralisation of the media system</td>
<td>29% risk (low)</td>
</tr>
<tr>
<td>Universal coverage of the PSM and the Internet</td>
<td>44% risk (medium)</td>
</tr>
<tr>
<td>Media literacy</td>
<td>100% risk (high)</td>
</tr>
</tbody>
</table>

The ‘Social Inclusiveness’ domain shows an overall score of medium risk, with only one indicator scoring low risk (‘Centralisation of the media system’), four scoring medium risk, and one high risk (‘Media literacy’).

The ‘Access to media for different social and cultural groups and local communities’ indicator shows medium risk (50%). Access to airtime on PSM channels to different social and cultural groups is not guaranteed by law, although there are specialised programme obligations. There is no designated body monitoring compliance with the law, having sanctioning powers and effectively using it. The proportion of regional and local communities involved is not defined by law and the PSM is not obliged to keep its own local correspondent network from different geographic areas. It is not obligated to broadcast national news in local languages, but the PSM regularly broadcasts local news programmes.

The ‘Availability of media platforms for community media’ indicator shows medium risk (58%). The law recognizes non-profit media as a distinct group alongside commercial and public media. However, independence of non-profit media is not guaranteed and they are largely dependent on state funding. The law contains specific provisions granting access to media platforms to minority media. The Council for National Minorities monitors compliance with the law regarding minority media although without sanctioning powers and appeal mechanisms against their opinions. The authorities support minority media only by limited policy measures. Minority media in the country is not fully independent and state budgetary resources have been steadily declining as agreed by the majority of experts in the panel. Finally, there are no television or radio channels dedicated to minorities and the number of newspapers dedicated to minorities is less than proportional to the size of the minority population.
The ‘Access to media for physically challenged people’ indicator also scores medium risk (50%). Media policy for physically challenged people is underdeveloped, and subtitles and sound descriptions are available only on the least popular scheduling windows.

The ‘Centralisation of the media system’ is the only indicator showing a low level of risk (29%) in this domain. The media legislation does not recognize regional or local media as specific categories, although it does define program obligations for specific media. Furthermore, the law reserves frequencies for regional/local radio and TV, but the legislation is not fully effective in protecting regional/local media. In spite of these issues in legal protection, the data related to local media’s audience shares points to the fact that the media system is not at risk from centralisation.

The ‘Universal coverage of the PSM and the Internet’ indicator shows medium risk to media pluralism (44%), primarily due to issues in broadband coverage and speed. The universal coverage of the PSM is guaranteed, and the entire population is covered by the signal of all public TV and radio channels. However, only 87% of rural population has access to broadband, and broadband penetration in the total population is at 62 percent. Both of these statistics point to medium risk for media pluralism. Additionally, average broadband download speed is 9 and upload speed 5 Mbps, which is significantly under EU-average and represents a high-risk situation related to Internet coverage and access.

Finally, the ‘Media literacy’ indicator scores a very high risk (100%). All of the national experts consulted agree that there are no steps taken in the development of media literacy policy measures.
3. Conclusions

Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.

The main issues detected in the MPM2015 implementation in Croatia are weak protection of journalist’s rights and working conditions, commercial influence on editorial policies, lack of media literacy policies, independence of community media, and lack of narrowly defined state advertising regulation. Media policies should target these areas to improve the overall condition of media pluralism in the country.

Defamation restrictions are in place which can have a negative effect on journalistic reporting. Progress has been made in protecting journalistic rights with the establishment of the Centre for Freedom of Expression in the Croatian Journalist’s Association. However, it is not yet possible to assess the impact since it is a recent development. Overall, journalistic organisations are not effective in guaranteeing editorial independence and professional standards. Attacks and threats to physical safety of journalists still occur and there are frequent irregularities in wage payments with high job insecurity. There are mechanisms in cases of ownership and editorial change prohibiting commercial influence. However, commercial entities systematically influence editorial content making such mechanisms ineffective.
The community media are legally recognized but their independence is not guaranteed. Minority media are also not fully independent and are supported only by a limited number of policy measures. While the support for non-profit community media and minority media is a positive development, more should be done to secure stronger and more effective policy measures including financial and political independence of community media.

The law only indirectly regulates media ownership for politicians. There is no official data and monitoring of the share of TV channels, radio channels and newspapers owned by politically affiliated entities. Full transparency and accessibility of data on media ownership is not easily obtained. The problem is exacerbated by the fact that different agencies monitor changes for newspaper and electronic media in accordance with the law. The Council for Electronic Media is responsible for electronic media and the Croatian Chamber of Commerce for print media. Future policies should focus on creating centralized institutional monitoring of ownership structures and changes across print, radio, television and online media.
Annexe I. List of national experts who were consulted

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University of Zagreb

Miroslav Ivić
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Publishing and Printing Branch

Saša Leković
Croatian Journalists’ Association

Denis Mikolić
National Association of Television Broadcasting

Mirjana Rakić
Council for Electronic Media
Media Pluralism in Cyprus

A Test Implementation of the Media Pluralism Monitor 2015

Authors:

Christophoros Christophorou

October 2015
**About the project**

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the Member States of the European Union. This narrative report has been produced within the framework of the second pilot test implementation of the MPM, which was carried out in 2015. The implementation was conducted in 19 EU Member States with the support of a grant awarded by the European Union to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

The Monitor’s methodology is based on research carried out by national country teams in the 19 countries, except for Malta where data collection was carried out centrally by the CMPF team. The research is based on a standardised questionnaire and apposite guidelines that were developed by the CMPF. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly sensitive questions (see Annexe I for the list of experts).

Risks to media pluralism are examined in four main thematic domains, which are considered to capture the main areas of risk for media pluralism and media freedom: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area. The Basic Protection domain consists of four indicators; Market Plurality has three, while Political Independence and Social Inclusiveness each contain six indicators.

<table>
<thead>
<tr>
<th>Basic Protection</th>
<th>Market Plurality</th>
<th>Political Independence</th>
<th>Social Inclusiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>Transparency of media ownership</td>
<td>Political bias in the media</td>
<td>Access to media for different social and cultural groups, and local communities</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>Concentration of media ownership</td>
<td>Politicisation of control over media outlets</td>
<td>Availability of media platforms for community media</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>Concentration of cross-media ownership</td>
<td>Politicisation of control over media distribution networks</td>
<td>Access to media for the physically challenged people</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td></td>
<td>State advertising</td>
<td>Centralisation of the media system</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of PSM governance and funding</td>
<td>Universal coverage of the PSM and the Internet</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of news agencies</td>
<td>Media literacy</td>
</tr>
</tbody>
</table>
The results for each domain and indicator are presented on a scale from negligible to 100%, a negligible risk being the lowest, and 100% risk being the highest score. Scores between negligible and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.
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Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection.
1. Introduction

The overall picture of media pluralism in Cyprus\(^1\) is rather positive. The MPM analysis shows low risk in two of the domains (‘Basic Protection’ and ‘Market Plurality’) and medium risk in the other two domains (‘Political Independence’ and ‘Social Inclusiveness’). Risks are linked to deficiencies and problems in specific areas that have a serious impact on the extent and quality of a pluralistic environment.

The media freedoms and free expression (‘Basic Protection’ domain) in Cyprus are generally well-protected, with all four indicators at low risk (average risk at 14%). The ‘political independence’ and ‘Social Inclusiveness’ domains present medium and upper medium risk levels (respectively at 50% and 66%). In the ‘Political Independence’ domain interferences and control affect the independence of the PSM and news agencies, which create a high risk in two indicators, while three other indicators are at the limits of low to medium risk. Only the indicator on ‘Political bias in the media’ shows a low risk. Legal gaps do not guarantee media access by non-political groups, and community and minority media are absent. This and the absence of a media literacy policy, point to high risks for social inclusiveness and pluralism. The centralisation of the media system and low levels of internet use and digital skills present a medium level risk in the same domain.

While the ‘Market Plurality’ domain appears in the low risk category (30%), the indicators on the ‘Transparency of media ownership’ are at the limits between the low and medium risk categories.

Overall, there are seven low risk, seven medium risk and five high risk indicators.

\(^1\) The present report is about the section of the Republic of Cyprus that is under the effective control of the government of the Republic.
2. Results from the data collection: assessment of the risks to media pluralism

Figure 1 Media Pluralism Monitor 2015 - Cyprus, Results by Risk Domain
2.1 Basic Protection Domain (14% - low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>Negligible</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>31% risk (low)</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>21% risk (low)</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td>4% risk (low)</td>
</tr>
</tbody>
</table>

Freedom of expression in the Republic of Cyprus is fully protected by the Constitution and, in practice, presents a negligible risk. In cases of the violation of rights, remedies are offered in accordance with both the Constitution and the Laws of the Republic, as well as of the relevant international treaties that Cyprus has ratified. Courts also apply the principles that are set by the ECHR. Libel and defamation have been decriminalised since 2003; offences that may lead to the filing of a criminal case are related to debatable, but very specific cases (the ‘protection’ of the army, of religious symbols and foreign officials). However, legal action needs the authorisation of the Attorney General.

While the ‘Protection of the right to information’ is at low risk (31%), access to information held by the authorities remains problematic. Remedies include recourse to the Ombudsman, or to a court, but these are not satisfactory because of long decision-making processes and the expenses that are incurred in court cases.

No formal requirements are set, either in the law or in practice, for access to the journalistic profession, but a professional card and/or accreditation are required in order to access official and other events, or places. Most journalists belong to the only existing professional union, which, along with the media and labour legislation, protect rights that are related to working conditions. Editorial independence is also legally protected, but remains weak; journalists are generally hesitant, or avoid complaining to their union, about possible interference.

Overall, the indicator on ‘Journalistic profession, standards and protection’ presents low risk (21%). However, several sub-indicators, such as interference by media owners, media dependency on financial/commercial interests, employment uncertainty and instances of the lack of respect for journalists’ working conditions, which are attributed to the economic crisis, are all factors that present medium risks
to journalism. While physical attacks or open threats to journalists remain extremely rare phenomena, leaks related to the purchase by the authorities of hacking software (e.g., the case of the Hacking Team) raised serious concerns for possible online surveillance targeting journalists, among others. Online safety runs a medium level risk because of this eventuality. The protection of journalistic sources is, in practice, respected and it is explicitly recognised by the courts.

The media regulator (the Cyprus Radio Television Authority, CRTA), is established by law with guarantees of independence. However, the selection procedure and weak criteria for the appointment of its members by the Council of Ministers present a medium level risk for the regulators’ independence. Procedures and practices that are related to budget approval, the functions, law enforcement and mechanisms for appealing against the regulator's decisions, present no problematic areas, as is the case in relation to the absence of government interference with decisions and their enforcement. However, a risk related to deficient monitoring practices, until recently based mostly on complaints and accountability, has been noted during analysis. No law provision requires an activity report, a strategic plan and/or target achievement reporting, to either the parliament or the government. With respect to the two regulatory bodies that can have a role in the media sector, the Commission for the Protection of Competition and the Office of the Commissioner for Electronic Communications and Postal Regulation (OCECPR), their independence, appointments, budget approval procedures, functions, effective operation, decision appealing mechanisms and non-interference by the government in decision-making and implementation, show no problematic areas. The overall area of regulation presents no significant problems, and the correspondent indicator is at low risk (4%).

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2 Latest information from the regulator indicates that selective monitoring started recently. However, we will need time to evaluate the efficiency of the system.
3 NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).
2.2 Market Plurality (30% risk - low risk)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency of media ownership</td>
<td>38% risk (medium)</td>
</tr>
<tr>
<td>Concentration of media ownership</td>
<td>49% risk (medium)</td>
</tr>
<tr>
<td>Concentration of cross-media ownership</td>
<td>4% risk (low)</td>
</tr>
</tbody>
</table>

In order to avoid a situation where there are oligopolies, or a monopoly, the Law on Radio and Television Organisations 7(I)/1998 provides a broad array of measures to avert media ownership concentrations. Despite the existence of numerous rules, efficient monitoring may face difficulties in verifying and in distinguishing trustees /proxy owners from the true owners of shares. This is because the controls under the Media and the Company laws are not fully enforced. This poses a medium level risk for ‘Transparency of media ownership’ (38%) as is also the case with regard to the efficiency of monitoring...
compliance with the rules on the thresholds within a media company.

No ownership rules and constraints exist in the Press sector. Any legal or natural person can publish a newspaper, the only obligations being to register the title with the authorities, to name a person who is responsible under the law (RUL) -for companies, and to deposit a small amount of money as a warranty in cases of damages for libel -defamation. The Internet is completely free of any specific regulation. No ownership monitoring agency exists in either the press or the Internet sectors.

With regard to media concentrations that may lead to companies commanding a disproportionate part of the market, as witnessed by market shares, no specific data are publicly available. Data on media audience share are available, but their accuracy cannot be verified. This is because no auditing body exists in any of the media sectors. Specific and strict rules in the broadcasting law target cross media ownership (broadcasting and the press) by imposing thresholds. However, the efficiency of enforcement faces problems that are connected to difficulties in verifying the true owners of shares and in distinguishing them from trustees /proxies. This creates a medium level risk in this matter. In any case, because of the existing rules and the strict control on shareholding changes, which are enforced mainly through the media regulator, and if needed through the Competition Commission, the risk of high degree cross media ownership remains low (4%).

The lack of transparency in ownership is a grey area. The public cannot know who the exact owners are, and thus those who are, in reality, in command of the media. This is because no such obligation exists in respect of the press, while, in the case of broadcasting, there is only the obligation to publish the names of persons, either legal or natural, who hold more than 5% of a licensee’s shares. No exact percentage is published, while the regulator makes neither data /figures nor names available in their ownership and concentration report (which is published every three years). This causes a medium level risk to pluralism (‘Concentration in media ownership’: 49%).
Figure 3 Media Pluralism Monitor 2015 - Cyprus, Market Plurality Domain, Results by Indicators
2.3 Political Independence (50% risk - medium risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the media market, with a focus on state advertisement and public service media.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political bias in the media</td>
<td>20% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media outlets</td>
<td>33% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media distribution networks</td>
<td>33% risk (low)</td>
</tr>
<tr>
<td>State advertising</td>
<td>36% risk (medium)</td>
</tr>
<tr>
<td>Independence of PSM governance and funding</td>
<td>75% risk (high)</td>
</tr>
<tr>
<td>Independence of news agencies</td>
<td>100% risk (high)</td>
</tr>
</tbody>
</table>

The role of political power, and of politicians in general, in the media overall present a medium risk level (50%) that is linked to many areas; they include political interference in the appointments and the budgets of the PSM, gaps in monitoring compliance with the rules on access by political actors to the media and others.

With regard to the indicator ‘political bias in the media’, it is worth noting that rules on the laws for both commercial media and the PSM provide for the fair and balanced presentation of political views, which are generally enforced. Political balance in media presentation is the only indicator in this area with a low level risk (20%) to pluralism. However, when the issue of the Cyprus Problem is discussed in the media, all of the media tend to be biased. This practice, along with problems in the ways that invitees to programmes are selected, point to a medium level risk.

Rules for securing fair and balanced coverage of politics during electoral periods, covering all types of elections, are more detailed in the case of the PSM, to the point that they interfere with editorial independence. No external monitoring/regulatory body has the powers to examine compliance, except in the case of paid political advertising, which comes under the control of the Radio Television Authority.

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4 The Cyprus Problem is an issue caused by the pursuance of divergent goals by the two main communities of Cyprus: the Greek Cypriot Community (82%) claimed Enosis or Union with Greece, while the Turkish Cypriot community (18%) demanded Taxim or the partition of the island. Following a coup against the government of President Makarios by the Greek junta of Athens in summer 1974, the Turkish Army invaded the island and occupied its northern part, which resulted in a de facto partition. Negotiations under the auspices of the United Nations since then aim at re-uniting Cyprus under a federal solution. The Republic of Cyprus joined the European Union in 2004 with the northern part exempted from the acquis communautaire until the reunification of the island.
The absence of an external monitoring body thus presents a risk. However, in practice, access rights are respected and a proportional representation of political views is applied. Paid political advertising is also regulated, under the same set of rules, for both the PSM and commercial media. The PSM also offers free-to-air access. With regard to paid political advertising, a time ceiling, a time-framework period, and rules for equal terms and opportunities, are set in the legislation, as well as the rules that relate to the identification of political advertising as such and its origin; monitoring compliance and the imposing of sanctions in the case of breaches, are ensured by the same body, the Radio Television Authority, with remedies and appeals mechanisms in place also.

With regard to the indicator measuring the ‘Independence of PSM governance and funding’, it was noted that the appointment of the governing body of the PSM and political interferences with both the budget approval procedures and the level of state funding are areas of concern. This is caused by the lack of objective selection criteria for appointees, of transparency in procedures, and of control mechanisms that would warrant the independence of the body and, by extension, of the PSM. Safeguards for appointments and for dismissals do not exist, and the situation has deteriorated with the introduction of a new law, which enables the government to dismiss the governing body of independent government organisations, including the PSM, without requiring a detailed justification, as required by law. The government also sets the level of state funding (over 90% of the budget) without any real consultation. Interference by political parties is a common practice, both in the process of budget approval and in day-to-day work, which poses more problems to the PSM. All the above create a situation of high risk for the ‘Independence of the PSM and its funding’ (indicator at 75%). However, it should be noted that employees’ wages are determined in the schemes of service. They are viewed by the public as being too high.

Media ownership /control by political actors are limited, with only one daily being a party mouthpiece and one radio station being controlled by a party, and another by the Church of Cyprus. The general lack of / deficiency in transparency and accessibility to ownership data is an issue of concern, so the indicator ‘politicisation of control over media outlets’ scores at the upper end of low risk (33%).

The same level of risk has been identified with regard to the indicator ‘Politicisation of media distribution networks’. A high concentration exists in press distribution, because there are only two networks, although these are not controlled by politicians. In television and radio, even though there is very limited ownership by politicians, a generalised trend to ideologically oriented information, in particular with regard to Cyprus Problem is an issue of concern, causing a risk level that is on the margin between low and medium (33%).

When it comes to the indicator on ‘State advertising’, the allocation of such advertising appears to be fair, in practice, however, the lack of transparent procedures, rules and data, causes concern that leads to a medium level risk (36%).

Finally, the existence of only one semi-governmental news agency, which is funded almost exclusively by
the state budget, is a major risk for pluralism, which is reflected in the high risk assessment (100%) of the related indicator

![Graph showing media pluralism monitor results for Cyprus, political independence domain, results by indicators.](image)

*Figure 4 Media Pluralism Monitor 2015 - Cyprus, Political Independence Domain, Results by Indicators*
2.4 Social Inclusiveness (66% risk - medium risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to media for different social and cultural groups, and local communities</td>
<td>88% risk (high)</td>
</tr>
<tr>
<td>Availability of media platforms for community media</td>
<td>100% risk (high)</td>
</tr>
<tr>
<td>Access to media for the physically challenged people</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Centralisation of the media system</td>
<td>44% risk (medium)</td>
</tr>
<tr>
<td>Universal coverage of the PSM and the Internet</td>
<td>38% risk (medium)</td>
</tr>
<tr>
<td>Media literacy</td>
<td>100% risk (high)</td>
</tr>
</tbody>
</table>

The ‘Social inclusiveness’ domain presents the highest risk level of all of the domains and it is at the limit between medium and high risk (66%). This is mostly due to there being no law provisions on community media and on the rights of social and cultural groups to access PSM. Various groups and minorities, other than politicians, are not guaranteed access to the PSM. Moreover, local news and programmes on PSM are not self-standing but are included in the general programming. These limitations to access to the PSM present a high risk (‘Access to media for different social and cultural groups, and local communities’ indicator (88%). However, the existence of commercial local media must be taken into account as being a decisive mitigating factor.

Community media is a concept that is completely missing from the legislation. Even though there are no minorities in Cyprus, in the sense of the MPM definition, the very high risk for the indicator ‘Availability of media platforms for community media’ (100%) is due to the lack of any policy measure to guarantee this kind of media outlets as a distinct group alongside commercial and public media. As a result, different groups or minorities in the broader sense of the term have no access to ‘third media’ platforms.

Although policies for persons with sight and hearing impairment are not fully developed, adequate measures are applied that make access possible in practice (subtitles and sound descriptions are available for people with hearing impairments who are watching TV, see variable I3.2). This results in a low level of risk for the ‘Access to media for the physically challenged people’ (25%).

The licensing of local/regional media has led to a proliferation of radio stations, but after the switch-over to digital television (mid-2011) local TV either closed down or was ‘upgraded’ to national coverage. No
local dailies exist. Local media receive no specific to the sector state subsidies beyond those in the form of tax free equipment offered to all media. This situation leads to a centralised system and to a medium risk for local/regional media (‘Centralisation of the media system’ indicator: 44%).

Territorial coverage of PSM is 100%. Almost the same is also the coverage for commercial media. When combined with broadband coverage (59% of the population) and low upload and download speeds, this presents a medium risk for universal coverage (38%).

No policy on media literacy has been adopted so far, even though some media literacy activities take place in practice. This is an issue of high risk, as there are low levels of Internet use (<70%) and of digital skills (<50%) (‘Media literacy’ indicator: 100%).

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**Figure 5** Media Pluralism Monitor 2015 - Cyprus, Social Inclusiveness Domain, Results by Indicators

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3. Conclusions

*Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.*

While the overall picture of media freedoms and free expression in Cyprus appears to be positive, measures are needed in order to remedy the deficiencies and problems in areas that have a serious impact on the extent and quality of a pluralistic environment. The most serious is the need to ensure the independence of the PSM at all levels – adequate funding, non-interference, independent governance, in accordance with the relevant recommendations of the Council of Europe. A reform of the PSM should include law amendments in order to recognise and offer explicit, in practice, access to various groups and minorities. This should include the establishment of bodies to monitor compliance. In accordance with the above, the inclusion of provisions that promote local and community media is essential, as this would enable broader public access and participatory practices.

In an effort to broaden the freedom of expression, it is important to adopt the legislation on access to information and to enforce compliance by all public authorities. The ensuring of the transparency of ownership data, so that the public knows who is in command of the information, is needed.

Low levels of Internet use and digital skills should be tackled by specific measures, on the one hand, through the development of structures enabling universal and speedy access to the Web, and, on the other hand, through the adoption of a policy for media literacy. The need for Cyprus to introduce media literacy policies and a comprehensive plan is urgent, since the country trails behind most EU member states, even though its rate of tertiary education graduates is very high.

The absolute centralisation of the distribution systems, with one state-supported news agency and a duopoly in press distribution, needs review. A decrease in the dependency of the media on a ‘news subsidies’ scheme is required to warrant pluralism in the selection and presentation of news, while creating bodies to monitor the press distribution networks and to audit circulation figures which might contribute to a more democratic media environment are needed.

Programmes for training and educating media professionals, with a focus also on defending editorial independence, are highly needed, as measures to respond to the increased influence of commercial/financial interests, with the pretext of times of crisis.
Annexe I. List of national experts who were consulted

Themistokleous Antigoni
Cyprus Radio Television Authority

Stratilatis Costas
University of Nicosia

Spyridou Lia-Paschalia
University of Cyprus

Simopoulos Michael
Action (Formerly of CMCC)

Makrides Antonis
Cyprus Union of Journalists

Georgiades Stavros
Cyprus Broadcasting Corporation
Media Pluralism in the Czech Republic

A Test Implementation of the Media Pluralism Monitor 2015

Authors:
Václav Štětka, Roman Hájek, Radim Hladík, Jana Rosenfeldová, Sandra Štefaníková, Jan Švelch
(Charles University, Prague)

October 2015

The Centre for Media Pluralism and Media Freedom
is co-financed by the European Union
About the project

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the Member States of the European Union. This narrative report has been produced within the framework of the second pilot test implementation of the MPM, which was carried out in 2015. The implementation was conducted in 19 EU Member States with the support of a grant awarded by the European Union to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

The Monitor’s methodology is based on research carried out by national country teams in the 19 countries, except for Malta where data collection was carried out centrally by the CMPF team. The research is based on a standardised questionnaire and apposite guidelines that were developed by the CMPF. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly sensitive questions (see Annexe I for the list of experts).

Risks to media pluralism are examined in four main thematic domains, which are considered to capture the main areas of risk for media pluralism and media freedom: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area. The Basic Protection domain consists of four indicators; Market Plurality has three, while Political Independence and Social Inclusiveness each contain six indicators.

<table>
<thead>
<tr>
<th>Basic Protection</th>
<th>Market Plurality</th>
<th>Political Independence</th>
<th>Social Inclusiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>Transparency of media ownership</td>
<td>Political bias in the media</td>
<td>Access to media for different social and cultural groups, and local communities</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>Concentration of media ownership</td>
<td>Politicisation of control over media outlets</td>
<td>Availability of media platforms for community media</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>Concentration of cross-media ownership</td>
<td>Politicisation of control over media distribution networks</td>
<td>Access to media for the physically challenged people</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td></td>
<td>State advertising</td>
<td>Centralisation of the media system</td>
</tr>
</tbody>
</table>

| | | Independence of PSM governance and funding | Universal coverage of the PSM and the Internet |
| | | Independence of news agencies | Media literacy |
The results for each domain and indicator are presented on a scale from negligible to 100%, a negligible risk being the lowest, and 100% risk being the highest score. Scores between negligible and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.
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1. Introduction

2. Results from the data collection: assessment of the risks to media pluralism
   
   2.1 Basic Protection
   
   2.2 Market Plurality
   
   2.3 Political Independence
   
   2.4 Social Inclusiveness

3. Conclusions

Annexe I. List of national experts who were consulted

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection.
1. Introduction

The Czech Republic is a Central European country with a population of 10.4 million inhabitants. The country has a marginal presence of minorities, consisting of two main groups (3% of Roma, 1% of Slovaks) and limited language diversity (95% Czech, 2% Slovak, and 3% other languages). The media market is characterised by an overall dominance of television, attracting about half of the total advertising expenditure in the country. Television also remains the dominant source of information (80%), followed by the Internet (56%), radio (52%), newspapers (19%), and TV viewed online (5%).

The implementation of the MPM2015 for the Czech Republic shows an overall medium (to low) risk for media pluralism. Apart from the ‘Basic Protection’ domain, which is within the limits of low risk (23%), the other three domains display medium levels of risk.

The MPM analysis points to medium risk in the ‘Political Independence’ and the ‘Social Inclusiveness’ domains (34% and 37% respectively). The ‘Market Plurality’ domain also shows medium risk (62%), but it is close to the high risk threshold, reflecting high ownership concentration in the Czech media market, particularly with regard to cross-media ownership. The other areas of risk for media pluralism in the country are the politicisation of control over media outlets, the low transparency in state advertising distribution, the legal lack of existence of a community media sector, and the high centralisation of the media system.
2. Results from the data collection: assessment of the risks to media pluralism

2.1 Basic Protection (23% risk - low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>2% risk (low)</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>31% risk (low)</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>33% risk (low)</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td>24% risk (low)</td>
</tr>
</tbody>
</table>
General legislation and the regulatory system related to safeguarding fundamental freedoms are well developed and they include the clearly stated protection of the freedom of expression (‘Protection of freedom of expression’: risk at 2%). The law recognises the right of free access to information (‘Protection for right to information’: risk at 31%); however, the appeal mechanisms are sometimes delayed. The state of the ‘Journalistic profession, standards and protection’ indicator (33%) reveals several potential risks. Firstly, the share of journalists who are represented by professional associations and organisations is rather low (below 10%, according to recent data). The position of the leading professional association – the Syndicate of Czech Journalists – is thus quite weak, and its effectiveness in guaranteeing editorial independence and the respect for professional standards is further undermined by the fact that the Syndicates’ Ethical Committee has no sanctioning powers. Additionally, there are no legal or self-regulatory instruments granting social protection to journalists in case of changes of ownership or editorial line. Although there is no evidence that commercial entities or media owners are systematically influencing the editorial content of the media, occasionally there are cases where owners’ undue pressure or attempted influence have been revealed (medium risk), with some linked to one of the biggest media houses in the country – MAFRA – which is now in the hands of the Deputy Prime Minister. The protection of journalistic sources is explicitly recognised by the law and by the highest courts; however, it can be broken in particular instances, limiting thereby its effective implementation (medium risk).

The overall assessment of the risks that are related to the independence and efficiency of the main regulatory authorities suggests a low level of risk for pluralism (Indicator: ‘Independence of national authority(ies)’: 24% risk). However, a closer look at particular questions reveals some potentially risky areas, especially with regard to the independence of competition and telecommunications authorities. With regard to both institutions, the procedures for the allocation of their budgetary resources are not entirely transparent, and their independence from political interference is not properly guaranteed by law. The Council of the Telecommunication Office may potentially be influenced by the government, since it is the government that appoints its members. Both competition and telecommunications authorities have sanctioning powers. The appeal mechanisms are in place, but in some cases they have been delayed (medium risk). The competition authority – the Office for the Protection of Competition – does not always use its powers in the consumers’ interest (medium risk). The Telecommunication Office has also, for a long time, been subject to sustained criticism for an alleged inaction, especially against the high concentration of mobile operators, high prices, and the low standards of telecommunication services

1 NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).
(medium risk), although the performance of the Office has allegedly been improving recently.

![Figure 2 Media Pluralism Monitor 2015 – Czech Republic, Basic Protection Domain, results by indicators](image)

### 2.2 Market Plurality (62% risk – medium risk)

*The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.*

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency of media ownership</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Concentration of media ownership</td>
<td>60% risk (medium)</td>
</tr>
<tr>
<td>Concentration of cross-media ownership</td>
<td>100% risk (high)</td>
</tr>
</tbody>
</table>

Media plurality represents a medium to high risk to pluralism of the Czech media landscape, in particular in regard to the concerns relating to market concentration. The indicator ‘Concentration of media ownership’, which is assessing regulatory safeguards in different media and actual concentration within
the media sector, is only slightly below the high risk level (60%). The Broadcasting Act sets some limits on concentration by prohibiting a single legal/natural person from holding more than one license for nation-wide analogue broadcasting and more than two licenses for nation-wide digital broadcasting, and restricting the number of licenses for local and regional television and radio broadcasting. There are no specific provisions when it comes to the internet and newspapers, which are thus only subject to general restrictions by competition law. The decisions of the Office for the Protection of Competition always depend on the definition of the ‘relevant market’ which allows for a high degree of flexibility in interpretation. However, so far, the Office, in its decisions, has always ruled in favour of mergers (even in the cases of cross-media ownership), despite existing concerns about the increasing power of companies in different market sectors following mergers.

Data on ownership concentration, measured by audience/readership shares (publicly available figures on companies’ revenues are incomplete across particular sectors) indicate a high level of horizontal concentration. The audience share of the Top 4 owners in the television sector accounts for 88%; the nation-wide radio market is divided among three players, and the entire nation-wide newspaper sector belongs to only four owners. Taking into account regional and local stations/regional newspapers, the shares of TOP4 owners change to 75.4% and 95%, respectively. The excessive horizontal concentration is most evident in the case of the Czech regional print media market, where one daily enjoys a monopoly position, which is enabled by the traditionally very inclusive definition of the ‘relevant market’ by the competition authority.

The indicator ‘Concentration of cross-media ownership’ shows an even higher risk (100%). There are no specific thresholds to prevent cross-ownership between the different types of media. The Broadcasting Act, the Press Act and the Act on the Protection of Competition do not contain any limits on cross-media ownership.

The assessment of ‘Transparency in media ownership’ points to a relatively low risk (25%). Although media companies are not obliged to publish their ownership structures on their websites, the law on the Public Registers of Corporate Entities and Natural Persons defines the facts to be recorded in the public registers (especially in the commercial register), which are accessible to the public. However, there is no duty to reveal the ‘end owner’ of the company. Nevertheless, despite the fact that the current Czech legislation is relatively lenient concerning the obligation to disclose the ownership structures of media companies, especially in the print media sector, the current owners of the majority of the relevant Czech media do not attempt to hide behind a chain of offshore companies and they are generally known to the public.
2.3 Political Independence (34% risk - medium risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the media market, with a focus on state advertisement and public service media.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political bias in the media</td>
<td>4% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media outlets</td>
<td>54% risk (medium)</td>
</tr>
<tr>
<td>Politicisation of control over media distribution networks</td>
<td>negligible</td>
</tr>
<tr>
<td>State advertising</td>
<td>72% risk (high)</td>
</tr>
<tr>
<td>Independence of PSM governance and funding</td>
<td>24% risk (low)</td>
</tr>
<tr>
<td>Independence of news agencies</td>
<td>50% risk (medium)</td>
</tr>
</tbody>
</table>

The political environment presents, on average, a marginally medium risk to media pluralism. Although many legislative regulations and practices serve to guarantee media independence from political pressures, there are some areas where such guarantees are found wanting.
The public service media (PSM), i.e., Czech Television and Radio, as well as commercial channels, are bound by law to provide fair and balanced information, and their performance is monitored by the Council for Radio and Television Broadcasting. In addition, both PSM media have their own Councils, which serve as monitoring bodies. Appeals are possible via administrative courts; however, their protracted duration and the overuse of appeals can make the appeal process less effective. PSM media also have self-regulatory mechanisms in place, although, in some instances, they lack proper instruments for the evaluation of internal editorial policies. Election laws regulate fair access to airtime during election campaigns, and there is little evidence of complaints against the broadcast media’s conduct during electoral campaigns. The buying of political advertisements is prohibited. Apart from occasional incidents, Czech broadcasters generally fulfil their legal obligations, as the indicator on ‘Political bias in the media’ attests (4%).

The indicator ‘Politicisation of control over media outlets’ shows a medium risk (54%). This value does not necessarily mean that there is an excessive politicisation of control over media outlets – the share of TV channels owned by politically affiliated entities accounts for 5%, 24% for radio channels, and 37% for national newspapers (all measured by audience/readership shares). The fact that one of the biggest media houses in the country, MAFRA, is currently in the hands of the Deputy Prime Minister, has nevertheless raised concern and stirred debates on the possible tightening of the rules on media ownership. The particular risk increasing factor is the lack of self-regulatory mechanisms that stipulate editorial independence.

Several private companies control the distribution outlets for both print and broadcast media. Although the market is not entirely competitive and is highly skewed in favour of just a handful of big players, in terms of political pressure, the current arrangement does not warrant serious concern (a negligible risk for the indicator ‘politicisation of control over media distribution networks’).

There are two main factors causing a high level of risk for the ‘State advertising’ indicator (72%). Firstly, it is the absence of rules on the distribution of state advertising; secondly, the lack of data on the share of state advertising in different markets. The lack of data for state advertising in the newspaper market should itself be considered a serious problem, given that many newspapers, and the print media in general, cope with financial problems, and due to the lack of transparency in state advertising and PR campaigns, they can be prone to political instrumentalisation in return for financial gain.

PSM governance is considered at low risk, especially because there is no direct governmental influence on either the wages of employees or on funding (‘Independence of PSM governance and funding’ indicator: low risk, 24%). There is room for improvement with regard to the accountability of PSM media. The particular PSM Councils that are elected by the Chamber of Deputies from nominations from the civil society supervise the management of PSM media. The ultimate control over the Councils by the Chamber of Deputies through the appointment procedures and the lack of appeal mechanisms sometimes raises concerns about partisan influences.
The leading news agency – a public service corporation, the Czech News Agency (ČTK) – has around a 90% share of the market and only competes with foreign news agencies. The lack of a competitive national market could itself be of a concern (indicator ‘independence of news agencies’: medium risk, 50%). Even though the oversight over ČTK is carried out by the Council, which is elected by the Chamber of Deputies, there are no records of political influences; despite having the option of receiving subsidies, the Czech News Agency has been fully financed by its independent business activities.

Figure 4 Media Pluralism Monitor 2015 – Czech Republic, Political Independence Domain, results by indicators
2.4 Social Inclusiveness (37% risk - medium risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to media for different social and cultural groups, and local communities</td>
<td>17% risk (low)</td>
</tr>
<tr>
<td>Availability of media platforms for community media</td>
<td>75% risk (high)</td>
</tr>
<tr>
<td>Access to media for the physically challenged people</td>
<td>Negligible</td>
</tr>
<tr>
<td>Centralisation of the media system</td>
<td>79% risk (high)</td>
</tr>
<tr>
<td>Universal coverage of the PSM and the Internet</td>
<td>19% risk (low)</td>
</tr>
<tr>
<td>Media literacy</td>
<td>33% risk (medium)</td>
</tr>
</tbody>
</table>

In general, the legislative framework includes regulatory safeguards for access to the media by minorities and various cultural and social groups in PSM, with the actual practice effectively monitored by both the Council for Radio and Television Broadcasting and the Council of Czech Television (or Czech Radio). The indicator on ‘access to media of different social and cultural groups, and local communities’ attests a low level of risk (17%). However, the law does not stipulate a minimum proportion of the regional or local communities that should be involved in the production and distribution of content for PSM.

The indicator ‘Availability of media platforms for community media’ shows high risk (75%). Provisions for community media are absent from the Czech media legislation, even though several such outlets – mainly radio stations – are effectively operating in the country. There has been an expert debate in recent years about this topic, and the Ministry of Culture presently supports the idea of involving community media as the ‘third pillar’ of the Czech media system. Officially, only two minority groups number more than the 1% level in the Czech population (Slovaks 1% and Roma 3%), although these numbers depend on self-report in the census. Minority media occupy a very small niche within the Czech media system, and this is virtually only in the print sector and on the Internet (high risk). In terms of state support for minority media, only magazines published in the languages of ethnic minorities can apply for state funding. However, the system of yearly-based allocations of state funding makes them economically vulnerable (medium risk).

Another potentially high risk concerns the centralization of the media system (79%), particularly regarding the newspaper and TV market. Regional and local media are not defined specifically in the law and they are not systematically supported. In the case of broadcasting, no specific frequencies are
reserved for regional/local media. In the case of radio, regional/local broadcasters may gain more than a 50% market share, but it should be noted that these are mostly music stations with only limited space for local/regional news.

The indicators ‘Access to the media for physically challenged people’ and ‘Universal coverage of the PSM and the internet’ show low risk (negligible and 19% risk respectively). The broadband penetration is slightly lower in the Czech Republic, if compared to other countries in Western Europe, but broadband covers over 90% of the rural population. On the threshold between low and medium risk is the level of media literacy (33%). ‘Media literacy’ has been implemented in educational curricula since 2006, but there is no evidence of whether and how it has actually influenced the skills of young people. The implementation of media literacy measures remains fragmented (medium risk). Moreover, the media literacy of adult population remains relatively low, e.g. the level of digital skills is lower than in other Western EU countries.

![Figure 5 Media Pluralism Monitor 2015 – Czech Republic, Social Inclusiveness Domain, results by indicators](image-url)
3. Conclusions

Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.

The results of the MPM point to several areas where specific policy measures should be adopted in order to foster and better safeguard media pluralism. In the domain of media ownership, there is a clear need for laws that set limits on cross-media ownership concentration, as the current absence of any such regulations benefits the largest players and stimulates the intensification of the process of ‘conglomeratisation’. This need is indeed perceived, not just by experts and civil society, but also by the policy makers; and, at the moment, the Ministry of Culture is preparing a revision of the Broadcasting Act, and the regulation of cross-media concentration is among the new measures which the Act should introduce.

In light of the recent ownership changes which have brought actors with explicit political interests into the media business, there seems to be an urgency to establish rules for, or limits on, political ownership of the media, in order to prevent excessive politicisation of the news media scene which could jeopardise journalistic autonomy.

The reform of the system for the appointment of the members of broadcasting councils represents another palpable issue which should be targeted by media policy. Even though many attempts at the depoliticisation of the councils (that is, removing them from being effectively controlled by the Chamber of Deputies) have failed in the past, the need to safeguard the greater political independence of public service broadcasters is still highly topical, or perhaps even greater today, given the increasing concerns about the ability of commercial media to fulfil their democratic roles following the latest wave of ownership swaps.

The distribution of state advertising (both via the Ministries’ PR budgets and through state-controlled companies) should be made more transparent, as currently it is nearly impossible for the public to know which media benefit from this form of indirect state support.

Community media should be recognised by law in order to help establish the community media sector as a ‘third pillar’ of the Czech media system, particularly given the fact that the Czech Republic remains one of the few EU countries where such a sector does not legally exist. The notion of ‘minority media’ should also be significantly broadened, as, currently, the only type of minority media that is eligible for state support is the one related to ethnic minorities.
Annexe I. List of national experts who were consulted

Tomáš Tkačík
President of the Czech Publishers’ Association

Milan Šmíd
Emeritus Professor, Charles University

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Metropolitan University Prague, Department of Media Studies

Jan Bednář
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Adam Černý
Czech Syndicate of Journalists
Media Pluralism in Finland

A Test Implementation of the Media Pluralism Monitor 2015

Authors:

Ville Manninen and Heikki Kuutti (University of Jyväskylä)

October 2015
About the project

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the Member States of the European Union. This narrative report has been produced within the framework of the second pilot test implementation of the MPM, which was carried out in 2015. The implementation was conducted in 19 EU Member States with the support of a grant awarded by the European Union to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

The Monitor’s methodology is based on research carried out by national country teams in the 19 countries, except for Malta where data collection was carried out centrally by the CMPF team. The research is based on a standardised questionnaire and apposite guidelines that were developed by the CMPF. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly sensitive questions (see Annexe I for the list of experts).

Risks to media pluralism are examined in four main thematic domains, which are considered to capture the main areas of risk for media pluralism and media freedom: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area. The Basic Protection domain consists of four indicators; Market Plurality has three, while Political Independence and Social Inclusiveness each contain six indicators.

<table>
<thead>
<tr>
<th>Basic Protection</th>
<th>Market Plurality</th>
<th>Political Independence</th>
<th>Social Inclusiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>Transparency of media ownership</td>
<td>Political bias in the media</td>
<td>Access to media for different social and cultural groups, and local communities</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>Concentration of media ownership</td>
<td>Politicisation of control over media outlets</td>
<td>Availability of media platforms for community media</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>Concentration of cross-media ownership</td>
<td>Politicisation of control over media distribution networks</td>
<td>Access to media for the physically challenged people</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td></td>
<td>State advertising</td>
<td>Centralisation of the media system</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of PSM governance and funding</td>
<td>Universal coverage of the PSM and the Internet</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of news agencies</td>
<td>Media literacy</td>
</tr>
</tbody>
</table>
The results for each domain and indicator are presented on a scale from negligible to 100%, a negligible risk being the lowest, and 100% risk being the highest score. Scores between negligible and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.
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   2.1 Basic Protection
   2.2 Market Plurality
   2.3 Political Independence
   2.4 Social Inclusiveness

3. Conclusions

Annexe I. List of national experts who were consulted

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection.
1. Introduction

Finland has a strong tradition in print media. Newspapers and magazines are numerous and their readerships are high. The internet has a high level of penetration and many users. The public service broadcaster, YLE, is the key media player and has diverse production. All forms of media are open to private competition.

Media in Finland are free. State regulation mainly applies to technical aspects, such as transmission bandwidths. Criminal law imposes some restrictions on content, but they are in line with international standards.

The MPM instrument shows significant warning signs only due to the high level of market concentration. Minor issues relate to state regulation and policy implementation. The overall state of media pluralism in Finland should be considered good.

2. Results from the data collection: assessment of the risks to media pluralism

Figure 1 Media Pluralism Monitor 2015 - Finland, results by Risk Domain
2.1 Basic Protection (16% risk - low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>20% risk (low)</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>31% risk (low)</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>8% risk (low)</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td>5% risk (low)</td>
</tr>
</tbody>
</table>

Finland scores well in the ‘Basic Protection’ domain, with a composite risk level at 16%. None of the indicators reaches medium risk levels, but there are individual issues that blemish the country's record.

Firstly, there are issues that are related to long appeal processes over court decisions. The European Court of Human Rights has, on some occasions, overturned decisions upheld by all levels of Finland's judicial system. This suggests that remedies may become belated, which puts Finland at a medium risk in the related variable. This alone is sufficient to elevate the indicator ‘Protection for freedom and expression’ to 20% of risk.

The indicator ‘Protection of right to information’ has the highest risk score (31%) within the basic domain. The legal provisions to protect Finns' right to information are sophisticated, but there is some indication of their poor implementation. Namely, sometimes officials may withhold information that citizens should be able to access, and sometimes the repeal of these decisions may take unduly long, resulting in a medium risk in these variables.

The conditions that Finland’s journalists operate in are among the most favourable in the world. While access to the profession is unrestricted, the profession is well protected by shield laws, labour laws and union treaties. Signs of digital threats against journalists have not been detected, and, as a whole, working conditions are good. Notable blemishes are the occasional threats of violence made against journalists and attempts to influence editorial content. Two variables on these issues score as medium risks, which give Finland an 8% risk score in the indicator ‘Journalistic profession, standards and protection’.

Finland scores generally low in the indicator ‘Independence of national authority’\(^1\). It is noteworthy that

\(^1\) NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media
Finland does not have an all-round media authority. Negative evaluations come from the way that budgets are formed for the authorities of both telecommunications and for competition. In both cases, the authorities' budgets are not formed objectively, but at the Parliament's discretion. The budgets, however, have been consistent through the years, and, according to the authorities’ own estimates, they have generally been sufficient. In total, Finland scores a 5% risk in this indicator.

Figure 2 Media Pluralism Monitor 2015 - Finland, Basic Protection Domain, results by indicators

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authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).
2.2 Market Plurality (75% risk - high risk)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency of media ownership</td>
<td>38% risk (medium)</td>
</tr>
<tr>
<td>Concentration of media ownership</td>
<td>87% risk (high)</td>
</tr>
<tr>
<td>Concentration of cross-media ownership</td>
<td>100% risk (high)</td>
</tr>
</tbody>
</table>

Overall, ‘Market Plurality’ ranks Finland as being at high risk. The risk score (75%) is the highest among all of the domains.

The indicator ‘Transparency of media ownership’; produces a 38% risk score. Finnish law sets openness requirements to all limited liability companies, and aims to secure authorities’ access to information. As a whole, the ownership of most of the media companies operating in Finland can be traced. Some co-owners are, however, unknown, and deliberate anonymity is possible due to loopholes in legislation.

Finnish media has been slowly concentrated into larger chains for decades. The process is still incomplete, but the lack of regulation that is specific to the media sector raises Finland's risk score to 87% in the indicator ‘Concentration in media ownership’.

Market shares (in percentage) controlled by the four largest companies in the different sectors are as follows: the internet (90%); audiovisual (90%); radio (79%), and newspapers (68%). Audience concentration among the top four providers is similar in the audio visual (92%) and radio (83%) sectors.

It should be noted that neither the Finnish Competition and Consumer Authority (FCCA), nor any other official body, routinely monitors market concentration in these sectors. The estimates are based on partially non-comparable data sets and should, at best, be considered approximate. Sufficient data on the newspaper sector's audience concentration, or on the online sector's market or audience concentrations, do not seem to exist.

The indicator ‘Concentration of cross-media ownership’ is the only one in the entire instrument that gives Finland a full 100% risk score. No a priori restrictions are placed on cross-media concentration, and the eight largest companies control as much as 98% of the country's media market.
2.3 Political Independence (26% risk - low risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the media market, with a focus on state advertisement and public service media.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political bias in the media</td>
<td>35% risk (medium)</td>
</tr>
<tr>
<td>Politicisation of control of media outlets</td>
<td>6% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control of media distribution networks</td>
<td>Negligible</td>
</tr>
<tr>
<td>State advertising</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>Independence of PSM governance and funding</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Independence of news agencies</td>
<td>38% risk (medium)</td>
</tr>
</tbody>
</table>

The composite score for the ‘Political Independence’ domain puts Finland at the upper end of the low risk range (26%). Within the domain, scores range from a perfect zero to the mid-medium range. Most issues are related to the lack of regulation, rather than to actual malpractice.
The indicator ‘Political bias in the media’ puts Finland just barely within the medium risk range, with a score of 35%. Finnish law demands objective and balanced presentation in political matters from the PSB company (YLE). The corporation is overseen by its Administrative Council, which is elected by and from the national Parliament. The Council sets the rules for electoral coverage and nominates the board of governors, but it has no actual sanctioning powers in cases where there are violations. Ethical violations can also be taken up with the national self-regulatory commission, the Council for Mass Media.

There is nothing to suggest that YLE would be politically biased. Political actors are not explicitly guaranteed equal access to PSM platforms, but, in practice, access is granted to the relevant actors. Commercial channels generally abide by similar rules of non-partisanship, although no current research could be found on the topic. The expert panel was unanimous on these matters.

Finnish media outlets largely operate by commercial standards, and the indicator ‘Politicalisation of control over media outlets’ produces a risk score of only 6% for Finland. At the time of this study, none of Finland’s free television channels appeared to have been in politicised ownership.

Reliable data on the politicisation of radio channels’ ownership could not be found. The data on the newspaper sector suggest 22% readership for papers owned by politically aligned entities. Politicisation is not actively monitored, and was, in this case, estimated through public information on the owners' political activities.

Finland’s media distribution (print, television and radio) networks all appear to be in apolitical ownership, giving a score of a perfect zero (negligible risk) in the indicator ‘Politicalisation of control over media distribution networks’;

The fourth indicator (‘State advertising’) scores the highest risk level (50%) within this domain. This is mainly due to the lack of both monitoring and regulations that are related to state advertising. The state is not a keen advertiser, but some public officials and state-owned companies post advertisements or announcements through private media. It is likely that these advertisements are not distributed according to audience shares, but according to the relevant audiences.

There is very little, if any, room for politically motivated subsidisation through advertising space purchases, both due to the practical nature and the relatively small size of publicly funded advertisement purchases.

The indicator ‘Independence of PSM governance and funding’ produces a risk score of 25%. The appointment procedures for the PSB corporation, YLE, are well defined in law. However, the procedure allows political oversight, as YLE's Administrative Council is selected by, and is typically from, the members of the Parliament. This means that the highest positions within the corporation can be filled by political nominations. The government has no authority over YLE employees' salaries. In theory, a parliamentary committee could divert funds that are meant for YLE, but, in practice, the corporation's funding is clearly set in law. YLE is wholly funded by a specific tax that is collected from all citizens.
The sixth indicator (‘Independence of news agencies and news aggregators’) ranks Finland at medium risk (38%), due to the lack of market data. Only one generalist news agency operates in the country, STT-Lehtikuva. Timely data could not be found, but it is generally thought to hold the dominant market share. STT-Lehtikuva is privately owned and is considered apolitical in tone.
2.4 Social Inclusiveness (30% risk - low risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to media for different social and cultural groups, and</td>
<td>44% risk</td>
</tr>
<tr>
<td>local communities</td>
<td>(medium)</td>
</tr>
<tr>
<td>Availability of media platforms for community media</td>
<td>53% risk</td>
</tr>
<tr>
<td>Access to media for the physically challenged people</td>
<td>Negligible</td>
</tr>
<tr>
<td>Centralisation of the media system</td>
<td>75% risk</td>
</tr>
<tr>
<td>Universal coverage of the PSM and the Internet</td>
<td>6% risk</td>
</tr>
<tr>
<td>Media literacy</td>
<td>Negligible</td>
</tr>
</tbody>
</table>

Finland’s composite score in the ‘Social Inclusiveness’ domain is just barely within the low range, at 30%. The results differ dramatically within the domain: while some indicators produce zero risk scores, others pass into the medium, or even into the high, risk range.

The indicator ‘Access to media for different social and cultural groups, and local communities’ puts Finland at a medium risk, with a score of 44%. The main issues relate to the PSB company, YLE’s, vague regulation. The law does not guarantee minorities’, cultural or social groups’ access to airtime on PSB channels. Moreover, YLE is not bound by law to involve or hire people from certain backgrounds, nor to maintain a presence in all regions. Nevertheless, the desired effects seem to have been reached in practice: YLE routinely grants airtime to a heterogeneous selection of people. It regularly broadcasts news in at least five languages (sign language included). It also maintains local bureaux, which often employ and involve local people.

The indicator ‘Availability of media platforms for community media’ also produces a medium risk rating, with a score of 53%. The main reason for the high score is the state’s policy of non-regulation, and the development of minority media is mainly left to the minorities themselves. Finland has only one minority that clearly passes the MPM threshold (of at least 1% of population), the Swedish speaking minority. It has done relatively well for itself, while smaller groups are under-represented in the media landscape. After revision, the risk to minority media’s independence was decided to be low. The expert panel was divided on the matter. Finnish minority media are numerous, but they are financially feeble. Most of the minority media consist of magazines with low circulation and publishing rates. Only one, free television channel (from at least 21) in Finland is targeted at a minority audience. This proportion is slightly lower
than the minority's proportion of Finland's population. The situation is comparable in radio channels. In newspapers, the said minority is well represented. The two prior sub-indicators produce medium, and the latter low, risk assessments.

Indicator ‘Access to the media for physically challenged people’ grants Finland a perfect score of 0% risk (negligible). The country has well developed (and observed) policies and legislation to support physically challenged people's access to the media.

The domain's worst score (75%) comes from the indicator ‘Centralisation of the media system’. Finnish legislation has no provisions to support or protect local media. Meagre subsidies are available, but none are reserved specifically for local media. Despite the lack of state support, local and regional newspapers thrive in Finland. The majority of daily newspapers (at least 67%) are regional. Regional radio channels gather approximately 27% of the daily listenership. Regional television channels do not exist.

The indicator ‘Universal coverage of the PSM and the Internet’ produces a near-perfect score of 6% risk. The PSB company, YLE, must, by law, provide services to all citizens. Television and radio broadcasts cover over 99% of the population. Broadband connections are available to 98% of Finland's rural population. De facto broadband penetration is equally high, at 90%. The only blemish comes from the sub-par, average broadband upload speed (14 Mb/s).

The indicator ‘Media literacy’ gives Finland a negligible zero risk estimate. The country has a well developed and implemented policy for promoting media literacy. The clear majority of Finns use the internet on a daily basis and have at least basic digital skills.
Figure 5 Media Pluralism Monitor 2015 - Finland, Social Inclusiveness Domain, Results by Indicators
3. Conclusions

Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.

Finland's main issues relate to the ‘market plurality’ domain. The Finnish media system is highly concentrated, although much of this can be explained by the small market size. For this reason, stricter anti-concentration regulation cannot be recommended. The FCCA should, however, monitor more closely the market concentrations in all media sectors, as the lack of data proved to be problematic in this study. Policy recommendations that are salient to each media sector should not be made without pertinent data concerning profitability, expenses, and viable market shares.

The lack of state support, to either local or community media, or both, increases Finland's risk score in the indicator ‘Centralisation of the media system’ (the social inclusiveness domain). This result may be seen as being controversial, because local and regional media (the television sector is excluded) are fairly vital in Finland. However, the situation may be changing, as newspapers were recently deprived of a long-standing tax-cut, which had mainly benefitted the local papers. Calls have been made for the re-introduction of the tax cut, or for other subsidies in support of the local press. It is our opinion that, in such an event, support should be extended to all forms of local media.

While no signs of extensive violations of the right to information exist, we recommend that Finland pursues the harmonisation of policy implementation in this regard. While legal provisions are sufficiently supportive of institutions, individual officials may neglect to follow them. This occasionally results in unduly long appeal processes to gain access to information, and which may limit access from those less able to carry out the process.

Furthermore, we urge the state to continue its development and support of the public's media literacy, as well as the extensive coverage of PSM. As technology changes, both policy segments must continue to evolve. For example, as audiovisual content becomes more frequently transmitted through the internet, PSM coverage becomes tied to the availability of high-speed internet connections. Similarly, the condition of journalistic freedom, while currently good, should be actively monitored, and the violations thereof should be sternly counteracted. It appears likely that the issue will arise in the near future, as the internet provides more convenient and less traceable ways to influence (and harass) journalists.
Annexe I. List of national experts who were consulted

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Federation of Media Industry

Marina Österlund-Karinkanta
YLE, Finnish Broadcasting Company

Kalle Varjola
Finnish Communications Regulatory Authority

Juha Rekola
Union of Journalists in Finland

Hannu Nieminen
University of Helsinki
Media Pluralism in Germany

A Test Implementation of the Media Pluralism Monitor 2015

Authors:
Wolfgang Schulz, Hermann-Dieter Schroeder, Kevin Dankert
(Hans Bredow Institut)

October 2015
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<table>
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<tr>
<th>Basic Protection</th>
<th>Market Plurality</th>
<th>Political Independence</th>
<th>Social Inclusiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>Transparency of media ownership</td>
<td>Political bias in the media</td>
<td>Access to media for different social</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>Concentration of media ownership</td>
<td>Politicisation of control over media outlets</td>
<td>and cultural groups, and local communities</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>Concentration of cross-media ownership</td>
<td>Politicisation of control over media</td>
<td>Availability of media platforms for</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td></td>
<td>distribution networks</td>
<td>community media</td>
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<td></td>
<td></td>
<td>State advertising</td>
<td>Access to media for the physically</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of PSM governance and funding</td>
<td>challenged people</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of news agencies</td>
<td>Centralisation of the media system</td>
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<td></td>
<td>Universal coverage of the PSM and the</td>
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<td></td>
<td>Internet</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Media literacy</td>
</tr>
</tbody>
</table>
The results for each domain and indicator are presented on a scale from negligible to 100%, a negligible risk being the lowest, and 100% risk being the highest score. Scores between negligible and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.
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3. Conclusions

Annex I. List of national experts who were consulted

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection.
1. Introduction

The most widely accessed media channels in Germany are television and radio. 84% of the population watch television every day via a conventional TV set, while 5% consume programming via Internet platforms. 69% listen to radio on a daily basis. Digital satellite and cable make up the preferred modes of transmission for television content, while terrestrial, analogue services prevail for radio. The Internet is used daily by 57% of the population, and print media is consumed every day by 56%.

The media system in Germany is determined by the constitution and the settled case law of the Constitutional Court (Bundesverfassungsgericht). Media affairs are regarded as being a cultural matter that falls under the legislation of the sixteen federal states (Bundesländer). Regulation of the mass-media is, however, in part, unified by interstate treaties.

Most regulatory measures, as far as the media are concerned, focus on television, due to the perception that it is highly influential in forming public opinion. The Federal Constitutional Court and the basic law guarantee that public service broadcasting is not state controlled, and that policies exist to enhance media plurality and to limit media concentration.

Implementation of the MPM2015 indicates, in general, a low to medium risk to media pluralism in Germany.
2. Results from the data collection: assessment of the risks to media pluralism

*Figure 1 Media Pluralism Monitor 2015 - Germany, Results by Risk Domain*
2.1 Basic Protection (6% risk - low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>2% risk (low)</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>Negligible</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>21% risk (low)</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td>Negligible</td>
</tr>
</tbody>
</table>

For the ‘Basic Protection’ domain all of the indicators show very few risks to media pluralism in Germany. Freedom of expression (indicator: 2% of risk) is guaranteed by the German Constitution and by the ratification of the International Covenant on Civil and Political Rights and, to date, there is no evidence of any violations. Citizens have the right to a legal remedy in cases of infringements upon their freedom of expression. On the other hand, defamation is a criminal offence, thus posing some risks to the freedom of expression. Furthermore, freedom of information (negligible risk in the connected indicator) is protected by the constitution, by national law, and by appeal mechanisms against denials of freedom of information requests.

Risks to the standards of ‘Journalism, and to its protection as a profession’, are low (21%). There is relatively unrestricted access to information. The law guarantees the protection of sources, but news organisations must be accountable. Professional associations represent a large proportion of journalists. The German Press Council (Deutscher Presserat) is a voluntary and self-monitoring press regulator which was established by the associations of journalists and of newspaper and magazine publishers. Emphasising a commitment to the freedom of the press, the German Press Council handles complaints from the public concerning possible violations of press standards. Despite the relative independence and professionalism of the field, increasing financial pressures on publishers are degrading working conditions and threatening job security for practitioners. Occasionally, as a result of political conflict, journalists are portrayed as being dishonest and, at times, they have been threatened with physical abuse.

For the independence of German regulatory authorities risks are negligible. ¹ For print media, there

¹ NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an
are no special regulatory authorities besides the German Press Council. A broad stratum of society is represented at the board level of each public broadcaster so as to ensure a certain plurality of opinion, independent of any centralised authority. The degree of separation between public media and the state is, however, constantly under review. Recently, for example, the composition of the board of one broadcaster was subject to a decision by the German Constitutional Court that criticised an excessive representation of political power. Fourteen Regional Media Authorities (Landesmedienanstalten) externally control private broadcasters and digital services (Telemedien). These authorities have a legal guarantee of independence from political and commercial interference. Media companies are also subject to competition regulation by the Federal Cartel Office (Bundeskartellamt), which is also independent. Its tasks, duties and responsibilities are defined in detail by law. The same is true for the communications regulator, the Federal Network Agency (Bundesnetzagentur).

![Figure 2 Media Pluralism Monitor 2015 - Germany, Basic Protection Domain, Results by Indicators](image)

overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).
2.2 Market Plurality (44% risk - medium risk)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
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<tbody>
<tr>
<td>Transparency of media ownership</td>
<td>38% risk (medium)</td>
</tr>
<tr>
<td>Concentration of media ownership</td>
<td>69% risk (high)</td>
</tr>
<tr>
<td>Concentration of cross-media ownership</td>
<td>25% risk (low)</td>
</tr>
</tbody>
</table>

The indicators for the ‘Market Plurality’ domain lead to a more ambivalent assessment. The evaluation of ‘Transparency of media ownership’ shows a medium risk (38%). There are no rules that particularly oblige media companies to publish their ownership structure to the public, but in many cases they take the legal form of incorporated companies and they are therefore obliged to publish financial reports to their shareholders. Broadcasters must publish annual reports, including notes of their annual accounts; they must report ownership structures and disclose the relevant information after every change in their ownership structure. However, according to the German Commission on Concentration in the Media (Kommission zur Ermittlung der Konzentration im Medienbereich) there is no complete and reliable documentation detailing the ownership of private radio companies.

The ‘Concentration of media ownership’ indicator shows a high risk to media pluralism (69%). In order to prevent a predominating power of opinion there are normative provisions to prevent media concentration in audiovisual media, which is based on audience share. For radio, newspapers and Internet content providers there are no specific thresholds to prevent high levels of concentration. Media mergers, however, are also subject to German competition law, providing additional barriers to undesirable mergers and acquisition cases. The audience concentration of the TV market is very high. The Top4 (public broadcasters, RTL Group, ProSiebenSat.1, and Sky) achieve a market share of 90 percent of television viewing time. In contrast, the Top4 newspaper publishers have a 38% share of the total circulation.

The indicator ‘Concentration of cross-media ownership’ scores a low risk (25%). The German Commission on the Concentration in the Media focuses on television, but, to a limited extent, also includes other relevant markets. The focus on television is often criticised for being outdated, and other criteria that include activities in other media are under discussion. The market share of the major eight firms across the different media sectors (if all the regional public broadcasters are counted as one) was 62 percent in 2013.
2.3 Political Independence (19% risk - low risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the media market, with a focus on state advertisement and public service media.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political bias in the media</td>
<td>3% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media outlets</td>
<td>12% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media distribution networks</td>
<td>Negligible</td>
</tr>
<tr>
<td>State advertising</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>Independence of PSM governance and funding</td>
<td>Negligible</td>
</tr>
<tr>
<td>Independence of news agencies</td>
<td>50% risk (medium)</td>
</tr>
</tbody>
</table>

According to recent studies there is no distinctive political bias in the German public service media and commercial broadcasting (indicator ‘Political bias in the media’: 3% - low risk). The broadcasting remit is defined by law. Public service broadcasters are supposed to act as a medium and as a factor in the process of the formation of free individual and public opinion through the production and transmission of their services, thereby serving the democratic, social and cultural needs of society. Through their content, public service broadcasters must provide a comprehensive overview of international, European, national and regional events in all major areas of life. The idea is that, in so doing, the media will contribute to further international understanding, European integration and
social cohesion on both a federal and a state level.

In Germany there is almost no ‘Politicisation of control over media outlets’ (2% - low risk). All political parties have to present a statement about their shares in media companies to the president of the national parliament, and these statements are published. As far as national broadcasting channels are concerned, political parties are not allowed to obtain a licence by law.

There is no substantial politicisation of control over media distribution networks either (negligible risk for the connected indicator). Print media distribution is mostly operated by regional wholesalers with regional monopolies in most regions. In 1969, the Constitutional Court decided that publishers are not allowed to prevent the delivery of their publications to dealers in order to prevent them distributing a competitor’s TV guide. In an agreement with the associations of newspaper publishers (BDZV Bundesverband Deutscher Zeitungsverleger) and magazine publishers (VDZ Verband Deutscher Zeitschriftenverleger), the print media wholesalers association (BVPG Bundesverband Deutscher Buch-, Zeitungs- und Zeitschriften-Grossisten) has agreed that they must be neutral towards all print publishers and their products. The distribution of radio and television is not politicised at all.

The indicator ‘State advertising’ scored a rating of medium risk (50%), because there are no transparent rules for the distribution of state advertising. There are no detailed data about state advertising, but the statistics that are available suggest that state advertising does not have a significant share of the advertising market.

The ‘Independence of public service governance and funding’ is not at risk in Germany (negligible risk for the indicator ‘independence of PSM governance and funding’). Fair, objective and transparent procedures for management and board functions guarantee independence from government or from any single political group. For this reason, the Federal Constitutional Court recently decided that the rules for the board of ZDF, the nationwide public service TV corporation, must be changed. Wages are negotiated between the public broadcasters and the unions. The level of license fees for public broadcasters is specified by an interstate treaty of the federal states which is based on the recommendation of the commission for the determination of the financial needs of public broadcasters (KEF Kommission zur Ermittlung des Finanzbedarfs der Rundfunkanstalten).

The indicator ‘Independence of news agencies’ attests a medium risk (50%). In 2013, the leading news agency (dpa, Deutsche Presse-Agentur) was subscribed to by all of the German newspapers, as well as all national, and most regional, broadcasters. The shareholders of DPA are its customers, comprising 187 print publishers and public and private broadcasters. None of them hold more than a 1.5 percent share in the agency. The association of German language news agencies has nine members in total (including the national news agencies of Austria and Switzerland), with most of them being used as secondary, special interest news sources.
2.4 Social Inclusiveness (21% risk - low risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to media for different social and cultural groups, and local communities</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>Availability of media platforms for community media</td>
<td>Negligible</td>
</tr>
<tr>
<td>Access to media for the physically challenged people</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Centralisation of the media system</td>
<td>15% risk (low)</td>
</tr>
<tr>
<td>Universal coverage of the PSM and the Internet</td>
<td>19% risk (low)</td>
</tr>
<tr>
<td>Media literacy</td>
<td>17% risk (low)</td>
</tr>
</tbody>
</table>

Most of the indicators in the ‘Social Inclusiveness’ domain show a low risk. The only indicator with
medium risk is ‘access to media of different social and cultural groups and local communities’ (50%), because there is no access to airtime on PSM that is guaranteed by law to different social and cultural groups, except churches and Jewish communities. However, many different groups are involved in the supervisory boards of the public service broadcasters. Most public broadcasters are regional, often with special studios for smaller territories within their broadcasting areas.

A requirement to provide community media platforms is stipulated by law in most states as a way of enhancing plurality (‘Availability of media platforms for community media’: negligible risk). There are no relevant minorities in Germany according to the MPM definition (nationals of the state, at least one percent of the country population). There are no legally established special television or radio channels for minorities. For physically challenged people, the policy on access to media content is well-developed (Indicator: ‘Access to media for physically challenged people’: 25%).

The risk of centralisation of the German media system is low (fourth indicator: 15%). Public and commercial broadcasting are regulated by federal state law and provide some degree of regional programming for radio and television. Most newspapers are regional, but there is no special legislation for local newspapers.

‘Universal coverage by PSM’ is guaranteed by the Constitution and is realised, in practice, for radio and television (19% for the fifth indicator). Broadband coverage includes most of the rural population (99%); while broadband penetration in Germany was 81% in 2013.

‘Media literacy’ (17% - low risk) is an ongoing issue for the federal states (and their media authorities) as well as for the federal government. They are mostly concerned with media literacy of children. According to the EU Digital Agenda Scoreboard, more than 50% of the population had at least basic digital skills in 2014.
3. Conclusions

Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.

The protection of the pluralism of the mass media in Germany is a major achievement of media regulation and the monitoring of the legal framework by the German Constitutional Court. It is imperative that politicians resist the temptation to change the media system for their own benefit. Recent history shows that it is essential that Germany has a Constitutional Court that can protect fundamental rights from the whims of party politics.

The results of this pilot implementation of the Media Pluralism Monitor indicate that the main risk to media plurality in Germany is the concentration of media ownership. Media regulators and politicians have been aware of this issue for many years. It is recommended that the transparency of media concentration should be enhanced, and that the regulation of media concentration is developed further in relation to developments in Internet-based media. Media legislation still focuses on television, and it is, at the very least, questionable whether the old idea of television as a dominant medium can be sustained. Legislation is significantly influenced by European law, so the scope of actions at a national level is limited.
Annexe I. List of national experts who were consulted

Sven Pagel
Univ. of Applied Sciences, Mainz

Michael Brüggemann
University of Hamburg

Katharina Kleinen-von Königslöw
University of Zurich, IPMZ – Institut für Publizistikwissenschaft und Medien

Dietmar Wolff
BDZV Bundesverband Deutscher Zeitungsverleger

Claus Grewenig
VPRT Verband Privater Rundfunk und Telemedien
Media Pluralism in Ireland

A Test Implementation of the Media Pluralism Monitor 2015

Author:

Roderick Flynn (Dublin City University)

October 2015
**About the project**

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the Member States of the European Union. This narrative report has been produced within the framework of the second pilot test implementation of the MPM, which was carried out in 2015. The implementation was conducted in 19 EU Member States with the support of a grant awarded by the European Union to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

The Monitor’s methodology is based on research carried out by national country teams in the 19 countries, except for Malta where data collection was carried out centrally by the CMPF team. The research is based on a standardised questionnaire and apposite guidelines that were developed by the CMPF. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly sensitive questions (see Annexe I for the list of experts).

Risks to media pluralism are examined in four main thematic domains, which are considered to capture the main areas of risk for media pluralism and media freedom: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area. The Basic Protection domain consists of four indicators; Market Plurality has three, while Political Independence and Social Inclusiveness each contain six indicators.

<table>
<thead>
<tr>
<th>Basic Protection</th>
<th>Market Plurality</th>
<th>Political Independence</th>
<th>Social Inclusiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>Transparency of media ownership</td>
<td>Political bias in the media</td>
<td>Access to media for different social and cultural groups, and local communities</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>Concentration of media ownership</td>
<td>Politicisation of control over media outlets</td>
<td>Availability of media platforms for community media</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>Concentration of cross-media ownership</td>
<td>Politicisation of control over media distribution networks</td>
<td>Access to media for the physically challenged people</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td></td>
<td>State advertising</td>
<td>Centralisation of the media system</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of PSM governance and funding</td>
<td>Universal coverage of the PSM and the Internet</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of news agencies</td>
<td>Media literacy</td>
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</tbody>
</table>
The results for each domain and indicator are presented on a scale from negligible to 100%, a negligible risk being the lowest, and 100% risk being the highest score. Scores between negligible and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.
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Annexe I. List of national experts who were consulted

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection.
1. Introduction

Ireland has a traditionally strong and highly competitive print media. A unique feature of the Irish print media is the strength of the British press in Ireland, mainly due to the geographical, cultural and linguistic closeness of the two countries. Radio is very popular in Ireland. Listenership surveys show that a large majority of the Irish listen to a mix of national, regional and local radio everyday (Foley 2010). Ireland’s public service broadcaster, Radio Telifis Eireann (RTE), has dominated the broadcasting in Ireland since the 1920s. The only private, indigenous competitor to RTE television is the private commercial channel TV3 (Foley 2010). Although the research suggests that there is a medium risk to pluralism in three of four domains examined (with the exception of the ‘basic protection’ domain), the practical incidence of these risks varies. Although the 54% risk score in the ‘Market Plurality’ domain thus reflects the reality of a high level of media ownership concentration, the ‘Political Independence’ domain’s score of 40% reflects a potential danger (relating to, for example, the lack of controls of political ownership of media outlets) rather than a present danger. However, the 41% risk score in the ‘Social Inclusiveness’ domain is reflected in the reality on the ground, whereby minority groups are manifestly under-represented in the mainstream media.
2. Results from the data collection: assessment of the risks to media pluralism

*Figure 1* Media Pluralism Monitor 2015 - Ireland, Results by Risk Domain
2.1 Basic Protection (29% risk - low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>33% risk (low)</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>38% risk (medium)</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td>19% risk (low)</td>
</tr>
</tbody>
</table>

The ‘Protection of freedom of expression’ (low risk): Section 40.6.i of the Constitution guarantees the "right of the citizens to express freely their convictions and opinions”. Ireland has signed both the ICCPR and the European Convention on Human Rights without significant reservations. However, there remains a medium risk, owing to the 2009 Defamation Act, which permits not only private individuals but also “bodies corporate” to take libel actions and also includes blasphemy as an offence.

The ‘Protection of right to information’ (low risk): The low risk here reflects the fact that citizens can access information held by government departments/public bodies as a result of the Freedom of Information Acts of 1997, 2003 and 2014 (although this is not a constitutionally protected right). Although public bodies may refuse an information request if such a request would cause a substantial disruption of work. Recent Freedom of Information Commissioner’s reports do not suggest any systematic tendency to block the fulfilment of such requests.

The ‘Journalistic profession, standards and protection’: There is a medium risk under this indicator. Although there are no legal impediments to becoming a journalist in Ireland (e.g., there is no state licensing system), less tangible barriers may limit the access of some groups – e.g., the working classes, ethnic minorities and the disabled – to the profession. Furthermore, protections for journalists – in the sense of working terms and conditions but also from state interference – cannot be taken for granted. Though high with a proportion of 75% of working journalists, the National Union of Journalists’ membership is declining as free-lancing becomes increasingly prevalent. Furthermore, crime journalists, in particular, report serious threats to their physical safety. There is also some evidence that the state may have used the Communications (Retention of Data) Act 2011 as a means for the surveillance of journalists. There is also anecdotal evidence to suggest that some media owners have sought to influence editorial content. However, on the plus side, case law since 2007 has repeatedly asserted that
constitutional protections relating to freedom of speech should be interpreted as extending the protection of anonymity to journalistic sources.

The ‘Independence of national authorities’: The risk here is low. ¹ With regard to the Broadcasting Authority of Ireland, the Press Council of Ireland, the Competition Authority, and the Commission for Telecommunications Regulation (COMREG), it can broadly be said that they operate within clearly defined remits, in a transparent fashion (routinely publishing reports on their activities and decisions) and independently of state (or other) interference.

In the case of all three regulators, however, either the majority or the entirety of their governing authorities or commissions are directly appointed by the government. Although they are not entirely without some oversight, such appointments could be characterised as being subject to direct political influence.

Furthermore, there is no statutory description of how the annual budget of the Commission for Competition and Consumer Protection should be arrived at: legally they rely on the discretion of the Minister for Finance. (By contrast, the BAI and COMREG are funded by levies upon, respectively, Broadcasters and Telecom Operators, and thus they are effectively financially independent of the state).

¹ NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).
2.2 Market Plurality (54% risk - medium risk)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency of media ownership</td>
<td>38% risk (medium)</td>
</tr>
<tr>
<td>Concentration of media ownership</td>
<td>74% risk (high)</td>
</tr>
<tr>
<td>Concentration of cross-media ownership</td>
<td>50% risk (medium)</td>
</tr>
</tbody>
</table>

‘Transparency of Media Ownership’ (medium risk): Although Competition Law requires media companies to notify the Commission for Consumer Protection and Competition about any proposed changes in ownership, Company law does not require media firms to make public their ownership structures. As a consequence, the public understanding of who owns whom within the Irish media is often unclear.
‘Concentration of media ownership’: There is a very high risk here. Irish media and competition impose no maximum media ownership thresholds, although the 2014 Competition and Consumer Protection Act points to the "undesirability of allowing any one undertaking to hold significant interests [20% share] within a sector or across different sectors of media business in the State" when assessing media mergers.

Although the BAI’s Ownership and Control Policy does not have legislative status, it does specify the quantitative limits on the ownership of sound broadcasting (i.e., radio) services: ownership above 25% of the total number of licenced radio services is considered unacceptable.

There is also concern about the lack of reliable data as to market share by revenue in Ireland. Although audience share figures are readily available for television, radio and print media in Ireland, reliable figures for market share by revenue are not. This is due to the particularly transnational nature of the Irish media market and the failure to report revenues on a national disaggregated basis.

It is known that one individual enjoys a dominant position within the print and the commercial radio sector. The businessman Denis O’Brien owns 29.9% of Independent News and Media shares (the largest print media group in Ireland), and he is Chairman and principal shareholder of Communicorp, which accounts for 20% of the radio market in Ireland. However, this is countered by the dominant position of the PSM, RTE, in both the television and radio markets.

‘Concentration of cross-media ownership’ (medium risk): Again, there is no legally-specifed maximum threshold relating to cross-media ownership in Ireland.

Decisions taken prior to the 2014 Competition Act relating to media ownership have arguably facilitated media concentration across the Irish print and radio sectors. In addition to the example of Communicorp and Denis O’Brien (see above), there are several other notable examples of cross-media ownership, such as Landmark Media (formerly Thomas Crosbie Holdings) and UTV PLC.
2.3 Political Independence (40% risk - medium risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the media market, with a focus on state advertisement and public service media.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political bias in the media</td>
<td>5% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media outlets</td>
<td>62% risk (medium)</td>
</tr>
<tr>
<td>Politicisation of control over media distribution networks</td>
<td>17% risk (low)</td>
</tr>
<tr>
<td>State advertising</td>
<td>83% risk (high)</td>
</tr>
<tr>
<td>Independence of PSM governance and funding</td>
<td>31% risk (low)</td>
</tr>
<tr>
<td>Independence of news agencies</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

‘Political bias in the media’ (low risk): There are very strong legal protections against bias – political or otherwise – that are imposed on the PSM. In practice, this is regulated by the Broadcasting Authority of...
Ireland, which can fine the PSM if it breaches impartiality codes. The BAI has also published a code on election coverage which obliges all broadcasters to guarantee access to airtime for all political actors during elections.

The only caveat in this regard is that the BAI does not engage in the routine monitoring of, for example, airtime allocation to competing political parties or viewpoints on either the PSM or commercial broadcasters. Instead, it tends to respond to/investigate complaints from members of the public.

Overall, then, although it is generally accepted that at least mainstream political viewpoints can access the airwaves on a relatively, equitable basis, there is a lack of objective empirical data to definitively support this.

The ‘Politicisation of control of media outlets’: The medium score on the risk index here relates to the absence of legal prohibitions on media ownership by political parties, and the absence of a publicly-accessible database of media ownership in Ireland. However, in practice, there is only one media institution with a direct party political affiliation – An Phoblacht, which is affiliated to Sinn Fein. The Irish Press Group was set up by the Fianna Fail party but went bankrupt in 1995.

‘Politicisation of control of media distribution outlets’: The low score reflects the fact that print distribution companies are entirely unaffiliated with political parties, whilst broadcast distribution is only very tangentially connected to politics by dint of the fact that the state-owned PSM also operates national analogue radio distribution and Digital Terrestrial Television.

‘State advertising’: The high score here relates to the absence of easily accessible guidelines governing the allocation of state advertising to media outlets. Furthermore, there is no public record of how the state, as a whole, or how individual departments, distribute advertising in practice.

‘Independence of PSM governance and funding’ (low risk): The risk identified here relates to the direct appointment of members of the PSM boards by the Minister for Communications (subject to limited Parliamentary Committee oversight). In addition, although the granting of state funds to the PSM is nominally determined by an abstract inflation-related formula, in practice, the grant of increases is subject to the Minister for Communications’ approval, and there remains a degree of political discretion in determining the level of public funding awarded to the PSM.

Finally, Ireland does not host a national news agency and there are no figures as to what market share is enjoyed within Irish media outlets by the international players.
2.4 Social Inclusiveness (41% risk - medium risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to media for different social and cultural groups, and local communities</td>
<td>81% risk (high)</td>
</tr>
<tr>
<td>Availability of media platforms for community media</td>
<td>37% risk (medium)</td>
</tr>
<tr>
<td>Access to media for the physically challenged people</td>
<td>Negligible</td>
</tr>
<tr>
<td>Centralisation of the media system</td>
<td>54% risk (medium)</td>
</tr>
<tr>
<td>Universal coverage of the PSM and the Internet</td>
<td>38% risk (medium)</td>
</tr>
<tr>
<td>Media literacy</td>
<td>33% risk (low)</td>
</tr>
</tbody>
</table>

‘Access to media for different social and cultural groups, and local communities’: There is a very high
risk here. Although the Broadcasting Act of 2009 enjoins the BAI to ‘endeavour to ensure’ that all broadcasters – including the PSM – “bear in mind” “religious, ethical and cultural diversity”, this has not been interpreted as obliging RTE to provide access for different social and cultural groups to the airwaves. For example, the PSM schedules thus rarely include any programming focusing on the interests of any of the ethnic minorities within Ireland.

The only exception to the comments above refers to the Irish-speaking minority. Irish-language programming is included on both the PSM’s main radio and television channels and via two dedicated Irish language channels: Radio na Gaeltachta and TG4, a television channel established in 1996.

As regards local groups, there is no specific statutory obligation to have a minimum proportion of the regional or local communities involved in the production and distribution of content. The PSM does not broadcast local news programmes, nor are there specific requirements for local correspondents (although, in practice, the PSM does have local correspondents).

The ‘Availability of media platforms for community media’ (medium risk): Since 1988, community media have been recognised in law as being a discreet element of the Irish broadcasting environment. Although, in law, the guarantee of their editorial independence is weaker than that applying to the PSM, there is no evidence to suggest that such independence has been compromised. However, Irish media law does not recognise the existence of a specific category of “minority media”. Although broadcasting law imposes ‘must carry’ obligations upon broadcast distribution companies with regard to community media, there is thus no specific obligation to carry minority media.

The ‘Access to media for physically challenged people’: The low risk figure here is perhaps over-optimistic although, since 2008 in particular, the BAI has devoted significant resources to examining the representation of disability in Irish broadcast media. BAI rules do require broadcasters to provide universally accessible content for people with all forms of disability. This includes the provision of close captioning for some television content (especially for news and current affairs) and of a daily sign language news bulletin on the PSM. However, the provision of close captioning is far from universal, and the provision of programming specifically targeting people with disabilities has been intermittent.

The ‘Centralisation of the media system’ (medium risk): The small-scale of the Irish market (in both population and geographical terms) has meant that although there has been a relatively healthy local commercial radio market since 1988, local/regional television is almost unheard of (although there have been one or two community television channels). Effectively, the PSM has exclusively operated as a national service (i.e., without local/regional opt-outs) since its inception in 1926. The small-scale of the market, together with some regulatory flexibility, has also facilitated some agglomeration of local media content production.

The ‘Universal coverage of the PSM and the Internet’ (medium risk): In practice, 100% of the population lives within areas reached by analogue radio signals and either DTT, cable or satellite television
distribution infrastructures (all of which must carry the PSM). However, the medium risk under this indicator relates to the patchier figures for broadband access. The average download speed for Ireland of 27mbps is much lower outside urban areas, falling to 10.1mbps in the north-west, for example. In theory, 93% of the rural population has access to some kind of broadband but, according to COMREG, only 75% of households actually have broadband connections.

‘Media literacy’ (low risk): The low score here reflects the fact that although communications and media studies are widely available at the third level, for the most part, Media Studies remains a sub-discipline at secondary level. Overall provision of Media Education is uneven across primary and secondary education.

![Figure 5 Media Pluralism Monitor 2015 - Ireland, Social Inclusiveness Domain, Results by Indicators](image-url)
3. Conclusions

Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.

Given the risk areas identified above, several policy recommendations emerge. Firstly, the existing levels of media concentration, especially with regard to print and broadcast media, already exceed the recommended maximum levels (20% market share) as described in the 2014 Competition and Consumer Protection Act. The obvious means to address this is to adjust the legislation so that it applies retrospectively. To date, Irish politicians have been reluctant to seriously consider this, however, citing the strong defence of property rights that characterise the Irish constitution. However, given that freedom of expression is also explicitly defended in the constitution, there is clearly a case to be made for retrospection.

Secondly, the risks identified by the indicator ‘access to media for different social and cultural groups, and local communities’ and the indicator ‘centralisation of the media system’, point to a relatively narrow range of representations within Irish media. That said, it should be acknowledged that the small scale of the Irish market perhaps suggests that the medium risk identified with regard to the ‘centralisation of the media system’ is more apparent than real: although based in Dublin and arguably urban centre-oriented, the PSM does maintain regional correspondents. There is also an extensive local/regional radio market and press sector. However, the high risk recorded with regard to the first indicator of the social inclusiveness domain reflects the reality that, especially given the transformation of the ethnic profile of Ireland since the 1990s, the presence of the “new Irish” has not been reflected amongst the cohort of Irish media professionals, or in terms of their media representation. Although cost factors will be raised as an objection, the creation of a more inclusive society would appear to require more active state intervention so as to create spaces for a minority presence in Irish media.

Thirdly, with regard to the indicator ‘Politicisation of control over media outlets’, and the indicator ‘State advertising’, it should be acknowledged that although the risks are more theoretical than practical (in that there is no evidence that state advertising has been strategically deployed, and political party/media outlet affiliation is exceptional), nonetheless, the risk is there. In both cases, however, the remedy is straightforward: if the assertion of some interviews, that there are indeed advertising guidelines (even if it is not clear where these are laid out), is correct, then those guidelines should simply be published on the website of the Government Procurement Agency. Furthermore, in the interests of transparency, government departments should annually publish a list of total ad spending, broken down by medium and by media outlet. (Such data should already exist.) Similarly, it would require a minimal change in the 2014 Competition and Consumer Protection Act, so as to prohibit the political ownership of media outlets.
Annexe I. List of national experts who were consulted

Seamus Dooley
National Union of Journalists

Lisa Ní Choisdealbha
Independent Broadcasters of Ireland

Ciaran Kissane
Broadcasting Authority of Ireland

Catherine Shanahan
Dublin Institute of Technology

Paschal Preston
Formerly of Dublin City University

Ailbhe O’Neill
Trinity College, Dublin

Dara McMahon
Newsbrands
References

http://ejc.net/media_landscapes/ireland
Media Pluralism in Latvia
A Test Implementation of the Media Pluralism Monitor 2015

Authors:

Anda Rožukalne, Sergejs Kruks
(Riga Stradins University)

October 2015

The Centre for Media Pluralism and Media Freedom is co-financed by the European Union
About the project

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the Member States of the European Union. This narrative report has been produced within the framework of the second pilot test implementation of the MPM, which was carried out in 2015. The implementation was conducted in 19 EU Member States with the support of a grant awarded by the European Union to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

The Monitor’s methodology is based on research carried out by national country teams in the 19 countries, except for Malta where data collection was carried out centrally by the CMPF team. The research is based on a standardised questionnaire and apposite guidelines that were developed by the CMPF. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly sensitive questions (see Annexe I for the list of experts).

Risks to media pluralism are examined in four main thematic domains, which are considered to capture the main areas of risk for media pluralism and media freedom: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area. The Basic Protection domain consists of four indicators; Market Plurality has three, while Political Independence and Social Inclusiveness each contain six indicators.

<table>
<thead>
<tr>
<th>Basic Protection</th>
<th>Market Plurality</th>
<th>Political Independence</th>
<th>Social Inclusiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>Transparency of media ownership</td>
<td>Political bias in the media</td>
<td>Access to media for different social and cultural groups, and local communities</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>Concentration of media ownership</td>
<td>Politicisation of control over media outlets</td>
<td>Availability of media platforms for community media</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>Concentration of cross-media ownership</td>
<td>Politicisation of control over media distribution networks</td>
<td>Access to media for the physically challenged people</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td></td>
<td>State advertising</td>
<td>Centralisation of the media system</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of PSM governance and funding</td>
<td>Universal coverage of the PSM and the Internet</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of news agencies</td>
<td>Media literacy</td>
</tr>
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<td></td>
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</tbody>
</table>
The results for each domain and indicator are presented on a scale from negligible to 100%, a negligible risk being the lowest, and 100% risk being the highest score. Scores between negligible and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.
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   2.1 Basic Protection
   2.2 Market Plurality
   2.3 Political Independence
   2.4 Social Inclusiveness

3. Conclusions

Annexe I. List of national experts who were consulted

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection.
1. Introduction

Latvia is a small country with relatively few inhabitants (~2 millions) and therefore represents a limited audience market for the media. A large number of media outlets create a crumbled media system in which there are many players in each segment of the media market. Despite the fact that Latvia’s economic structure has created restrictions on media development, liberal legislation and entry barriers into the market that are generally low have encouraged the development of an extremely diverse media system in Latvia – one which includes many players, but few media business strategies. The small size of the market paves the way for a high level of competition. This makes the whole system ineffective, in that it limits the ability of each player to operate successfully and to earn a profit. The scarce sustainability of a media business has led to a media market that is essentially oligopolistic. This means that each type of media involves a few influential players that attract the greatest audience and the most advertising revenue. Overall, Latvia’s media system can be described as demonstrating a set of “ideas of liberal corporatism” (Balcytiene, 2009: 41-42). This means that regulations concerning media ownership and operations are very liberal, while the government has limited opportunities to interfere in the operations of the media. The level of commercialisation and the market-oriented logic in the Baltic media (Balcytiene, 2009) has created an environment in which the professional orientation of journalists and content creation depend on commercial interests. Research into the content and practices of media content in the Baltic States has regularly identified problems in the area of media responsibility and accountability. Economic recession at the end of the first decade of the 21st century meant that the media in Latvia lost nearly half of their advertising revenues. The number and scope of media outlets declined, the market for journalism shrank, and the quality of journalism receded.
2. Results from the data collection: assessment of the risks to media pluralism

The implementation of the Media Pluralism Monitor 2015 (MPM 2015) for Latvia shows a low/medium risk for media pluralism in the country. The results collected by implementing the MPM 2015 in Latvia, show risks in the country that are as follows: ‘Basic Protection’ domain indicates a low risk - 26%, ‘Market Plurality’ scores a medium risk – 62%, ‘Political Independence’ shows a low risk – 29%, and ‘Social Inclusiveness’ scores a medium risk – 46%.

![Figure 1 Media Pluralism Monitor 2015 – Latvia, Results by Risk Domain](image)
2.1 Basic Protection (26% risk - low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>35% risk (medium)</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>6% risk (low)</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>46% risk (medium)</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td>16% risk (low)</td>
</tr>
</tbody>
</table>

Overall, the regulatory safeguards for freedom of expression in the Latvian legal system pose a medium risk for media pluralism (indicator ‘Protection of freedom of expression’: 35% - medium risk). Freedom of expression is explicitly recognised in the Constitution, the State has signed and ratified the relevant international treaties. Citizens of Latvia have legal remedies in the case of infringement of their freedom of expression, and free speech is generally respected, including on the Internet. In addition, the restrictions upon freedom of expression are clear and are narrowly defined in the Constitution and in other laws. However, there are a few variables that refer to risks or potential risks to media pluralism. First of all, the State has not decriminalised defamation in the press. Part 2 of Article 157 of the Criminal Law provides punishment for defamation in the press, including imprisonment as a form of punishment. Secondly, analysis of several cases at the European Court on Human Rights (those related to Latvia) show that there are legal remedies against the violations of freedom of expression in Latvia, specifically, there are no limitations to accessing the legal remedies, but the system is still working with occasional delays. Still, there are several cases each year that identify the risk of infringements of freedom of expression in Latvia. However, there are no cases of violations of freedom of expression online (low risk).

There is no evidence of any regular violation of the right to information in Latvia (indicator ‘Protection of right to information’: 6% - low risk). The right to information is explicitly recognised in the Constitution and in the national laws of Latvia. There are appeal mechanisms in place for denials of access to information. However, these are slow, and the appeal procedures are occasionally misused due to the very long judicial process in Latvia (medium risk).

The indicator ‘Journalistic profession, standards and protection’ scores a medium risk (46%) because the professional association represents only a small number of journalists, and journalists’ NGOs are not able
to provide advocacy for editorial independence. There have also been cases of attacks and threats to the physical and digital safety of journalists. There are two professional NGOs for journalists in Latvia. Both organisations have developed the Codes of Professional Ethics that provide general self−regulatory principles for journalists, e.g., neutrality, objectivity and achieving the truth. The codes state that journalists should not accept money, or any other type of compensation, which may affect their credibility, objectivity, and independence. The Society of Latvian Journalists has a right to function as a trade union. However, both professional organisations represent only a small section of the media professionals in Latvia (medium risk). This is one reason why professional associations are partly ineffective in guaranteeing respect for professional standards and editorial independence (medium risk).

The other reason is the declarative character of the implementation of the principle of editorial independence in Latvia. The Law on the Press and other Mass Media provides that the editor in chief of a media outlet has the right to operate under the principle of editorial independence, but, in practice, there are no procedures that can be used to protect editorial independence (medium risk). Although the Law on the Press and Other Mass Media regulates the relationship between the media owner and the editorial board, commercial entities or the owners of media companies sometimes try to influence editorial content (medium risk). Journalistic sources are protected according to the law. In practice, there are some infringements of the protection of journalists’ sources, and journalists are occasionally obliged to disclose their sources by the Court (medium risk). There are a few cases of attacks or threats to the physical safety of journalists in Latvia (high risk). In addition, there have been some attacks on the digital safety of journalists (medium risk). The high risk for the variable on the working conditions of journalists comes from the situation in which many journalists face irregularities in payments for their job, high job insecurity, and a low level of social protection. The most important problem is that many media outlets in Latvia replace journalists’ job contracts with honorarium agreements. As honorarium payments are not subject to social taxes in Latvia, some journalists suffer from social insecurity.

The indicator ‘Independence of national authority(ies)’\(^1\) scores 16% - low risk. There is a media authority in Latvia. The National Electronic Mass Media Council (NEMMC) regulates only the commercial broadcasting sector and the PSM, there is no regulatory authority for the other media sectors. There are legal guarantees of the independence of the media authority from political and commercial interference. The appointment procedures for the media authority are transparent, democratic and objective. The mentioned procedures are generally respected, but they are not always effective in safeguarding the independence of the media authority (medium risk), because political actors still try to influence the

\(^1\) NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).
election and appointment processes by using political interests rather than professional criteria.

The procedures for the allocation of budgetary resources for the media authority are transparent and objective, but, in practice, the budget is inadequate and does not safeguard its independence (medium risk). The media authority has the right to impose sanctions on media organisations. Generally, the media authority in Latvia uses its powers in the interest of the public effectively (low risk).

There have been a few cases in which the government has arbitrarily overruled decisions by the media authority, in terms of the budget for the media authority and/or the budget for public media organisations (medium risk).

The indicator on the competition authority scored a low risk, as the appointments to the competition authority are transparent, democratic and objective. The competition authority is involved in the regulation of the media sector by monitoring violations of Advertising Law and making decisions in terms of the mergers of media outlets. However, Competition Law does not provide strong principles on independence for the Competition Authority. The Competition Council of Latvia is established and approved by the Cabinet of Ministers, and it is managed by the Ministry of Economics of Latvia.

Members of the Competition Council are civil servants, and the structural dependence of this body from the politically constructed government is the main reason why the political independence of the authority could be questionable, and also depends on the political situation. The budget of the Competition Authority is somewhat inadequate, but it still allows it to perform its function (medium risk). The Competition Authority effectively uses its powers in the interest of consumers and the government never overrules its decisions (low risk). The same should be said about the Telecommunications Authority. The main risk for the Competition and Telecommunications Authorities lies in the occasionally delayed, and only partially effective, appeal mechanisms.
2.2 Market Plurality (62% risk - medium risk)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency of media ownership</td>
<td>63% risk (medium)</td>
</tr>
<tr>
<td>Concentration of media ownership</td>
<td>74% risk (high)</td>
</tr>
<tr>
<td>Concentration of cross-media ownership</td>
<td>50% risk (medium)</td>
</tr>
</tbody>
</table>

The law does not offer specific thresholds and limits so as to prevent the horizontal ‘Concentration and cross-media ownership’ (74% - high risk, in the indicator ‘Concentration of media ownership’; 50% medium risk, in the indicator ‘concentration of cross-media ownership’). There is no strict obligation to publish ownership structures or to report any changes in the media ownership structure, and therefore some media owners are still unknown in Latvia (indicator ‘transparency in media ownership’: 63% -
medium risk).

The abuse of the dominant position of an electronic mass medium is prohibited. When the market share of an electronic mass medium in Latvia in a particular market exceeds 35 per cent (or 40 percent for other media) this shall be considered to be a dominant position. One of the tasks of the Competition Council is to restrict market concentration, and to adopt decisions regarding mergers of market participants. The Competition Council has the right to block mergers or acquisitions of media companies.

NEMMC has the right to regulate the market share and plurality of media ownership via licensing procedures. However, there is no regulation in terms of giving up licenses/activities in other media sectors, nor the obligation to allocate windows for third party programming, or of divestiture (low risk).

When it comes to ownership transparency, media companies are asked to provide legal information about the owners to the Register of Enterprises. This is insufficient to ensure in all cases that the public knows which legal or natural person effectively owns or controls a media company.

![Figure 3 Media Pluralism Monitor 2015 - Latvia, Market Plurality Domain, Results by Indicators](image)

2.3 Political Independence (29% risk - low risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the
media market, with a focus on state advertisement and public service media.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political bias in the media</td>
<td>2% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media outlets</td>
<td>33% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media distribution networks</td>
<td>Negligible</td>
</tr>
<tr>
<td>State advertising</td>
<td>33% risk (low)</td>
</tr>
<tr>
<td>Independence of PSM governance and funding</td>
<td>56% risk (medium)</td>
</tr>
<tr>
<td>Independence of news agencies</td>
<td>50% risk (medium)</td>
</tr>
</tbody>
</table>

‘Political Independence’ indicators score low and medium risks.

Media law in Latvia imposes rules that aim at the fair, balanced and impartial representation of political viewpoints in news and informative programmes on PSM channels and services. The regulatory safeguards are implemented, in practice, because PSM respects both the requirements of the regulation and the high standards of reporting/organising discussions in terms that provide different viewpoints in political news/documentaries/discussion programmes. The content of political news/discussion programmes of PSM is mostly oriented to the representation of political views by the following of the activities/decisions/personalities of the party of the actual prime minister and therefore the prime minister’s party enjoys wider representation in news programmes. This means that the real representation sometimes does not reflect the principles of the self-regulation documents. Political news and discussion programmes that are provided by commercial TV and radio channels are fair, balanced and impartial. The regulatory safeguards for access to airtime on the PSM channels and services for political actors during election campaigns are fully implemented in practice. Different groups of political actors are represented in a proportional and non-biased way in PSM coverage during electoral campaigns. National laws and regulatory safeguards provide equal conditions and rates of payment for paid political adverts for the political actors before an election, and regulatory safeguards are fully implemented. The above mentioned legal safeguards and their implementation are reflected in the low risk assessment of the indicator ‘Political bias in the media’ (2%).

The indicator assessing the ‘Independence of PSM management and funding’ scores a medium risk (56%), mostly due to the state’s ability to interfere via funding. Media law provides fair, objective and transparent appointment procedures for management and board functions in PSM. The government does not decide the wages of PSM managers.

In Latvia, media law does not prescribe transparent and objective procedures for determining the budget of PSM. The government decides on the level of financing for PSM without public discussion. Whilst the financing is not long-term based (an allocation is given annually from the state budget) the system creates
the possibility of politically manipulating PSM in Latvia. Latvia is still among the countries with the lowest funding for PSM in the European Union.

With regard to the indicator ‘politicisation of control of media outlets’, it should be noted that there are no TV or radio channels which are owned by politically affiliated entities in Latvia. However, approximately 60% of the national and regional newspapers in Latvia are owned by politically affiliated entities. Journalists have disclosed data on the political affiliation of media ownership in Latvia. Although the commercial media have codes of ethics (or codes of conduct) and monitoring mechanisms for the codes, these self-regulatory mechanisms for commercial media outlets fail to impose effective and proportionate remedies in cases of non-compliance with the rules. Given this, the indicator ‘politicisation of control of media outlets’ reaches the upper limit of the low risk area (33%).

Given that the leading distribution networks for print media, radio, and TV are not politically affiliated, the indicator ‘Politicisation of control of media distribution networks’ shows a negligible risk. Furthermore, the indicator ‘political independence of news agencies’ scores a medium risk (50%) because of the highly concentrated market (the leading news agency holds 70% of the market). However, none of the largest news agencies are dependent on political groupings in terms of ownership, the affiliation of key personnel, or editorial policy.

A risk related to state advertising is evaluated as being at the top end of low risk (indicator ‘State advertising’: 33%), because state advertising is distributed to media outlets through a set of rules, but it is unclear whether they are transparent. The problems with state advertising are related to the practise of local governments setting up media outlets that are subsidised by taxpayers’ money and that illegally participate in the local media markets. However, overall state advertising does not seem to play an important role in the media market.
2.4 Social Inclusiveness (46% risk – medium risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to media for different social and cultural groups, and local communities</td>
<td>17% risk (low)</td>
</tr>
<tr>
<td>Availability of media platforms for community media</td>
<td>67% risk (high)</td>
</tr>
<tr>
<td>Access to media for the physically challenged people</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>Centralisation of the media system</td>
<td>63% risk (medium)</td>
</tr>
<tr>
<td>Universal coverage of the PSM and the Internet</td>
<td>31% risk (low)</td>
</tr>
<tr>
<td>Media literacy</td>
<td>50% risk (medium)</td>
</tr>
</tbody>
</table>
In Latvia, the media legislation does not recognise local or regional media as being specific categories of media that have a special mission and obligations. The indicator ‘Centralisation of the media system’ scores a medium risk (63%) because the legislation is not fully effective in safeguarding regional/local media, and also the state supports independent regional/local media by a limited number of policy measures or subsidies. The law does not define community media as being a distinct group alongside commercial and public media (indicator ‘availability of media platforms for community media’: 67% - high risk). The Broadcast Media Authority supports community media only through limited subsidies (medium risk), e.g., regional and local broadcasters can apply to receive part of the public order money to provide coverage of specific content/topics/events. However, many regional/local media are related to local level politicians in Latvia, and small local media outlets depend on advertising money from local governments. This situation creates many problems in the process of providing independently created information and pluralistic discussions in the content of local media.

Different social and cultural groups are able to access airtime on PSM (low risk). Minority media is mostly relevant for the largest minority groups in Latvia, which are the Russian speaking minorities that make up about 30% of the population in Latvia (Russian ethnic group (26%) and Belorussian (4%)). Russian-language media have a big share of the Latvian market, that is proportionate to the size of the Russian minority. There are two influential newspapers in Russian in Latvia - one daily Vesti Segodnja (9%), and one weekly MK-Latvia (23% of the audience), and a few regional or local newspapers that are issued in towns with a significant Russian population (Daugavpils, Liepāja, Rēzekne, Krāslava). The largest news sites (delfi.lv, tvnet.lv, lsm.lv, mixnews.lv) elaborate on Russian content. However, the risk of the accessibility to pluralistic content for Russian speaking people in Latvia comes from the ownership structure of the most popular Russian speaking media. Specifically, the most viewed TV channel PBK (Pervij Baltijskij Kanal (First Baltic Channel)), is owned by the Baltic Media Alliance, and it is registered in Latvia and formally has the so called “pass of the EU”, but, in fact, it mostly provides the content of the Russian channel Pervij (First), which is controlled by the Russian government. Secondly, the weekly newspaper MK-Latvia is registered in Latvia and belongs to the mentioned media concern, the Baltic Media Alliance, but, at the same time, this particular newspaper is part of the Russian publishing house “Moskovskij Komsomolec”, which issues this newspaper in 64 regions of Russia, as well as, in the Ukraine, Belarus and Latvia.

Only a few linguistic minorities (Latgalians, Livi) receive subsidies to run their radio broadcasts on national public radio. The largest part of minority media is independent in Latvia, but there are a growing group of politically affiliated media that have been established by local government (medium risk). In addition, the number of radio channels and newspapers dedicated to minorities is less than proportional with the size of the minority population (medium risk). The independence of minority media is, in practice, partially safeguarded in Latvia. The most important problem for minority media is the media-like newspapers and the Internet sites that are sponsored by local governments. This means that newspapers sponsored by local governments are provided for free and are delivered to all the inhabitants of the particular county. Their content does not encourage plurality in terms of the expressed views,
journalistic genres and authors. In fact, free sheets issued by local government are a specific form of public relations and political communication by the local politicians, who use tax payers’ money for regular advertisement-like communication with voters. This practice creates local media market distortion, limits the ability of independent local minority media to develop their products, and leads to more dependence on the influence of local politicians’ decisions.

The Russian language public radio channel LR4 has the highest audience reach between the Russian speaking radio channels, because it attracts about 150 000 listeners per week (4.4% of the all radio audience of Latvia). In addition, since 2014 six news, current affairs, discussion programs have been added to the content of public television channel LTV7, for instance from the 2014 to 2015 the number of programs for the Russian speaking viewers increased from 205 to 575, which means that Russian language broadcasting has grown up from 196.5 hours in 2014 to 486.4 hours in 2015.

Latvia has underdeveloped policy regarding access to media for physically challenged people (50% risk). The policy on media and information literacy is also underdeveloped (50% risk). However, in 2015 the government started to develop its first media literacy policy and a pilot programme on digital literacy in selected schools was launched in September 2015.

![Media Pluralism Monitor 2015 - Latvia, Social Inclusiveness Domain, Results by Indicators](image-url)
3. Conclusions

*Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.*

By analysing the different risks to media pluralism in Latvia, the following policy recommendations have been developed. In order to overcome the fragmentation of the media and communication industries regulation, the establishment of a Media Ombudsman should be discussed, and a separate authority for PSM regulation should be founded in Latvia. The regulation of media ownership transparency should be improved by requiring the obligation for media companies to publish their ownership structures on their websites or in records that are accessible to the public without payment. Furthermore, the inadequate and short-term based funding creates serious risks for the possibility to politically manipulate PSM, and therefore the funding system of PSM should be changed by the improvement of the media fee or by other more effective instruments.

In order to improve the performance and independence of the media and other authorities that deal with the media and communication sector in Latvia, the budgets of particular authorities should be increased. The low level of funding does not allow these authorities to provide for all their necessary functions, such as media monitoring, the development of media legislation, and media research. Moreover, the salaries of members of the National Electronic Media council are too low (about €1,000 per month) to attract high level professionals.

In order to improve media pluralism, specific policies of support for regional/local/community/minority media should be developed in Latvia, and there should also be amendment of the media law that creates barriers to establishing media outlets for local governments.

In addition, tax laws should be amended and authorship payments should be subject to social taxes in Latvia, with the aims of improving the social security situation and of overcoming the instability of the job conditions of journalists.

The clear and well established media and information literacy policy for different groups in society should be elaborated in Latvia. Finally, the procedures and mechanisms for media and communication authorities’ appeal mechanisms should be made clearer and more specific by introducing more stringent performance deadlines, since they are occasionally delayed and ineffective.
Annexe I. List of national experts who were consulted

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National Electronic Mass Media Council
References

Media Pluralism in Lithuania

A Test implementation of the Media Pluralism Monitor 2015

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(Vytautas Magnus University)

October 2015
**About the project**

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the Member States of the European Union. This narrative report has been produced within the framework of the second pilot test implementation of the MPM, which was carried out in 2015. The implementation was conducted in 19 EU Member States with the support of a grant awarded by the European Union to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

The Monitor’s methodology is based on research carried out by national country teams in the 19 countries, except for Malta where data collection was carried out centrally by the CMPF team. The research is based on a standardised questionnaire and apposite guidelines that were developed by the CMPF. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly sensitive questions (see Annexe I for the list of experts).

Risks to media pluralism are examined in four main thematic domains, which are considered to capture the main areas of risk for media pluralism and media freedom: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area. The Basic Protection domain consists of four indicators; Market Plurality has three, while Political Independence and Social Inclusiveness each contain six indicators.

<table>
<thead>
<tr>
<th>Basic Protection</th>
<th>Market Plurality</th>
<th>Political Independence</th>
<th>Social Inclusiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>Transparency of media ownership</td>
<td>Political bias in the media</td>
<td>Access to media for different social and cultural groups, and local communities</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>Concentration of media ownership</td>
<td>Politicisation of control over media outlets</td>
<td>Availability of media platforms for community media</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>Concentration of cross-media ownership</td>
<td>Politicisation of control over media distribution networks</td>
<td>Access to media for the physically challenged people</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td></td>
<td>State advertising</td>
<td>Centralisation of the media system</td>
</tr>
</tbody>
</table>

| | | | Universal coverage of the PSM and the Internet |
| | | | Media literacy |
The results for each domain and indicator are presented on a scale from negligible to 100%, a negligible risk being the lowest, and 100% risk being the highest score. Scores between negligible and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.
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   2.1 Basic Protection
   2.2 Market Plurality
   2.3 Political Independence
   2.4 Social Inclusiveness

3. Conclusions

Annexe I. List of national experts who were consulted

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection.
1. Introduction

Lithuania has 2.9 million inhabitants and two main minority groups: the Polish (6.6%) and the Russian speaking minorities (5.8%). Lithuania has a small but relatively varied media landscape. The relatively weak media regulation and policies and the excessive emphasis on market orientation have resulted in the concentration of mainstream media and market fragmentation, which, in its own right, contributes to increasing social and political polarization in the country. Whereas commercialization and polarization is often associated with economic conditions and changes in the market, registered flaws in media professionalism are related to particularities of the local political culture. Among other significant trends in Lithuania is greater media concentration due to ownership changes, raising rivalry among media outlets, continuing audience fragmentation, and fading institutional trust among its citizens.

Though issues of media freedom and pluralism in Lithuania have been addressed in several comparative studies (e.g., in the Media for Democracy Monitor project1), the MPM instrument is especially valuable for its succinct summary of the most significant factors determining media practices in the country. The MPM analysis revealed that Lithuanian media companies are functioning in a very complex environment, and that various factors, such as the legal framework and the role of the state, as well as economic conditions, and general professional practices, contribute to a wide-ranging impression that there are important barriers that prevent the Lithuanian media from creating pluralist, open and inclusive content.

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2. Results from the data collection: assessment of the risks to media pluralism

*Figure 1 Media Pluralism Monitor 2015 - Lithuania, Results by Risk Domain*
2.1 Basic Protection (28% risk - low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>41% risk (medium)</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>42% risk (medium)</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td>5% risk (low)</td>
</tr>
</tbody>
</table>

Among the four indicators in this domain, two display medium risk to media pluralism. These are related to insufficient ‘Protection of freedom of expression’ (41%) and ‘Journalistic profession and standards protection’ (42%). The other two indicators, ‘Protection of right to information’ (25%) and ‘Independence of national authorities’ (5%), show low risk.

In general, media regulation in Lithuania is labelled as being exceptionally liberal, with only limited state intervention. Whereas freedom of information is clearly and narrowly defined in all laws, the protection of freedom of expression has a number of flaws, and these are mainly related to the criminalisation of defamation, which is in the process of being lifted from the new regulation, which is currently being changed.

Though the effects of the journalistic profession on pluralism are weighted to offer medium level risks, the results for this indicator appear to be among the weakest factors in this section. As is known, the profession is not well paid or highly respected, and there is a constant movement of professionals between different communication fields. Media organisational factors also contribute to this outcome: The majority of media organisations lack clear rules regulating the work of journalists and editors. The direct accountability of editorial offices is also insufficient, as there is no regular practice of having editorial lines clearly declared, nor is there a tradition of having an ombudsman position with which to deal with consumer complaints.

The MPM analysis indicates that the majority of professional journalists are not members of professional organisations, which points to weak solidarity among journalists. Additionally, the social guarantees for Lithuanian journalists and editors are insufficient. All things considered, media professionals in Lithuania work in an environment that is highly competitive, economically insecure, professionally vulnerable, and hence is susceptible to professional flaws and corruption.

In terms of independence of national authorities,² there a designated media authority in the

² NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the
country and there are legal guarantees of independence of the authority from political or commercial interference. The procedures for appointment of the media authority and for allocation of budgetary resources to it are transparent and objective, although the budget is somewhat inadequate. Moreover, the decisional practice of the media authority indicates that it uses its powers in the interest of the public. The media authority is generally transparent but does not publish information about its activities on a regular basis.

Figure 2 Media Pluralism Monitor 2015 - Lithuania, Basic Protection Domain, results by indicators

Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).
2.2 Market Plurality (68% risk – high risk)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency of media ownership</td>
<td>62% risk (medium)</td>
</tr>
<tr>
<td>Concentration of media ownership</td>
<td>93% risk (high)</td>
</tr>
<tr>
<td>Concentration of cross-media ownership</td>
<td>50% risk (medium)</td>
</tr>
</tbody>
</table>

Two indicators that are outlined in this subdivision are exceptionally critical, namely ‘Concentration of media ownership’ (93%) and ‘Transparency of media ownership’ (62%). Both measures are interrelated. Incomplete transparency of media ownership leaves open hands for increasing media concentration; even more – it affects media professionalism. It also creates space for various influences, and has effects on limited audience awareness of media business related matters, which in its own way affects news literacy. In the longer run, it also produces the risks for a growing concentration of cross-media ownership, which now creates a medium level of risk to pluralism (risk in the connected indicator: 50%).

Among the most obvious deficiencies observed in the Lithuanian media regulation is that media diversity (and, consequently, pluralism) is not adequately promoted. All of the major factors – such as the definitions of the ‘dominant position’ in the market, or requests to media to submit, on a yearly basis, the media ownership changes – appear to be in place in the existing media regulations; still, these arrangements appear to be insufficient to promote adequate and healthy competition in the market. The media regulating institutions have their own functions, which are mainly related to media specificity (print, audio-visual or Internet media), but they do not deal directly with, nor otherwise cover and observe, the business related aspects (e.g., the types of media ownership or competition conditions). In more detail, four institutions are active in this field. Firstly, the Ombudsman’s Institution observes the requirements that are instilled in the main media laws. Secondly, The Radio and Television Commission (RTCL) covers the field of commercial broadcasting (it registers media outlets and monitors content, e.g., time allocations for commercial advertising and the like). Thirdly, the Ministry of Culture acts as a media policy designer (and also registers print and Internet media). Fourthly, the Council of Competition follows its ruling according to the ‘dominant position’ in the market (which does not consider cross-media concentration, and also there are no restrictions on vertical and diagonal ownership concentration).

In most cases, all of the legal requests appear to be in place, yet their enactment and implementation are
generally missing. Similarly, as practise reveals, in most cases the data on the periodical press and the Internet media organisations’ shareholders and managers is collected and made available by a designated institution (the Ministry of Culture). Still, not all media organisations provide data on the property owners and the property relations that link them to other producers and disseminators. Besides, the property shareholders of legal persons (of the media organisations’ establishers – patronising companies) are not disclosed. Quite similarly, the Radio and Television Commission (RTCL) observes the broadcasting sector; yet no ownership matters are taken care of by this regulatory body (when a broadcaster fails to submit data about the property owners, the RTCL may refuse them a license, or terminate it). One of the main reasons for such a situation is that there is no legal liability for the non-submission of media ownership data to the designated institution.

All things considered, healthy media competition is missing and is not adequately supported through institutional functioning, nor through competition regulation. Such structural conditions are leading to a situation that is favourable for extreme levels of media ownership concentration in the country.

*Figure 3 Media Pluralism Monitor 2015 - Lithuania, Market Plurality Domain, Results by Indicators*
2.3 Political Independence (52% risk – medium risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the media market, with a focus on state advertisement and public service media.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political bias in the media</td>
<td>22% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media outlets</td>
<td>69% risk (high)</td>
</tr>
<tr>
<td>Politicisation of control over media distribution networks</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>State advertising</td>
<td>83% risk (high)</td>
</tr>
<tr>
<td>Independence of PSM governance and funding</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>Independence of news agencies</td>
<td>38% risk (medium)</td>
</tr>
</tbody>
</table>

The indicator ‘Political bias in the media’ scores a low level of risk (22%). The situation with public service media, although it is continuously improving, still reflects serious threats to media pluralism (indicator ‘Independence of PSM governance and funding’: 50% risk), and the, politicisation of control over media distribution networks appears to be at medium threat (50%). Medium risk was also identified in the indicator ‘Independence of news agencies’ (38%). The highest risk levels in this domain, however, regard the indicators ‘Politicization of control over media outlets’ (69%), and ‘state advertising’ (83%).

As has been stated, legally, many things appear to be in place in Lithuania, although not all of them are functioning in practice. However, legally, political parties cannot be the owners of media, political affiliations do exist in reality, which, together with shortages in ownership transparency and weak self-regulatory measures that stipulate editorial independence, result in the calculation of high risks in the indicator ‘politicalisation of control over media outlets’. Although the MPM assessment reveals that political linkages to media ownership exist, and are systematic, critical analyses of media policies related to ownership transparency and its impact on news provision, are missing. As suggested in the forthcoming sections, academic institutions could play a much stronger role in raising public awareness of media related matters. A more active role in media performance monitoring could be played by media institutions (e.g. by the PSM). It must be mentioned that the leading news media do report on media ownership changes, but such news appears in the business section of news outlets, and, in most cases, they are fact-based and tell nothing about the broader impact of the (political or business influence) tendencies that are registered..

Among other regular practices that have been noticed recently is the media connection to state advertising, which comes through different ministries and government organisations (here, predominantly, the greatest influence comes through the budgets allocated to PR companies and the media relations’ planning actors and informational campaigns that are linked to EU-
sponsored projects). The critical side of the latter activity is that, as can be seen from the recent data, certain ministries have significantly increased the budgets that they allocate to informational campaigns, which, in many cases, can be treated as hidden advertising (paid journalism).

Figure 4 Media Pluralism Monitor 2015 - Lithuania, Political Independence Domain, Results by Indicators
2.4 Social Inclusiveness (38% risk - medium risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to the media for different social and cultural groups, and local communities</td>
<td>20% risk (low)</td>
</tr>
<tr>
<td>Availability of media platforms for community media</td>
<td>33% risk (low)</td>
</tr>
<tr>
<td>Access to media for the physically challenged people</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>Centralisation of the media system</td>
<td>21% risk (low)</td>
</tr>
<tr>
<td>Universal coverage of the PSM and the Internet</td>
<td>34% risk (medium)</td>
</tr>
<tr>
<td>Media literacy</td>
<td>67% risk (high)</td>
</tr>
</tbody>
</table>

Access to Lithuanian media by different social groups is at relatively low risk (indicator ‘Access to media for different social and cultural groups, and local communities’: 20% risk): there are news outlets which are published in minority languages, also, a number of leading news channels (such as PSM and a number of the top popular news portals) have news in Polish and Russian. The centralisation of the media system is assessed as being at low risk (indicator ‘Centralisation of the media system’: 21%). The media system is relatively free and open to access by community media (indicator ‘availability of media platforms for community media:’ 33%). ‘Access to media for physically challenged people’ appears to be at medium risk (50%). The ‘Universal coverage of the PSM and the Internet’ indicator shows a medium risk (34%), while the ‘Media literacy’ indicator is at high risk (67%).

As regard to Russian media, it is worth mentioning that in April 2015 the Lithuanian media regulator has banned a Russian-language channel based in Sweden (RTR Planeta) for three months. The channel was accused to retransmit Russian government propaganda. Being a channel established in Sweden, and therefore regulated under the principles of the Audiovisual Media Services Directive, Lithuanian regulator accused RTR Planeta under article 6 of the Directive stating that EU countries must ensure no programmes “contain any incitement to hatred based on race, sex, religion or nationality”3. On this decision, the public opinion split between those who affirmed that the ban represented a form of censorship and those who advocated to more active strategies to tackle the Russian propaganda, including fostering media literacy and critical thinking.

Media literacy appears to be a question of high concern, especially considering the increased information

3 https://www.indexoncensorship.org/2015/04/lithuania-bans-russian-language-channel-inciting-discord/
wars and propaganda (the latter issue became especially sensitive in the context of the informational attacks, trolling, falsification and lies that are incessantly found in digital space). Discussions about media and information literacy have been going on in Lithuania for quite some time, and the government has outlined certain directions (e.g., the activation of media related analysis skills’ training in the schools). However, very few thorough and informed policy-making decisions that lead towards active measures for goal-oriented massive implementation in schools (or elsewhere, like public libraries) have taken place in the country. The current situation needs to be defined as an active analysis-oriented stage, when numerous research and methodological projects are funded through different initiatives and programmes. More consistent and ongoing media awareness and practice-oriented education are linked with the initiatives and activities of various NGOs and HEIs; public intellectuals are also active, and their ideas are often taken by the leading news media and are reflected in daily reports. In short, although ‘media literacy’ issues find an adequate place in public debates and on the public agenda, the related policies are underdeveloped, and the measures taken only address some specific and fragmented matters (such as pilot studies of young audiences and their media preferences).

Figure 5 Media Pluralism Monitor 2015 - Lithuania, Social Inclusiveness Domain, Results by Indicators
3. Conclusions

Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.

To conclude, many of the relevant media regulations appear to be in place in Lithuania. Major drawbacks, however, come from either their implementation, or from general media practices, which are aggravated by the unstable economic conditions in the country.

Among the most critical issues related to media pluralism in Lithuania appear to be the highly concentrated media ownership structure. Moreover, laws related to competition are not effectively implemented. In recent years, the overall economic situation has changed significantly, mainly due to the effects of the global economic crisis, and this is negatively influencing the financial sustainability of media outlets. Due to the specificity of the Lithuanian media market, it is practically impossible for media outlets to remain independent and to sustain financial stability by relying on revenues from advertising or subscriptions. State support systems, through subsidies to cultural and minority media, are also very limited, and they do not play any significant role in the pluralisation of informational space. As a result of this, the Lithuanian media is overly financially dependent on the political or business actors who strive to control the media through the allocation of advertising, or other types of support.

To promote media pluralism and democratic culture in Lithuania, a number of measures should be considered, including: putting in place regulations that safeguard media ownership transparency and competition; safeguard the financial sustainability of media professionals, raising news literacy levels and general media awareness, especially in the current context of growing information wars and propaganda.
Annexe I. List of national experts who were consulted

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Jurate Imbrasaitė
Vytautas Magnus University

Deimantas Jastramskis
Vilnius University

Dainius Radzevičius
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Birute Garbaraviciene
Atviros visuomenes forumas
Media Pluralism in Luxembourg

A Test Implementation of the Media Pluralism Monitor 2015

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October 2015

The Centre for Media Pluralism and Media Freedom is co-financed by the European Union
About the project

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the Member States of the European Union. This narrative report has been produced within the framework of the second pilot test implementation of the MPM, which was carried out in 2015. The implementation was conducted in 19 EU Member States with the support of a grant awarded by the European Union to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

The Monitor’s methodology is based on research carried out by national country teams in the 19 countries, except for Malta where data collection was carried out centrally by the CMPF team. The research is based on a standardised questionnaire and apposite guidelines that were developed by the CMPF. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly sensitive questions (see Annexe I for the list of experts).

Risks to media pluralism are examined in four main thematic domains, which are considered to capture the main areas of risk for media pluralism and media freedom: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area. The Basic Protection domain consists of four indicators; Market Plurality has three, while Political Independence and Social Inclusiveness each contain six indicators.

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<thead>
<tr>
<th>Basic Protection</th>
<th>Market Plurality</th>
<th>Political Independence</th>
<th>Social Inclusiveness</th>
</tr>
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<tbody>
<tr>
<td>Protection of freedom of expression</td>
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</tr>
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The results for each domain and indicator are presented on a scale from negligible to 100%, a negligible risk being the lowest, and 100% risk being the highest score. Scores between negligible and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.
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Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection.
1. Introduction

According to MPM2015, Luxembourg presents low risk for the ‘Basic Protection’ and ‘Political Independence’ domains, respectively, a medium risk in terms of ‘Social Inclusiveness’ and high risk for the ‘Market Plurality’ domain. These mixed performances are mainly attributable to the small size of Luxembourg, its particular demographic structure (with a high percentage of non-Luxembourgish residents, who cannot be considered as “national minorities”), its prominent role in the international “market of concessions” and the lack of critical and independent reports on the national media legislation, market and practices. All in all, these special conditions explain that Luxembourg is a peculiar case where pragmatism defines the media and electronic communications policies. Pragmatism “justifies” the lack of human resources and the effectiveness of national authorities, the absence of an adequate national media offer (for the multilingual resident population), and the presence of a highly concentrated media market.

2. Results from the data collection: assessment of the risks to media pluralism

Figure 1 Media Pluralism Monitor 2015 - Luxembourg, Results by Risk Domain
2.1 Basic Protection (26% risk - low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

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<th>Indicator</th>
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</tr>
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<tr>
<td>Protection of freedom of expression</td>
<td>2% risk (low)</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>75% risk (high)</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td>3% risk (low)</td>
</tr>
</tbody>
</table>

The indicator: ‘Protection of freedom of expression’ (2%, low risk). The freedom of expression is explicitly recognised in the Constitution and it is protected by national law. Luxembourg has signed and ratified important international treaties relating to this matter. On a general basis, the risk of the violation of freedom of expression is low, and defamation is not decriminalised, but specific defences for defamation relating to the press are regarded as sufficient legal defences.

The indicator: ‘Protection of right to information’ (75%, high risk). The right to information is not mentioned in the Constitution and there is an overall lack of legislation relating to a fundamental and coherent right to information.

The indicator: ‘Journalistic profession, standards and protection’ (25%, low risk). In practice, the journalist profession is very open. Journalists are legally protected in cases of editorial change, and their sources are well protected. However, specific regulations preventing commercial influences on editorial content are missing. The journalists’ associations – which count less than half of the journalists as their registered members – offer only limited protection in the case of threats against editorial independence or professional standards. In recent years, the protection of sources has worked fairly well and there have been no physical or digital threats against journalists. However, some declare that they feel increasingly put under pressure by advertisers, and they complain about their working conditions.

The indicator: ‘Independence of national authority(ies)’ (3%, low risk). ¹

¹ NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).
ALIA (Autorité indépendante de l’audiovisuel) is the newly created independent media authority (2013) which unifies the formerly fragmented regulatory landscape. Its independence (including its selection procedures) is legally guaranteed, but the authors estimate that the selection procedures may become more transparent in practice. The procedures of financial allocations are transparent and objective. However, the annual budget appears largely to be insufficient, in terms of human resources, in order to correctly perform its (numerous) missions. ALIA is composed of 2.75 permanent employees, who are also responsible for monitoring around 50 audiovisual concessions in several countries.

The national competition authority is in charge of all of the activities of production, the distribution of goods and the delivery of services, including entities that are governed under public law, i.e., also media, but it seems to mainly react to complaints, rather than undertaking investigations on its own initiative. It has, for instance, not questioned the concentration of the national audiovisual market. The telecommunications authority is part of the regulatory institute; and, first and foremost, it issues regulations but is not competent in the media sector. As far as the decision practices of the three national authorities are concerned, sanctioning powers and appeal mechanisms are available. In practice, the authors estimate that there is no evidence that the government has arbitrarily overruled any decisions and that the authorities are transparent about their activities.

Figure 2. Media Pluralism Monitor 2015 - Luxembourg, Basic Protection Domain, Results by Indicators
2.2 Market Plurality (84% risk – high risk)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.

<table>
<thead>
<tr>
<th>Indicator</th>
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<tbody>
<tr>
<td>Transparency of media ownership</td>
<td>58% risk (medium)</td>
</tr>
<tr>
<td>Concentration of media ownership</td>
<td>93% risk (high)</td>
</tr>
<tr>
<td>Concentration of cross-media ownership</td>
<td>100% risk (high)</td>
</tr>
</tbody>
</table>

The indicator: ‘Transparency of media ownership’ (58%, medium risk). The law obliges the media to publish their ownership structures when holding more than 25% of the media, but does not require these elements to be referred to a media authority. There is no legal obligation to report a change of ownership to the public. Finally, the law does not fully ensure that the public can know who the owners of the media are.

The indicator: ‘Concentration of media ownership’ (93%, high risk). National law does not contain any provision that aims to control concentration in the media, nor a legal framework about net neutrality (discussions are ongoing). The role of the competition authority is to control mergers in cases of the abuse of a dominant market position for the whole economic market, without taking into account the specificities of the media market. So, even if there are competent authorities (competition authority and ALIA) to monitor the media, there are no legal provisions to which they could refer in order to efficiently monitor media concentration issues. Media concentration is not seen as a problem but as being inevitable, due to the very small size of the market (563,000 inhabitants) and its linguistic fragmentation (since over 45% of residents are foreigners). The media market is thus emerging as one of the most concentrated in Europe: one TV channel clearly dominates the market (the RTL Group), one group dominates the radio sector (the RTL Group) and one site largely dominates the Internet content intermediaries’ sector (Google.com). The press sector is very specific, because it is widely supported by the government (this explains the presence of six different daily newspapers). However, only two publishers share this market (Imprimerie Saint-Paul and Editpress). All in all, the four main television owners (including non-Luxembourgish ones) accumulate 59% of the national audience, the four main radio owners 75%, and the four main press owners 56% (we have no figures for internet content providers).

The indicator: ‘Concentration of cross-media ownership’ (100%, high risk). Luxembourgish law contains no limit or specific criteria with which to control cross-media concentration. Major groups (Editpress, Imprimerie Saint-Paul and the RTL Group) are present in all media sectors (the newspapers, radio,
television and the Internet). The competition authority is seized only if an abuse of dominant position in the market is observed, but it does not take into account the specificities of the media sector.

![Figure 3 Media Pluralism Monitor 2015 - Luxembourg, Market Plurality Domain, Results by Indicators](image)

2.3 Political Independence (22% risk – low risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the media market, with a focus on state advertisement and public service media.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
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<tbody>
<tr>
<td>Political bias in the media</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media outlets</td>
<td>12% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media distribution networks</td>
<td>17% risk (low)</td>
</tr>
<tr>
<td>State advertising</td>
<td>33% risk (low)</td>
</tr>
<tr>
<td>Independence of PSM governance and funding</td>
<td>23% risk (low)</td>
</tr>
<tr>
<td>Independence of news agencies</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

The indicator: ‘Political bias in the media’ (25%, low risk). Law and conventions impose rules that aim at
the fair, balanced and impartial representation of political viewpoints in news and informative programmes on the PSM channel and its services. ALIA is the administrative independent body that is tasked with actively monitoring compliance with these rules and/or to hear complaints. ALIA has sanctioning/enforcement powers in order to impose proportionate remedies in cases of noncompliance with the rules, and appeal mechanisms exist against ALIA’s decisions. The authors consider that the new authority does not have sufficient human and financial resources to ‘actively monitor’ the respect of these rules. They are not aware of an internal charter or of other self-regulatory instruments that guarantee access to PSM channels by political actors. Despite this, and in the absence of official complaints, it is estimated that the regulatory safeguards for fair representation of political viewpoints are correctly implemented in the national PSM channel. Please note that there is no public sector television in Luxembourg, the only national PSM is the radio channel 100,7.

It is also considered that political coverage on commercial channels is generally fair. During election periods, media law (including conventions) imposes general rules that aim to guarantee access to airtime on PSM channels and services by political actors during election campaigns in all types of elections. In concrete terms, the electoral campaign is planned and supervised by a consultative commission on ‘electoral campaigns’, which was created by a decree of the Governing Council of 25 July 2003. It should be said that the control of compliance with these rules is rather limited in relation to its scope (it is related only to the official events of the campaign) and to its resources (only one person checks whether the speaking time is allocated equally among all of the candidates). Complaints concerning the non-respect of pluralism must be directed to ALIA, but ALIA is not competent in relation to complaints concerning the non-respect of the informal convention between the government, the parties and the PSM. Despite limited control in electoral campaigns, and in the absence of official complaints, the authors estimate that the regulatory safeguards for fair representation of political viewpoints are correctly implemented. There is no legal restriction as far as political advertising is concerned (in either the electoral or non-electoral periods). The same rules apply to commercial and political advertising.

The indicator: ‘Politicisation of control over media outlets’ (12%, low risk). While no TV or radio channel belongs to a political party, all of the national newspapers are ideologically close to parties and interest groups. Although most people are aware of this situation, information on media ownership is not clearly accessible to everyone. The Press Council states, in its code of ethics, that the independence of newspapers and journalists must be guaranteed against any political or commercial influence.

The indicator: ‘Politicisation of control over media distribution networks’ (17%, low risk). The Executive Boards of the biggest publishing companies are closely linked to interest groups and political parties. Despite traditionally close links to parties and interest groups, a tendency to move away from these, especially in terms of editorial policy and their directorates, can be observed (especially for the most important national newspaper Luxemburger Wort). In relation to audiovisual distribution networks, the RTL Group is the only radio and TV distribution network that covers the national territory and reaches more than 15% of the population. RTL Radio and RTL Tele Lëtzebuerg both belong 100% to CLT-UFA,
which, again, belongs 100% to the RTL Group and is a commercial station without political affiliation.

The indicator: ‘State advertising’ (33%, low risk). There is no legislation regulating state advertising, and advertising is referred to as a commercial activity, nor do we find rules guaranteeing proportionate distribution of state advertising. Given that the RTL Group dominates the audiovisual market and reaches most of the population, state advertising tends to focus on these audiovisual communication channels (especially TV). It is hard to make estimations in relation to the print media sector as it is more fragmented and the numbers on advertising that are available do not distinguish between the publishers of print media. It should also be acknowledged that advertising on the Internet only began to be taken into account in the investment census of 2014.

The indicator: ‘Independence of PSM governance and funding’ (23%, low risk). There is only one public service (radio 100,7) in Luxembourg that is financed and controlled by the state. but CLT-UFA, of which RTL is a subsidiary group, has signed a contract with the government in which it agrees to assume a ‘public service mission’ (the last agreement was signed in 2007 and runs for a period of 13 years). RTL has a public service mission and is the most popular TV and radio provider, but it remains a commercial channel. There are fair, objective and transparent appointment procedures for the management and board functions of the PSM radio, which is independent in its reporting, but only a very small, and mostly well-educated, part of the population listens to it.

The indicator: ‘Independence of news agencies’ (not applicable). There are no Luxembourgish news agencies; in most cases reference is made to the French and German news agencies (AFP and Reuter).
2.4 Social Inclusiveness (50% risk - medium risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

<table>
<thead>
<tr>
<th>Indicator</th>
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<tbody>
<tr>
<td>Access to media for different social and cultural groups, and local communities</td>
<td>52% risk (medium)</td>
</tr>
<tr>
<td>Availability of media platforms for community media</td>
<td>100% risk (high)</td>
</tr>
<tr>
<td>Access to media for the physically challenged people</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Centralisation of the media system</td>
<td>58% risk (medium)</td>
</tr>
<tr>
<td>Universal coverage of the PSM and the Internet</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>Media literacy</td>
<td>17% risk (low)</td>
</tr>
</tbody>
</table>

The indicator: ‘Access to media for different social and cultural groups, and local communities’ (52%, medium risk). There is a legal obligation of access to airtime for different social and cultural groups for the socio-cultural radio (radio 100.7), the only ‘proper’ national PSM. A limited number of public service missions are also requested of the commercial audiovisual channels - RTL Télé Lëtzebuerg and RTL Radio Lëtzebuerg – which are by far the most successful national channels. These services also include, even if to a lesser extent than is required of the socio-cultural radio, obligations concerning access to airtime for different social and cultural groups. These obligations are defined in the modified law of 1991 on electronic media, and also in the state convention with RTL Tele and Radio Lëtzebuerg (signed in 2007 and valid until 2020).

The expert team estimates that, overall, the PSM (meaning radio 100.7) offer adequate access to the different social and cultural groups. ALIA is the body that is supposed to monitor and sanction the access to airtime on PSM channels for different social and cultural groups according to the law and to the state conventions with the PSM channels. The expert team, however, considers that ALIA cannot properly exercise its monitoring and sanctioning powers, considering that it is only composed of 2,75 permanent employees, who are also supposed to monitor around 50 audiovisual concessions in several countries. ALIA, as the national media authority, is in charge of supervising the correct implementation of the legislation of broadcasters that have been given a concession by the Luxembourgish state. The broadcasters in question are part of the RTL Group, whose headquarters are in Luxembourg but who
broadcast in different languages, and mostly from different countries.

As far as minorities are concerned, Luxembourg does not have any minorities in the sense of the Council of Europe’s definition, which implies that such minorities should have Luxembourgish nationality. This, however, does not mean that Luxembourg is a homogeneous entity. In 2015, almost half of the resident population (45.9%) were foreign residents. Finally, the questions related to the local obligations of the PSM (local news, local correspondents, local productions and distribution) do not apply to Luxembourg, since it is a “local state”.

The indicator: ‘Availability of media platforms for community media’ (100%, high risk). There are no specific provisions granting legal recognition to community media as a distinct group (alongside commercial and public media), even if some media offer services that largely correspond to what one might expect from community media. The questions of whether the law contains specific provisions granting access to media platforms for the minority media is considered not to be applicable, since there are no minorities in Luxembourg -- according to the Council of Europe’s definition. For the same reason, the remaining questions concerning minority media are not applicable. In a country such as Luxembourg, where a large proportion of the resident population is foreign, we suggest that the definition of minorities should also include the category of non-national residents.

The indicator: ‘Access to media for the physically challenged people’ (25%, low risk). As far as the access for physically challenged people is concerned, the expert team estimates that there is a well-developed policy and a strong tradition of policymaking in this area. However, some efforts need to be made in practice. For instance, in relation to TV channels (in the case of Luxembourg RTL Television), subtitles and sound descriptions are not available on a regular basis in different scheduling windows.

The indicator: ‘Centralisation of the media system’ (58%, medium risk). The law recognises local media as a specific category of media with a special mission and obligations, and it reserves frequencies for regional/local radio or TV. ALIA awards permissions for local radio services and controls the content of local radio. In the absence of official complaints, the expert team considers that the legislation is effective in safeguarding regional/local media. Despite being legally recognised, local electronic media (radio and TV) do not benefit from subsidies or specific measures. The very limited number of, and audience share of the local media, can partly explain this absence of subsidies (whether in relation to radio, TV or newspapers).

The indicator: ‘Universal coverage of the PSM and the Internet’ (50%, medium risk). There is no obligation (either in the law or in conventions) for universal coverage by the PSM. The socio-cultural radio (100,7), the only national PSM, strictly speaking, covers only around 80% of the population, but there are plans to enlarge this coverage. Broadband penetration and speed are excellent.

The indicator: ‘Media literacy’ (17%, low risk). Luxembourg scores very high on Internet usage and basic digital skills, but its policy on media literacy is rather underdeveloped. According to the Director of
ALIA: ‘There is no policy of media literacy - to the regret of ALIA - in terms of the definition used in Directive 2010/13/EU (unless you limit media strictly to the Internet). There are only some excellent websites dealing with Internet security/safety, such as www.bee-secure.lu and www.cases.lu. Yet, they do not touch upon media literacy in a comprehensive way, including on the skills to protect young people from "harmful or offensive material" in radio and television.'

![Figure 5. Media Pluralism Monitor 2015 - Luxembourg, Social Inclusiveness Domain, Results by Indicators](image)

3. Conclusions

*Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.*

In terms of policy recommendations, we encourage policymakers to conduct more studies on media, especially ones regarding the audience and market shares, as well as the influence of political actors. These investigations should also nurture public debate and might be initiated by civil society groups and the university. Furthermore, we suggest that they allocate more human and financial resources to independent public authorities so as to guarantee a more consistent and continuous supervision of media
pluralism. Moreover, the meaning of public service in Luxembourg should be clarified and a public service in several languages should be created (at least in the three national languages), thus reflecting the national realities. In addition, access to online information and relevant documents such as media concessions, media owners, members of boards, etc., could be improved. Finally, we encourage policymakers to implement a law on the right to information, which will enable the media and civil society to monitor the political process and to hold political representatives to account.

Annexe I. List of national experts who were consulted

Romain Kohn
ALIA (Autorité Luxembourgeoise Indépendante de l’Audiovisuel)

Paul Lesch
University of Luxembourg

David Dominguez Muller
RTL
Media Pluralism in Malta

A Test Implementation of the Media Pluralism Monitor 2015

Authors:

Maja Simunjak (Centre for Media Pluralism and Media Freedom)

October 2015
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1. Introduction

Malta joined the European Union in 2004 and is the smallest Member State in terms of both its geography and demography (Aquilina 2014). The country has a dual broadcasting system with the public service broadcaster having two television programmes and three radio stations. It is also the only country in the EU in which the two main political parties own their television and radio stations, and they also publish newspapers. Hence, it is a country with the very strong political parallelism that is usually associated with Mediterranean countries (Hallin & Mancini 2004). Audience research shows that 80% of Maltese people watch televisions every day, 60% use the Internet, 56% listen to radio, and only 22% read daily newspapers (European Commission 2014).

The implementation of MPM2015, for Malta, shows low/medium risks for media pluralism. Specifically, a low risk was detected in the areas of Basic Protection and Market Plurality, while a medium level of risk was found in the areas of Political Independence and Social Inclusiveness. With regard to the indicators, ten scored low risk, five medium, and three high risk, with one indicator (‘independence of news agencies’) being excluded from the analysis since Malta does not have news agencies and the indicator is not applicable to the country’s context.
2. Results from the data collection: assessment of the risks to media pluralism

In the Maltese case, risks for media pluralism were detected in the areas of ‘Political Independence’ and ‘Social Inclusiveness’, which have risk levels of 41% and 51% respectively. The area of ‘Market Plurality’ shows the lowest level of risk, 18%, while the risk assessment for ‘Basic Protection’ is only slightly higher, 21%. It should be noted that the medium risk level in ‘Social Inclusiveness’ primarily reflects the fact that a small country, such as Malta, does not guarantee access to media for local communities, and it has almost no local media (except community radios). However, it may be debatable whether a state of this size should have this legislation and these kinds of media, and whether their absence should be considered a risk.

*Figure 1 Media Pluralism Monitor 2015 – Malta, results by Risk Domain*
2.1 Basic Protection (17% risk - low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

<table>
<thead>
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<th>Risk</th>
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<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>14% risk (low)</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>31% risk (low)</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>29% risk (low)</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td>9% risk (low)</td>
</tr>
</tbody>
</table>

All indicators in the area of ‘Basic Protection’ score as low risk, with the indicator on ‘Protection of the right to information’ and on ‘Journalistic profession, standards and protection’ scoring the highest risks amongst them. The study shows that journalists sometimes have problems accessing information from the government, since government officials, at times, withhold information from journalists who are working for oppositional partisan media. An example is the case from September 2015, when Labour’s Transport Minister refused to give an answer during a press conference to a journalist from Net TV, a television station that is owned by the opposition Nationalist party (Martin 2015). Experts claim such cases occur on a regular basis. Furthermore, access to information requests and appeals are not effective in such situations, since the daily media cannot afford to wait for this kind of information because it will become outdated by the time it is revealed. Another problem that journalists face, and which is reflected in the risk assessment for the indicator on ‘journalistic profession, standards and protection’ is poor protection from the owners’ and advertisers’ influences. Journalists and editors working in party media are under obvious influence from the owners, the parties, and there is evidence that economic pressures from advertisers are rising. This is even more problematic since the journalists’ organisation, the Maltese Institute of Journalists, does not represent a majority of the journalists and, according to the opinion of the experts involved in this study, it is not effective in safeguarding editorial independence.

Further risks for media protection stem from heavy government influence in the appointment of the board members of the three authorities that are involved in regulating the media system. However, they seem to be independent in practice, and their decisions are deemed to be taken in the interest of the public, which is reflected in the low risk assessment for the indicator on ‘independence and effectiveness of national authority’. ¹ Freedom of expression is guaranteed in the Constitution, and Malta has ratified the relevant

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¹ NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media
conventions which guarantee freedom of expression (although with reservations). Experts also claim that, in practise, there is no evidence of violations of freedom of expression, either online or offline. However, defamation is a criminal offence and some risk is shown in this area, although the overall risk level remains low.

Figure 2 Media Pluralism Monitor 2015 - Malta, Basic Protection Domain, Results by Indicators

Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM.
2.2 Market Plurality (18% risk - low risk)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against the high concentration of media ownership and control in the different media, within a media market, as well as cross-ownership concentration within the media sector.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency of media ownership</td>
<td>negligible risk (low)</td>
</tr>
<tr>
<td>Concentration of media ownership</td>
<td>54% risk (medium)</td>
</tr>
<tr>
<td>Concentration of cross-media ownership</td>
<td>negligible risk (low)</td>
</tr>
</tbody>
</table>

Given that small markets are usually concentrated, it is perhaps surprising that Malta scores low risk with regard to media concentration. The data shows that Malta has highly concentrated markets, since the Top4 media owners in the major media sectors have more than 50% of audience shares. However, the legislation regulating horizontal concentration in audiovisual and radio markets, as well as that concerned with preventing mergers which will lead to a higher degree of concentration, and its apparent effectiveness, decrease the risk assessment for the concentration in media ownership, which is the only media concentration indicator that scores medium risk. It should be noted that the print and online media markets are completely unregulated, and no data is collected about either them or their concentration.

The reason why Malta scores low risk in media concentration, despite its concentrated markets, is related to the low risk assessments of the indicators on ‘Transparency in media ownership’ and ‘Concentration of cross-media ownership’, which have a negligible score. Media outlets are required by law to make their ownership structure publicly available and, according to the experts’ opinions, the public is well aware of who owns which media in Malta. Furthermore, as Aquilina notes: ‘The private sector is not known for crossmedia ownership in Malta, apart from the case of the political parties' (Aquilina 2014, p.22). Indeed, only the two major political parties own a radio and a TV station, as well as a newspaper. There are no media moguls who own multiple media outlets, and there is legislation regulating the issue, so Malta scores low risk for cross-media ownership.
2.3 Political Independence (41% risk - medium risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the media market, with a focus on state advertising and public service media.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political bias in the media</td>
<td>6% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media outlets</td>
<td>52% risk (medium)</td>
</tr>
<tr>
<td>Politicisation of control over media distribution networks</td>
<td>17% risk (low)</td>
</tr>
<tr>
<td>State advertising</td>
<td>83% risk (high)</td>
</tr>
<tr>
<td>Independence of PSM governance and funding</td>
<td>47% risk (medium)</td>
</tr>
<tr>
<td>Independence of news agencies</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

Unlike ‘Basic Protection’ and ‘Market Plurality’, ‘Political Independence’ scores medium risk. Three indicators mainly contribute to this: ‘Politicisation of control over media outlets’, ‘State advertising’, and
the ‘Independence of PSM governance and funding’. The indicator on ‘State advertising’ is the only indicator of media independence which scores high risk, mainly because the lack of data about the distribution of state advertising has been declared to be highly problematic by the national experts. In particular, it has been noted that the government uses state advertising in pre-election times as a form of political advertising, and channels this advertising to some, but not all media. With regard to the ‘Politicisation of control over media outlets’, the indicator scores medium risk, due to the fact that there are no self-regulatory measures that stipulate editorial independence in the media. Although Malta has party media, their audience shares are not significant (below 30% combined) (see Broadcasting Authority Malta 2015) and their ownership is transparent, while the major risk in this indicator stems from the lack of guarantees of editorial independence.

The other indicator which scores medium risk is concerned with the ‘Independence of PSM governance and funding’. The analysis has shown that the government has a heavy influence on PSM governance by appointing members of both its Managerial and Editorial boards. The government also partially funds the PSM via a direct grant, which is transparent, but the amount of the grant is decided by the government at its own discretion. Although there is some evidence that pro-government bias exists in PSM reporting, experts argue that its political reporting is not as biased as the opposition parties often argue. This is reflected in a low risk score for the indicator on ‘Political bias in the media’, which also takes into account the fact that objectivity and balance in political reporting is mandated by law and is monitored by the Broadcasting Authority, and that, in electoral campaigns, these principles are mostly respected. Further, experts agree that the strong political parallelism in Malta leads to external pluralism, meaning that all political viewpoints are represented in the media system.

Furthermore, the indicator on ‘Politicisation of control over media distribution networks’ scores low risk, because there is no evidence of the politicisation of distribution networks for radio and television. Finally, the indicator on the ‘Independence of news agencies’ has been coded as being ‘not applicable’ and has been excluded from the analysis since Malta does not have any news agencies.
2.4 Social Inclusiveness (51% risk - medium risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess the regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to media for different social and cultural groups, and local communities</td>
<td>75% risk (high)</td>
</tr>
<tr>
<td>Availability of media platforms for community media</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>Access to media for physically challenged people</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Centralisation of the media system</td>
<td>62% risk (medium)</td>
</tr>
<tr>
<td>Universal coverage of the PSM and the Internet</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Media literacy</td>
<td>67% risk (high)</td>
</tr>
</tbody>
</table>

Social Inclusivity is the area which scores the highest risk in Malta, but it still remains within the medium band. There are two indicators that score as high risk (‘access to media of different social and cultural groups’ and local communities and ‘media literacy’), two scoring medium risk (‘centralisation of the
media system’ and the ‘availability of media platforms for community media’), and two low risk (‘access to media for physically challenged people’ and ‘universal coverage of the PSM and the Internet’).

The indicator on ‘Access to media for different social and cultural groups and local communities’ scores the highest risk in ‘Social Inclusiveness’, mostly due to the fact that Maltese law does not guarantee access for different social and cultural groups, and local media is almost non-existent (except for community radios). Experts claim that the lack of legislation on the access to media for social and cultural groups is mostly due to the fact that the Maltese population was rather homogenous until recently, hence there was no need for such regulation. However, they also emphasise that, due to immigration, the structure of the Maltese population is changing, and that legislation securing this kind of access should be discussed.

The other indicator scoring high risk is ‘Media literacy’, mostly because there is no state policy on developing media literacy. However, experts point to the fact that media studies are taught in Church schools, and primary schools have modules aimed at the development of students’ digital skills. In addition, the risk assessment also reflects the fact that more than a quarter of the population does not have basic digital skills and does not use the Internet on a weekly basis.

Furthermore, the Maltese media system is highly centralised, since there is hardly any local media (only local radios exist) which leads to the indicator on the ‘Centralisation of the media system’ scoring medium risk. Acknowledging that centralised media systems, in general, pose a risk for media pluralism, it is debatable whether the lack of local media should really be seen as a risk in Malta, given its small size. Another indicator scoring medium risk is the ‘Availability of media platforms for community media’. The score reflects the fact that the law recognises community media as being a distinct group alongside commercial and public media, but it does not guarantee its independence.

Finally, indicators on ‘Access to media for physically challenged people’ and ‘Universal coverage of the PSM and the Internet’ score low risk. News with sound descriptions is available to people with hearing disabilities every day, in prime time on Maltese Public Service Broadcasting, and in the past years political debates and party conferences during electoral campaigns were also accompanied by sign language translations (Broadcasting Authority Malta 2015b), so there is low risk with regard to Access to media for physically challenged people. In addition, the entire population has access to PSM channels, and broadband is available to the rural population, so there is also low risk with regard to ‘Universal coverage of PSM and the Internet’. It should be noted that average download and upload speeds point to medium/high risk, since they are below the EU average.
Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing, or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country. 

Based on the results of the MPM2015 for Malta, and the discussions with Maltese stakeholders, one of the most important issues to be addressed in order to foster the development of media pluralism in the country, is the independence of media authorities and the PSM. Experts argue that the government has too much influence over the appointment of the boards of the authorities that are engaged in the regulation of the media system (Broadcasting Authority, Malta Communications Authority, Malta Competition and Consumer Affairs Authority), as well as the board managing the PSM. They suggest that the appointment procedures should change in order to be more democratic and objective, and to minimise the risk of political interference. Furthermore, some experts claim that the existing media regulator, the Broadcasting Authority, is today anachronistic. Its board is composed of members who are appointed by the two major political parties, whose media the board is tasked with monitoring. There also does not appear to be sufficient co-ordination and communication between the three authorities that monitor the media. Consequently, it is suggested that an idea of creating a convergent media regulator should be discussed.
Moreover, given that high risk was identified with regard to access to the media for different social and cultural groups, and that experts argue that this issue is becoming increasingly important due to immigration in recent years, the introduction of legislation which would guarantee access to media by social and cultural groups should be discussed.

Similarly, a high level of risk has been identified in relation to media literacy, and experts agree that this issue should be better addressed than it has been in the past. It was noted that there have been attempts to create a media literacy policy, but nothing concrete has emerged as a result. Hence, state policy should be created which would contain measures that are coherent and updated to meet the latest societal changes.

In addition, some experts have evaluated the state advertising rules and practices as being highly problematic (see Section 2.3). Consequently, the introduction of clear rules and guidelines with regard to state advertising, and/or the distribution of state advertising, would make the system more transparent.

Finally, the Monitor revealed that the digital media are largely unregulated and the information about the media’s market share is not being collected. National stakeholders have identified this as being problematic and have called for the introduction of measures which would tackle these issues. Collecting data about the consumption of online media, and the market shares of owners in all media sectors, would help to make more precise assessments of the risks to media pluralism in Malta.
Annexe I. List of national experts who were consulted

Prof Kevin Aquilina
Professor and Dean of the Faculty of Laws
University of Malta

Dr Carmen Sammut
Senior lecturer and Head of the International Relations Department
University of Malta

Dr Joanna Spiteri
Head of the Monitoring Department
Broadcasting Authority

Karl Wright
President
Institute of Maltese Journalists

Keith Demicoli
Editor
Television Malta
References


Media Pluralism in the Netherlands

A Test Implementation of the Media Pluralism Monitor 2015

Authors:

Miriam van der Burg
(Universiteit van Antwerpen)

October 2015

The Centre for Media Pluralism and Media Freedom
is co-financed by the European Union
About the project

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the Member States of the European Union. This narrative report has been produced within the framework of the second pilot test implementation of the MPM, which was carried out in 2015. The implementation was conducted in 19 EU Member States with the support of a grant awarded by the European Union to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

The Monitor’s methodology is based on research carried out by national country teams in the 19 countries, except for Malta where data collection was carried out centrally by the CMPF team. The research is based on a standardised questionnaire and apposite guidelines that were developed by the CMPF. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly sensitive questions (see Annexe I for the list of experts).

Risks to media pluralism are examined in four main thematic domains, which are considered to capture the main areas of risk for media pluralism and media freedom: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area. The Basic Protection domain consists of four indicators; Market Plurality has three, while Political Independence and Social Inclusiveness each contain six indicators.

<table>
<thead>
<tr>
<th>Basic Protection</th>
<th>Market Plurality</th>
<th>Political Independence</th>
<th>Social Inclusiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>Transparency of media ownership</td>
<td>Political bias in the media</td>
<td>Access to media for different social and cultural groups, and local communities</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>Concentration of media ownership</td>
<td>Politicisation of control over media outlets</td>
<td>Availability of media platforms for community media</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>Concentration of cross-media ownership</td>
<td>Politicisation of control over media distribution networks</td>
<td>Access to media for the physically challenged people</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td></td>
<td>State advertising</td>
<td>Centralisation of the media system</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of PSM governance and funding</td>
<td>Universal coverage of the PSM and the Internet</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of news agencies</td>
<td>Media literacy</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

[1]
The results for each domain and indicator are presented on a scale from negligible to 100%, a negligible risk being the lowest, and 100% risk being the highest score. Scores between negligible and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.
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1. Introduction

2. Results from the data collection: assessment of the risks to media pluralism
   2.1 Basic Protection
   2.2 Market Plurality
   2.3 Political Independence
   2.4 Social Inclusiveness

3. Conclusions

Annexe I. List of national experts who were consulted

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection.
1. Introduction

The Dutch media landscape is characterised by a strong tradition in regard to the freedom of the press, a distinct public service media system consisting of various associations that represent different societal groups, and high levels of ownership concentration for commercial media.

Low risks are found in the Netherlands for the domains of ‘Basic Protection’, ‘Political Independence’, and ‘Social Inclusiveness’. A medium risk is indicated with regard to ‘Market Plurality’. Although the Netherlands does a good job in safeguarding media pluralism, there is room for improvement: recommendations are forwarded with regard to the decriminalisation of defamation, the review of media mergers, ownership transparency, and the position of local media.

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1 The author wishes to thank the panel of experts and consulted professionals, institutions and academics for providing information and insights.
2. Results from the data collection: assessment of the risks to media pluralism

For each of the domains, the results are discussed by indicator. Only those sub-indicators are addressed that show a medium or high risk, or those for which no data was available.

Figure 1 Media Pluralism Monitor 2015 – Netherlands, Results by Risk Domain

2.1
Basic Protection (10% risk - low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>2% risk (low)</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>6% risk (low)</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td>8% risk (low)</td>
</tr>
</tbody>
</table>

All of the indicators in the ‘Basic Protection’ domain indicate a low risk, implying a solid legal framework for media pluralism. However, there are some remarks. Although there is no reason for concern with regard to the ‘Protection of freedom of expression’ (2%), the Dutch government has not decriminalised defamation.

Abuse of the Act on the Openness of Governance (Wet Openbaar Bestuur, WOB), which led to the issuing of a new bill in 2014, is the main concern in regard to ‘Protection of right to information’ (6%). Under the current law, government bodies have to pay a fine if they do not respond in time to an information request. False information requests were submitted by individuals or legal consulting firms, merely with the aim of making the government body pay. Another criticism of WOB is that information is often only partly revealed by government bodies.

Different issues are addressed in regard to the indicator ‘Journalistic profession, standards and protection’ (25%). There have been a number of small cases of attacks, or threats to the physical safety of journalists, in recent years (i.e., 2013 and 2014). As for digital safety, different legal procedures are initiated in response to the revelation that the Dutch security services gather and share information (e.g., internet traffic, phone hacking) on citizens, including information on journalists. Another important issue is the protection of journalistic sources. This is not (yet) enshrined in statutory law; the government issued two bills on the protection of journalistic sources in 2014. The bills follow several cases against the Netherlands for violating Article 10 of the European Convention on Human Rights.

As for the indicator ‘Independence and effectiveness of national authorities’ (8%), concerns exist in

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2 NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media
regard to the Dutch Media Authority’s (Commissariaat voor de Media, CvdM) budget reduction. The adequacy of the budget of the newly established Authority Consumer and Market’s (Autoriteit Consument en Markt, ACM) could not be evaluated because this convergent regulator was under review at the time of writing.

![Figure 2 Media Pluralism Monitor 2015 - Netherlands, Basic Protection Domain, Results by Indicators](image)

authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).
2.2 Market Plurality (53% risk - medium risk)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency of media ownership</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Concentration of media ownership</td>
<td>59% risk (medium)</td>
</tr>
<tr>
<td>Concentration of cross-media ownership</td>
<td>75% risk (high)</td>
</tr>
</tbody>
</table>

Of all the domains, the indicators with regard to ‘Market Plurality’ score, on average, the highest risk. A low risk is indicated for the indicator ‘Transparency of media ownership’ (25%). Based on Trade Law, companies have to file their annual accounts to the Chamber of Commerce (Kamer van Koophandel, KvK). The Mediamonitor reports annually on the main media companies’ ownership structures and there are public registers of broadcasting licensees. Although the trade register is freely accessible, obtaining annual accounts is a paid service. This implies a barrier to the public in relation to information about the ownership structures of smaller media companies.

The ‘Concentration of media ownership’ indicator shows a medium risk (59%), for various reasons. First, media legislation does not contain specific provisions that restrict the concentration of horizontal (or cross-media ownership) in the markets for newspapers and online content. There are some restrictions with regard to broadcasting licenses. In 2011, the Temporary Act Media Concentrations (Tijdelijke wet media concentraties), which installed constraints to horizontal and cross-media ownership in the markets for radio, television and newspapers based on audience shares, was repealed. According to the legislator, the law restricted publishers’ survival strategies through mergers and acquisitions (i.e. takeovers as a means to prevent termination of outlets) and publishers’ cross-media development. Moreover, sufficient counterweight would be provided by the abundance of online news sources. Second, competition law does not contain specific provisions that restrict media ownership in any way. Third, indicators for the concentration of ownership in the radio, television and newspaper markets show a high risk, with joint audience shares of the four largest companies that are between 70% and 90% (in 2013). Furthermore, there are no data available on the indicators of ownership concentration based on market shares (i.e., based on operating turnover instead of circulation or audience rates).

High risk is indicated for the ‘Concentration of cross-media ownership’ indicator (75%). As mentioned, with the Temporary Act Media Concentrations repealed, no restrictions to cross-media ownership now
exist. In terms of cross-ownership measures, the Top-3 firms in the market for newspapers, magazines, radio and television, have a joint operating turnover that equals about 80% of the net advertising revenue in the media market. This is considered to indicate a high level of cross-ownership.

![Figure 3 Media Pluralism Monitor 2015 - Netherlands, Market Plurality Domain, Results by Indicators](image)

2.3 Political Independence (25% risk - low risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the media market, with a focus on state advertisement and public service media.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political bias in the media</td>
<td>29% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media outlets</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media distribution networks</td>
<td>Negligible</td>
</tr>
<tr>
<td>State advertising</td>
<td>17% risk (low)</td>
</tr>
<tr>
<td>Independence of PSM governance and funding</td>
<td>29% risk (low)</td>
</tr>
<tr>
<td>Independence of news agencies</td>
<td>50% risk (medium)</td>
</tr>
</tbody>
</table>
Almost all indicators within the domain of ‘Political Independence’ indicate low risk. Both commercial and public media generally provide balanced coverage in their news and information programmes. Various regulatory safeguards exist in order to prevent political bias in the media. However, there are certain topics that are left to the market. First, there is no internal charter of PSM or other self-regulatory instrument that guarantees the access of political actors to the Dutch public broadcaster’s (Nederlandse Publieke Omroep, NPO) news and information programmes. This is indirectly arranged through the design of the public service media system (e.g. many different broadcasting associations each with their specific profile and target group). Second, although airtime is allocated to electable political parties, this does not apply to regional and local elections or to referenda. Third, political advertising – other than the allocated airtime – is not regulated in any way, and, hence, political parties are free to buy advertising space. Although political parties buy more advertising space these days, the allocated air time is still used the most. Overall, the indicator assessing political bias in the media scores a low risk (29%).

As for the ‘Politicisation of control of media outlets’, there are no data available regarding audience shares of radio and television channels, and newspapers that are owned by politically affiliated entities. Politically affiliated ownership is argued not to be an issue in the Dutch media in the post-pillarised era (since the 1960s) according to the experts who were consulted (see also the indicator ‘independence of PSM governance and funding’). Editorial independence is organised by means of self-regulation. In the Netherlands there exists a strong tradition concerning codes and codes of conduct and of ethics. The indicator ‘ politicisation of control over media outlets’ scores as a low risk (25%).

A very low risk is also indicated for ‘Politicisation of control over media distribution networks’ (negligible risk). The leading distribution networks for print (i.e., newspaper publishers), radio and television (i.e., telco and cable companies) are not political affiliated.

‘State advertising’ is regulated at the national level in a clear and transparent way that contributes to a low risk assessment of this indicator (17%). Limited air time is allocated to the government and there is a reporting obligation. However, at the local and regional level there is limited transparency.

The ‘Independence of PSM governance and funding’ is laid down in many rules and regulations. The independence from government and/or a single political group of the NPO’s boards and management is the responsibility of the respective board concerned with the appointment procedure. Hence, there is no central body safeguarding independence. There is some indirect government influence on wages via the NPO’s code of conduct that includes a reward framework for, amongst others, the presenters. This framework attempts to curb exorbitant incomes. As for the extent of income that is derived from direct government funding relative to advertising income, the monitor indicates a high risk. Overall, the indicator assessing the risk for the political independence of the PSM scores at the upper end of low risk (29%).

As for the ‘Independence of news agencies’, the leading news agency is commercially owned and is not dependent on political groupings in terms of ownership. Following the most recent takeover, there is one
main national press agency left (i.e., Algemeen Nederlands Persbureau). This is considered to be a medium risk (50%).

Figure 4 Media Pluralism Monitor 2015 - Netherlands, Political Independence Domain, Results by Indicators
2.4 Social Inclusiveness (16% risk - low risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to media for different social and cultural groups, and local communities</td>
<td>19% risk (low)</td>
</tr>
<tr>
<td>Availability of media platforms for community media</td>
<td>17% risk (low)</td>
</tr>
<tr>
<td>Access to media for the physically challenged people</td>
<td>Negligible</td>
</tr>
<tr>
<td>Centralisation of the media system</td>
<td>42% risk (medium)</td>
</tr>
<tr>
<td>Universal coverage of the PSM and the Internet</td>
<td>Negligible</td>
</tr>
<tr>
<td>Media literacy</td>
<td>17% risk (low)</td>
</tr>
</tbody>
</table>

With the exception of the indicator for centralisation, all of the indicators in the ‘Social Inclusiveness’ domain show a low risk. The representation of religious and philosophical groups in society is guaranteed by the national public service media (i.e., NPO). Remarks about access to media for different social and cultural groups and local communities exclusively apply to the legal framework of the latter (indicator ‘Access to media for different social and cultural groups, and local communities’: 19%). Local public service media are obliged neither to have their own local correspondents, nor to employ journalists from different geographical areas. In practice, they do aim to have journalists from different areas. Although it is not mandatory to have national news available in local languages, programmes in dialect are also provided.

The ‘Availability of media platforms for community media’ (17% of risk in the connected indicator) applies to local public service media and minority media. In the Dutch Media Act, community media are not recognised alongside public or private media. Based on the character of most, though not all, local public service media (e.g., a strong reliance on volunteers, limited budget), they are approached as community media in this monitor. Moreover, the representative organisation (OLON) is associated with the Community Media Forum in Europe. Subsidies to minority media are limited and their share in the radio, television and newspaper market is unknown, due to a lack of data. The organisation that attempts a balanced reflection on the minorities in the media (Mira Media) stopped monitoring because of the growing importance of online platforms. To enable access to media for physically challenged people, most television channels provide subtitles and comply with the quota (negligible risk in the connected indicator).

The ‘Centralisation of the media system’ indicator shows a medium risk (42%) for various reasons. First,
local public service media are supported through subsidies, but not all municipalities' subsidies meet the requirements (i.e., too little is paid). This makes the financial position of local PSMs worrisome and has led, in some cases, to the absence of local public media services in some municipalities (another explanation for the absence of local public media is a lack of applicants that actually meet the legal requirements). Second, with audience shares of between 10 and 15 percent for regional and local radio and television, centralisation is indicated as being at medium risk. The (de)centralisation test could not be performed for newspapers due to a lack of data. Third, local and regional public service media within the same geographical area are allowed to collaborate, and, under certain conditions, they are also able to do so with private institutions. Collaborations can jeopardise the local or regional character, and therefore, this can be interpreted as a risk. In the Dutch context, this should be understood as an important survival strategy for local PSMs and as a way to ensure local news coverage: teaming up enables continuity and professionalisation. Moreover, programming quotas exist that ensure a minimum of locally/regionally oriented content. Hence, centralisation is perceived to be an opportunity, rather than a threat.

With the full coverage of NPO’s channels and broadband and high up- and download speeds, universal coverage of the PSM and the Internet is not perceived as being at risk (negligible risk in the connected indicator). Policies on ‘Media literacy’ (indicator ‘Media literacy’: 17%) are quite well developed, and both the internet usage and digital skills of the Dutch are rather high.

*Figure 5 Media Pluralism Monitor 2015 - Netherlands, Social Inclusiveness Domain, Results by Indicators*
3. Conclusions

Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.

From a legal point of view, rules and regulations provide a solid base for media pluralism in the Netherlands. However, the Act on the Openness of Governance, and the protection of journalistic sources, continue to remain matters of concern. Although, in both cases, new bills are issued, existing concerns have not been solved and the Netherlands still does not live up to international standards. The expert consulted urges the speeding up of the process.

Regarding the decriminalisation of defamation, the experts consulted modify the recommendation of the International Press Institute (2015): it may be desirable from a journalistic point of view, but not necessarily from the perspective of individual citizens. On the one hand, recent cases show that prosecution is a rather drastic measure for journalists (see Openbaar Ministerie, 2010; Pasveer, 2015). On the other hand, in the case of severe insult, criminal law enables citizens a way into court that does not come with the administrative and financial barriers of civil law. For these reasons, the distinction between defamation in the private or professional (i.e., journalistic) sphere in the defamation provisions is suggested. Experts further agree that lèse majesté should be removed from the Penal Code (Wetboek der Strafrecht); it is a potential threshold to democratic debate about the royals as an institution.

From a market point of view, high levels of ownership concentration in the Dutch media markets and limited regulation result in the monitor indicating a medium to high risk. Putting constraints on ownership concentration by means of caps is not considered desirable; it is too inflexible and does not capture the complexity of a media company's economic interest and socio-democratic responsibility. However, some experts recognise that extra vigilance is needed. In countries like the UK, Ireland and Germany, the impact of mergers and acquisitions in the media industry are approached from the perspective of market and opinion power (see Komorek, 2013). The latter refers, for example, to the extent to which citizens consult content from different outlets, and, hence, from different owners. In this way, a company’s share in a person’s daily media diet, and potentially in his/her ideas and opinions, is evaluated before and after a merger. A wider and more comprehensive scope for merger control is considered desirable and this would be consistent with the ACM’s consumer welfare standard, which underscores public interests (Van der Burg & Van den Bulck, 2015).

Improvements can be made with regard to public access to ownership information. Access Info Europe (2015) recommends the removal of pay walls for the disclosure of, at least recent, annual accounts. This is, for example, the case in Belgium (Flanders)³.

³ See: www.nbb.be/nl/balanscentrale
As for ‘Social inclusiveness’, concerns persist with regard to news supply in local communities: the weak financial position of (some) local public service media, and their independence from municipalities in this respect. There are local communities without local PSMs and/or local newspapers. The expert consulted emphasises the importance of collaboration between local and regional public service media. Moreover, it is argued that local PSMs can benefit from one central body that is responsible for both issuing licenses and subsidies. This potentially enables greater continuity and creates more distance between the municipality and local public service media. The latter is particularly important with regard to the watchdog role of local PSMs.
Annexe I. List of national experts who were consulted

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Thomas Bruning
Nederlandse Vereniging voor Journalisten

Madeleine de Cock Buning
Commissariaat voor de Media

Wouter Hins
Universiteit van Amsterdam, Universiteit van Leiden

Hans van Kranenburg
Radboud Universiteit

Anne-Lieke Mol
Nederlandse Publieke Omroep

Herman Wolfswinkel
NDP Nieuwsmedia
References


International Press Institute 2015. *Background to reform of criminal defamation law in the Netherlands*.


Media Pluralism in Poland

A Test Implementation of the Media Pluralism Monitor 2015

Authors:

Beata Klimkiewicz (Jagiellonian University, Kraków)

October 2015
**About the project**

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the Member States of the European Union. This narrative report has been produced within the framework of the second pilot test implementation of the MPM, which was carried out in 2015. The implementation was conducted in 19 EU Member States with the support of a grant awarded by the European Union to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

The Monitor’s methodology is based on research carried out by national country teams in the 19 countries, except for Malta where data collection was carried out centrally by the CMPF team. The research is based on a standardised questionnaire and apposite guidelines that were developed by the CMPF. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly sensitive questions (see Annexe I for the list of experts).

Risks to media pluralism are examined in four main thematic domains, which are considered to capture the main areas of risk for media pluralism and media freedom: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area. The Basic Protection domain consists of four indicators; Market Plurality has three, while Political Independence and Social Inclusiveness each contain six indicators.

<table>
<thead>
<tr>
<th>Basic Protection</th>
<th>Market Plurality</th>
<th>Political Independence</th>
<th>Social Inclusiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>Transparency of media ownership</td>
<td>Political bias in the media</td>
<td>Access to media for different social and cultural groups, and local communities</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>Concentration of media ownership</td>
<td>Politicisation of control over media outlets</td>
<td>Availability of media platforms for community media</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>Concentration of cross-media ownership</td>
<td>Politicisation of control over media distribution networks</td>
<td>Access to media for the physically challenged people</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td></td>
<td>State advertising</td>
<td>Centralisation of the media system</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of PSM governance and funding</td>
<td>Universal coverage of the PSM and the Internet</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of news agencies</td>
<td>Media literacy</td>
</tr>
</tbody>
</table>


The results for each domain and indicator are presented on a scale from negligible to 100%, a negligible risk being the lowest, and 100% risk being the highest score. Scores between negligible and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.
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   2.1 Basic Protection
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   2.3 Political Independence
   2.4 Social Inclusiveness

3. Conclusions

Annexe I. List of national experts who were consulted

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection.
1. Introduction

The condition and evolution of media pluralism in Poland results from a number of exogenous and endogenous factors. Most importantly, the national media environment is shaped by population size, demographic structure and economic conditions. Poland’s population of 38.478 million (GUS 2015) creates a relatively big market for variety of sectors composing the national media. The ethnic and linguistic structure of the population is relatively homogenous, with 97% of citizens identifying themselves as having a Polish nationality. The state officially recognises 9 national minorities and 4 ethnic groups in the Act on national and ethnic minorities and on the regional languages 2005, and a language (Kashubian) officially enjoys the status of a minority and regional language. According to the last 2011 census (GUS 2011), the largest minority group are Silesians (1.1%), who are not officially recognised as a national minority. Other declared minorities account for below 1%. In these circumstances, the overwhelming amounts of media content and services are produced in Polish, largely for the Polish audience. According to the data of the OECD, Poland’s GDP per capita amounted to 22.400 EUR, which places the country below the EU average, but, on the other hand, it represents one of the fastest growing in the last 20 years (OECD 2015). The presence of foreign capital and ownership (both EU and non-EU) in the media sector is quite dominant. According to the Eurobarometer Standard Survey 82 (2014), 83% of the population watch TV every day, 52% listen to the radio, 12% read the newspapers and 54% use the Internet.¹

The general condition of media pluralism in Poland is satisfactory, although there are areas that need further improvement. Overall, the assessment of the four domains detected a low risk for the ‘Basic Protection’ domain (33%), high risk for the ‘Market Plurality’ domain (70%), medium risk for the ‘Political Independence’; (40%) and for the ‘Social Inclusiveness’; (52%) domains. The greatest risks to media pluralism in Poland include the ‘Concentration of cross-media ownership’ (88%), ‘Media literacy’ (83%) and the ‘Concentration of media ownership’ (74%). Other areas with relatively significant risk for media pluralism include ‘State advertising’ (58%), the ‘Universal coverage of the PSM and the Internet’ (56%), the ‘Centralisation of the media system’ (52%), and the ‘Transparency in media ownership’ (50%).

The assessment completed for this report was conducted between April and October 2015, thus not taking into account new media law developments that sparked the criticism of various international and national organisations.² On 30 December 2015, the Polish Sejm enacted the so called “Small Media Act” (Mała

Ustawa Medialna) amending the current 1992 Broadcasting Act. The 2015 Act entered into force after signature by the President and the publication of the Act on 7 January 2016. The present report does not cover an assessment of this new law.

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2. Results from the data collection: assessment of the risks to media pluralism

*Figure 1 Media Pluralism Monitor 2015 – Poland, Results by Risk Domain*
2.1 Basic Protection (33% risk - low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>40% risk (medium)</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>31% risk (low)</td>
</tr>
<tr>
<td>Journalistic profession, standards and protect</td>
<td>42% risk (medium)</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td>20% risk (low)</td>
</tr>
</tbody>
</table>

The indicator ‘Protection of freedom of expression’ scores medium risk (40%). Freedom of expression is generally respected in Poland, and is protected under the Polish Constitution 1997 in the Article 54 and Article 14 (freedom of the press and the media). In addition, the Press Law 1984 recognises the freedom of expression (Article 1). The Broadcasting Act 1992 stipulates protection of freedom of expression as the task of the National Broadcasting Council (Article 6 (1)). Poland has ratified the relevant international documents in this regard, including ICCPR (in 1977) and ECHR (in 1993). In the evaluation of international organizations (Freedom House 2015; Reporters Without Borders 2015), Poland has been ranked among the countries with a free press between 2005 – 2015.

However, it should be added, in this respect, that the State has not decriminalised defamation. A relatively formalistic treatment of some defamation cases by the domestic courts leads repeatedly to applications being submitted to the ECHR, judging time and again a violation of Article 10 of the Convention (e.g., Applications nos. 19127/06; 48723/07; 34447/05). The overall score for this indicator amounts to 40% thus detecting a medium risk to media pluralism.

The indicator ‘Protection of right to information’ scores low risk (31%). The right to information is explicitly recognised in the Polish Constitution (Article 61), and, in addition, it is protected by the Law on Access to Public Information 2001. In practice, the effective implementation is affected by the limits of a relatively narrow definition of public information and delays in timely responses to information requests. The overall score for this indicator (31%) represents a low risk.

The indicator ‘Journalistic profession, standards and protect’ scores a medium risk (42%). An institutional landscape of journalistic associations and unions in Poland is very fragmented. This fragmentation, often
deepened by ideological cleavages, hinders attempts to represent the journalistic environment as a whole in policy and employment negotiations. According to the indices by Reporters Without Borders (2015) and Freedom House (2015), no journalists and no net-citizens were killed, attacked or imprisoned in Poland in 2014 and 2013. Yet, very rarely, some attacks or threats to the physical or digital safety of journalists happen. The overall score for this indicator (42%) represents a medium risk.

The indicators on the ‘Independence of the national authority’ score a low risk (20%). The independence of the three relevant national authorities – the National Broadcasting Council (Krajowa Rada Radiofonii i Telewizji - KRRiT), the Office of Competition and Consumer Protection (Urząd Ochrony Konkurencji i Konsumentów – UOKiK), and the Office of Electronic Communication (Urząd Komunikacji Elektronicznej – UKE) is not recognised as being a value to be explicitly protected by constitutional or other relevant (media, competition, telecommunication) laws. Comparing the three authorities in the light of their particular conditions of independence and effectiveness (sufficient budget, clearly defined duties, tasks and responsibilities; sanctioning powers), the appointment procedures seem to be the weakest element – and one that will eventually need improvement.

Figure 2 Media Pluralism Monitor 2015 - Poland, Basic Protection Domain, Results by Indicators

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4 NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).
2.2 Market Plurality (70% risk - high risk)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency of media ownership</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>Concentration of media ownership</td>
<td>74% risk (high)</td>
</tr>
<tr>
<td>Concentration of cross-media ownership</td>
<td>88% risk (high)</td>
</tr>
</tbody>
</table>

The indicator on ‘Transparency of media ownership’ scores medium risk (50%). In general, there are several obligations in the company and broadcasting laws that require the disclosure of certain data about media ownership (see Code of Commercial Partnership and Companies 2000; Act on National Court Register 1997; Broadcasting Act 1992). At the same time, the free-of-charge service of the National Court Register offers only limited information. Most of the data are collected by the public agencies (such as KRRiT and UOKiK). None of these, however, offers a full register, easily disclosing up-to-date information to the general public. The overall score for this indicator (50%) represents a medium risk.

The indicator on ‘Concentration of media ownership’ scores high risk (74%). Both competition and broadcasting laws tackle some forms of horizontal media concentration only. The Act on Competition and Consumer Protection 2007 does not specifically recognise the media sector. The basis for preventing high horizontal concentration on the press market, as well as in the internet content providers’ sector, is the general competition law. As regards the broadcasting market, in addition to competition law, the relevant body - KRRiT – may use the provisions of the Broadcasting Act 1992 to award, refuse or revoke licenses in order to prevent the dominant position of a broadcaster in a given area. The concentration in revenue and audience markets is rather high in Poland. In 2013, altogether, the Top 4 audiovisual owners achieved 95% shares in the revenue market, and the Top 4 radio owners 78% (KRRiT 2015). The share of the four leading press groups in the overall circulation of the press market reached around 70% (Izba Wydawców Prasy 2015; ZKDP 2015). There is no freely available data to establish the market share of the Top4 internet content providers in Poland. The overall score for this indicator (74%) suggests a high risk.

The indicator on ‘Concentration of cross-media ownership’ scores a high risk (88%). Current media and competition laws do not contain specific rules that can prevent a high degree of cross-ownership between the different media. The overall score for this indicator proves to be the highest amongst all of the indicators – 88%, thus pointing to a high risk to media pluralism.
2.3 Political Independence (40% risk - medium risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the media market, with a focus on state advertisement and public service media.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political bias in the media</td>
<td>43% risk (medium)</td>
</tr>
<tr>
<td>Politicisation of control over media outlets</td>
<td>44% risk (medium)</td>
</tr>
<tr>
<td>Politicisation of control over media distribution networks</td>
<td>Negligible</td>
</tr>
<tr>
<td>State advertising</td>
<td>58% risk (medium)</td>
</tr>
<tr>
<td>Independence of PSM governance and funding</td>
<td>33% risk (low)</td>
</tr>
<tr>
<td>Independence of news agencies</td>
<td>62% risk (medium)</td>
</tr>
</tbody>
</table>

The indicator on ‘Political bias in the media’ scores a medium risk (43%). The Broadcasting Act 1992 stipulates that information provided by PSM should be “pluralistic, impartial, well balanced, independent and innovative” (Article 21.1.). As regards political representation, in particular, PSM has the duty to
represent the positions of political parties, trade unions and employers’ organisations (Article 23), entities participating in elections (Article 24.1), and to inform on the activities of public benefit organisations (Article 23a). In practice, the available studies and experts’ accounts show both the existence of the diversity of political parties and movements in media content (mainly during election periods), as well as a lack of a sufficient political balance (INDICATOR 2012; Dobek-Ostrowska, B & Glowacki 2008). The overall score for this indicator (43%) demonstrates a medium risk.

The indicator on the ‘Politicisation of control over media outlets’ scores a medium risk (44%). Most media groups in Poland have no direct political affiliation with political groups and parties. Yet political directions are often reflected in editorial policies and journalistic content (Freedom House 2015; Jakubowicz 2007; Mielczarek 2007). The overall score for this indicator amounts to 44%, thus suggesting a medium risk.

The indicator on the ‘Politicisation of control over media distribution networks’ scores a negligible risk. The leading distribution networks for print, radio and TV are privately owned and have no particular political affiliation. Political control does not pose any serious threats in this regard, although, in certain markets (e.g., terrestrial digital TV) there is a problem with dominant players. The overall score for this indicator displays a negligible risk.

The indicator on ‘State advertising’ scores a medium risk (58%). In media laws (1984 Press Law, 1992 Broadcasting Act), there are no rules on the distribution of state advertising. In addition, relevant data seem to be very limited. The available reports (2013, 2014) monitoring the government advertising notice the non-proportional distribution of expenditures. The overall score for this indicator (58%) suggests a medium risk.

The indicator on the ‘Independence of PSM governance and funding’ scores a low risk (33%). The Broadcasting Act 1992 provides transparent and clearly described appointment procedures for the management and supervisory boards of PSM (Articles 27 and 28). Yet, these do not guarantee the independence of the PSM boards from the governing political groups. The political culture in Poland has repeatedly proven that there has been a big appetite for the political control of both KRRiT and PSM’s Supervisory, as well as the Management Boards (See e.g., Ociepka 2003). Although the overall score for this indicator denotes a low risk (33%) it represents a perimeter value that is close to crossing the line to becoming a medium risk.

The indicator on the ‘Independence of news agencies’ scores a medium risk (62%). The dominant position amongst the leading news agencies in Poland is occupied by PAP (Polish Press Agency – Polska Agencja Prasowa). Other agencies tend to specialise in some specific parts of the news/information market. Formerly controlled by the state, PAP has become independent from the government in its operations, although it is still owned by the State Treasury (Act on PAD 1997). The overall score for this indicator (63%) demonstrates a medium risk.
2.4 Social Inclusiveness (52% risk – medium risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

**Indicator** | **Risk**
--- | ---
Access to media for different social and cultural groups, and local communities | 47% risk (medium)
Availability of media platforms for community media | 47% risk (medium)
Access to media for the physically challenged people | 25% risk (low)
Centralisation of the media system | 52% risk (medium)
Universal coverage of the PSM and the Internet | 56% risk (medium)
Media literacy | 83% risk (high)

The indicator on ‘Access to media for different social and cultural groups’ and local communities scores...
a medium risk (47%). An access to airtime on PSM channels for different social and cultural groups is recognised, at a very general level, in the Broadcasting Act 1992 (Articles 21.1a, 21.2, 23a1). Access to airtime on PSM by minorities is guaranteed by the Broadcasting Act 1992 (Article 21.1a), however, this refers only to minorities that are officially recognised under the 2005 Act on National and Ethnic Minorities and on the regional languages. As regards the operation and performance of Polish Radio (Polskie Radio), the diversity of social and cultural, and, in particular, regional groups, is relatively well-reflected in the content offer and service of its 17 regional branches. In the case of Polish Television, the coverage is less representative, in particular in regard to ethnic and national minorities and cultural groups. The overall score for this indicator (47%) demonstrates a medium risk.

The indicator on the ‘Availability of media platforms for community media’ scores a medium risk (47%). The Broadcasting Act 1992 does not contain specific provisions granting legal recognition to community media as a distinct group alongside commercial and public media. However, the law distinguishes the category of ‘social broadcaster’. The Broadcasting Act 1992 exempts social broadcasters from fees that are payable for the awarding or altering of the license. The overall score for this indicator amounts to 47%, showing a medium risk.

The indicator on ‘Access to the media for physically challenged people’ scores a low risk (25%). The policy relating to access to media content by physically challenged people has improved in recent years. The amended Broadcasting Act 1992 requires broadcasters to reserve 10% of the quarterly transmission time for programmes with appropriate aids. The National Broadcasting Council regularly monitors the fulfillment of these obligations by broadcasters. The overall score for this indicator (25%) denotes a low risk.

The indicator on the ‘Centralisation of the media system’ scores a medium risk (52%). In general, there are distinctions among the local press, radio and TV, and the policy support that relates to these sectors. While, in the case of broadcasting, the PSM offer a visible contribution to the system of local/regional media in Poland, the press seems to be relatively fragile. The decentralisation index for 2014 demonstrates a weak audience share for local/regional media in the overall audience for each of the sectors: 34% for daily newspapers (ZKPD 2015), 35% for radio stations (KRRiT 2015) and 1.1% for TV channels (KRRiT 2015). The overall score for this indicator (52%) points to a medium risk.

The indicator on ‘Universal coverage of PSM and the Internet’ scores a medium risk (56%). The Broadcasting Act 1992 does not explicitly refer to ‘universal coverage’, but the law firmly states that PSM should target ‘the entire society’ and ‘its individual groups’ (Article 21.1). The quantitative indicators demonstrating the universal coverage of PSM channels vary between high and low risk, while most of the data for internet coverage point to a medium risk. The overall score for this indicator (56%) thus demonstrates a medium risk.

The indicator on ‘Media literacy’ scores high risk (83%). ‘Media literacy’ or ‘media education’ is recognised as being one of the leading tasks of both KRRiT and PSM (Broadcasting Act 1992, Articles
6.2; 21.1a). At the same time, the data demonstrating the percentage of weekly Internet users and the percentage of the population that has at least basic digital skills indicate a high risk. The overall score for this indicator (83%) denotes a high risk.

![Bar chart showing risk levels](image)

*Figure 5 Media Pluralism Monitor 2015 - Poland, Social Inclusiveness Domain, Results by Indicators*

3. Conclusions

*Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.*

The assessment of media pluralism in Poland detected some policy areas that could benefit from further improvements.

In the ‘Basic Protection’ domain, two issues should be mentioned, in particular. There is a need for the decriminalisation of defamation and to ensure that public figures do not hold a higher level of protection under the libel law than ordinary citizens do. Secondly, there is a need to provide a more pluralistic representation, in terms of appointment procedures, to the regulatory bodies, particularly the National Broadcasting Council (KRRiT). The composition of the national media authority should not reflect only
the political structure of the Sejm, Senate, and President, but also of the social and cultural milieux, including NGOs, educational institutions, journalistic associations, and others.

In the ‘Market Plurality’ domain, there is a need to address cross-media ownership, at least in media regulation, and to establish competition policy regimes that are more sensitive to specific features of the relevant media markets. Secondly, the issue of media transparency requires a more focused policy response. There is a need to offer full public access to the media register that lists media companies which are operating in Poland. This list should include:

- An indication of the ultimate owner (not only the name of a subsidiary company)
- Information about the location of the company’s seat (often companies register in tax havens)
- An indication of whether the company pays taxes in Poland
- A full catalogue of the owned media services and outlets, including social media, online portals, outdoor advertising, etc.
- Total revenues
- Advertising revenues, with detailed information on the proportion of revenues collected from state or public advertising

In the ‘Political Independence’ domain, there is a need to specify, in greater detail, the PSM remit, in particular, the tasks regarding the impartial and fair representations of political views. Secondly, a significant improvement is necessary in the area of the disclosure of data on state advertising and its distribution across particular media outlets. Thirdly, PSM need refined appointment procedures, with a greater representation of the civil society in Poland, including NGOs, educational institutions, journalistic associations, and others.

In the ‘Social Inclusiveness’ domain, to effectively safeguard regional/local media by policy measures, there should be a more coherent and holistic approach to the entire media system, and not simply a reliance on the tasks of PSM in this matter, or on the municipal support that is often bound by high political dependency on local politics. This applies also to the third sector of community media. In the first place, it is necessary to recognise community media, both in law and in the policies of the national media authority. Finally, as regards media literacy, there is a lack of regular policy activities in two important areas: media transparency, with an explanatory background on economic and political context of media operations, and regular measurement/analysis concerning media users’ abilities and skills to effectively and safely use offered media services. These should be provided on a regular basis in order to detect trends relating to media literacy.
Annexe I. List of national experts who were consulted

Maria Borkowska
National Broadcasting Council (KRRiT)

Maciej Hoffman
Press Publishers' Chamber (IWP)

Jędrzej Skrzypczak
Faculty of Political Sciences and Journalism, Adam Mickiewicz University in Pozn

Alicja Jaskiernia
Institute of Journalism, University of Warsaw
References


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Mielczarek, T 2007, Monopol, pluralizm, koncentracja. [Monopoly, pluralism, concentration], Wydawnictwa Akademickie i Profesjonalne, Warsaw and others.


Legislation


Media Pluralism in Portugal

A Test Implementation of the Media Pluralism Monitor 2015

Authors:

Francisco Rui Cádima, Luís Oliveira Martins and Marisa Torres da Silva - all from Universidade Nova de Lisboa

October 2015
About the project

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the Member States of the European Union. This narrative report has been produced within the framework of the second pilot test implementation of the MPM, which was carried out in 2015. The implementation was conducted in 19 EU Member States with the support of a grant awarded by the European Union to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

The Monitor’s methodology is based on research carried out by national country teams in the 19 countries, except for Malta where data collection was carried out centrally by the CMPF team. The research is based on a standardised questionnaire and apposite guidelines that were developed by the CMPF. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly sensitive questions (see Annexe I for the list of experts).

Risks to media pluralism are examined in four main thematic domains, which are considered to capture the main areas of risk for media pluralism and media freedom: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area. The Basic Protection domain consists of four indicators; Market Plurality has three, while Political Independence and Social Inclusiveness each contain six indicators.

<table>
<thead>
<tr>
<th>Basic Protection</th>
<th>Market Plurality</th>
<th>Political Independence</th>
<th>Social Inclusiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>Transparency of media ownership</td>
<td>Political bias in the media</td>
<td>Access to media for different social and cultural groups, and local communities</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>Concentration of media ownership</td>
<td>Politicisation of control over media outlets</td>
<td>Availability of media platforms for community media</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>Concentration of cross-media ownership</td>
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</tr>
<tr>
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<td></td>
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<tr>
<td></td>
<td></td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Independence of news agencies</td>
<td>Media literacy</td>
</tr>
</tbody>
</table>
The results for each domain and indicator are presented on a scale from negligible to 100%, a negligible risk being the lowest, and 100% risk being the highest score. Scores between negligible and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.
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1. Introduction

2. Results from the data collection: assessment of the risks to media pluralism
   2.1 Basic Protection
   2.2 Market Plurality
   2.3 Political Independence
   2.4 Social Inclusiveness

3. Conclusions

Annexe I. List of national experts who were consulted

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection.
1. Introduction

In Portugal there are positive signs on the situation in relation to media pluralism, given that no domain indicates “high risks”. In respect to the legal framework, there are various specific and general rules that aim to safeguard media pluralism. Insofar as implementation is concerned, Portugal has a regulatory body that monitors, *inter alia*, the transparency of media ownership, and the compliance of public service media organisations with their remit.

Recently, the Portuguese legal framework that governs the media sector has been reformed through the enactment of a new legislation that covers media ownership transparency and public service media. Among the changes that have been brought by the new laws is the establishment of the Independent General Council, which is entrusted with choosing the management board of the public service media. Given that this body was established in September 2014, it was deemed to be too early to draw any definitive conclusions on its contributions to media pluralism.

Issues that raise concerns which, as a result, must be considered by the public authorities include the control of cross-media ownership; self-regulation; media independence; and access to the media for the various social and cultural groups and communities that comprise the Portuguese society.
2. Results from the data collection: assessment of the risks to media pluralism

*Figure 1 Media Pluralism Monitor 2015 – Portugal, Results by Risk Domain*
2.1 Basic Protection (16% risk - low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>18% risk (low)</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>31% risk (low)</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>17% risk (low)</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td>Negligible</td>
</tr>
</tbody>
</table>

‘Protection of freedom of expression’ (score 18% - low risk). Freedom of expression in Portugal is constitutionally recognised. Regulatory safeguards have been put in place that seem to be being effectively implemented.

Defamation is a criminal offence in Portugal, which may, in principle, pose risks to journalistic freedom. However, neither NGOs nor journalists have reported any relevant cases. With respect to online offences, such as public incitement to violence, hate speech, or hatred for racist and xenophobic purposes, there are several cases (namely, relating to readers’ comments in Portuguese online journalism) which indicate non-compliance with the recommendations\(^1\) of the media authority (Entidade Reguladora para a Comunicação Social-ERC, see below).

‘Protection of right to information’ (31% - low risk). The right to information, freedom of expression, and citizens’ rights are enshrined in the Constitution. There is an appeal mechanism in place in cases where there are refusals to grant access to information, which is managed by an independent administrative entity: the Commission on Access to Administrative Documents (CADA). It appears that this body receives a large number of complaints and/or requests for legal advice. There is evidence, e.g., delays, that this appeals mechanism is not being implemented effectively\(^2\).

‘Journalistic profession, standards and protection’ (17% - low risk). There are some risks concerning

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\(^1\) ERC Recommendation 1/2012

\(^2\) See, for instance, the case of the Administrative Court which obliged CReSAP (Comissão de Recrutamento e Selecção para a Administração Pública) to show all documents relevant to public tenders.
editorial independence and/or respect for professional standards, which are partly attributed to a lack of self-regulation and the absence of a Press Council that could check compliance with deontological ethics. In relation to the working conditions of journalists, we have noted irregularities in payments and internships, and, more generally, the precariousness of employment. There are indications (although there is no clear evidence) that commercial entities, or the owners of media companies, influence, or seek to influence, the editorial content that is broadcast or published in the press.³

The ‘Independence of the national authority’ (negligible risk)⁴. In Portugal, the ERC is the regulatory authority for the media. This authority is subject to independence safeguards, including rules that serve to avoid conflict of interest, and it has the power and duty to discharge its mission both impartially and transparently.

³ Please note that this is a public statement by the president of the ERC - the regulatory entity, See, also http://www.ionline.pt/330361 (Nota da Direcção do jornal i, 25/09/2013).

⁴ NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).
2.2 Market Plurality (54% risk - medium risk)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency of media ownership</td>
<td>38% risk (medium)</td>
</tr>
<tr>
<td>Concentration of media ownership</td>
<td>62% risk (medium)</td>
</tr>
<tr>
<td>Concentration of cross-media ownership</td>
<td>62% risk (medium)</td>
</tr>
</tbody>
</table>

‘Transparency of media ownership’ (score: 38% - medium risk). There are sector-specific laws that regulate the media and include transparency provisions. In the broadcasting sector, the provisions are laid down in Laws Nos. 27/2007 and No. 8/2011 (Article 4). In the radio sector, the provisions are laid down in Law No. 54/2010 (Article 3). In the press sector, these provisions are laid down in Law No. 2/99 (Article 16).

The media authority (ERC) has engaged in increasing transparency in the Portuguese media sector, especially in terms of ownership. However, certain media groups refrain from disclosing complete and/or up-to-date information. This situation is expected to improve in the future, given that a new law of media ownership transparency (Law No. 78/2015) was approved in July 2015.

‘Concentration of media ownership’ (score: 62% - medium risk). The MPM analysis shows that, in Portugal, the laws on ownership are mono-media, that is, they regulate the ownership of a specific medium. In broadcasting, there are thresholds that are based on objective criteria. Law No. 8/2011 (Article 4-B) states that no individual or collective entity is authorised to control more than 50% of the total number of licenses for free-to-air broadcasting television.

The law regulating radio sets specific thresholds or limits, which are also based on objective criteria (see Law No. 54/2010, Article. 4). As regards local radio licenses, the law provides that no individual or collective entity is authorised to control more than 10% of the total number of licenses that are granted in the country. For nationwide radio services, no individual or collective entity is authorised to control more than 50% of the total number of programme services that are eligible for the same geographical area and frequency level. For regional radio licenses, no individual or collective entity is authorised to control, in the same regional area, more than 50% of the total number of licenses that are eligible within that geographical limit.

As opposed to television and radio, the Press is based on “laissez-faire” principles and policies. Laws that
regulate the Press do not establish specific limits or thresholds. Regulation introduces qualitative, but not quantitative, standards.

In all the above sectors, excessive horizontal concentration of ownership may be prevented through the enforcement of general competition rules, which take into account the specificities of the media sector.

The Portuguese audiovisual, radio and newspaper markets have, as a result, become highly concentrated according to Top4 measurement, in terms of both market and audience shares.

‘Concentration of cross-media ownership’ (score: 62% - medium risk). In recent decades, there have been significant corporate changes in the media sector that have contributed to higher levels of concentration.

In the television market, free-to-air services are currently provided by only three operators: RTP (State-owned), SIC (owned by the private group, Impresa) and TVI (owned by the private group, Media Capital). RTP is a public service broadcaster and SIC and TVI are private broadcasters.

The radio markets are more diverse, especially at the local level. However, Portugal has only four corporate groups with nationwide radio services: RDP (state-owned), Renascença (owned by the Catholic Church), Media Capital (privately-owned) and Global Media (privately owned).

Similarly to the radio markets, the Press is also more diverse at the local level. However, at the nationwide level, the newspaper markets are controlled by a limited number of privately-owned corporations. The dominant groups are Cofina, Global Media and Impresa. It is very difficult to estimate market shares in the newspaper markets. No complete and/or up-to-date data are available for several of the corporations that dominate the marketplace, for instance, Global Media and Ongoing. This is because, in recent years, these operators have not complied with their information obligations (ERC, 2014 and 2015).

Cross-media concentration in Portugal is partly attributed to the oligopolistic structures of the market. The Impresa Group, the major player, is active in television, the Press and the Internet. The Media Capital Group, another powerful operator, is also active in television, radio and the Internet. The Cofina Group is active in the Press, the Internet and cable television. The Global Media Group is present in the Press, the radio and the Internet. Sonaecom is a major telecommunications group, but it is also the owner of an important newspaper title (Público). Newshold is a group that was established recently. It has an increasingly significant presence in the Press markets and has also invested in the Cofina Group.
2.3 Political Independence (23% risk - low risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the media market, with a focus on state advertisement and public service media.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
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</thead>
<tbody>
<tr>
<td>Political bias in the media</td>
<td>6% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media outlets</td>
<td>62% risk (medium)</td>
</tr>
<tr>
<td>Politicisation of control over media distribution networks</td>
<td>Negligible</td>
</tr>
<tr>
<td>State advertising</td>
<td>17% risk (low)</td>
</tr>
<tr>
<td>Independence of PSM governance and funding</td>
<td>Negligible</td>
</tr>
<tr>
<td>Independence of news agencies</td>
<td>50% risk (medium)</td>
</tr>
</tbody>
</table>

‘Political bias in the media’ (score: 6% – low risk). There are regulatory safeguards in order to guarantee that, in broadcast news, all of the political viewpoints that exist in the society are represented in a fair, balanced and impartial way. In relation to self-regulatory instruments, there are certain principles in the RTP Ethics Code that guarantee access to the PSM channels for political actors. There is some potential
risk in relation to the proportions of representation during election campaigns, particularly in relation to the small parties, but we still need to see the results of the future application of the new law in relation to this specific matter (Law No. 72-A / 2015, July 23 - Establishes the legal framework for media coverage during election periods).

‘Politicisation of control of media outlets’ (score: 62% – medium risk). There are some problems with the effective implementation of the regulatory safeguards against excessive ownership and/or the control of the media by politicians. In regard to transparency of ownership in the media sector, in some cases we do not know exactly who the Portuguese media owners are. It is difficult to acquire information about just who are the true owners of some media groups. To resolve this issue, as mentioned above, a new Law on the Transparency of the Ownership, Management and Funding of Media Entities, was approved by the Parliament on 2nd July 2015 (Law No. 78/2015, 29 July).

‘Politicisation of control of media distribution networks’ (negligible risk). The MPM analysis indicates that there is no significant risk of the political affiliation and control of media distribution networks.

‘State advertising’ (score: 17% – low risk). In general, there is no evidence of risk, nor of non-transparent rules relating to the distribution of state advertising in Portugal.

‘Politicisation of PSM governance and funding’ (negligible risk). There is no significant risk relating to this issue. As already mentioned in the introduction, the PSM reform still needs to be tested. We will be able to evaluate the outcome of this reform in the coming years.

‘Independence of news agencies’ (score: 50% – medium risk). With regard to the independence of the news agency, we do not have, in practice, any evidence of a pluralism deficit in the Portuguese agency Lusa. The Lusa Agency is, in any case, mostly funded by the State (50% risk).
2.4 Social Inclusiveness (54% risk - medium risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to media for different social and cultural groups, and local communities</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>Availability of media platforms for community media</td>
<td>100% risk (high)</td>
</tr>
<tr>
<td>Access to media for the physically challenged people</td>
<td>Negligible</td>
</tr>
<tr>
<td>Centralisation of the media system</td>
<td>58% risk (medium)</td>
</tr>
<tr>
<td>Universal coverage of the PSM and the Internet</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>Media literacy</td>
<td>67% risk (high)</td>
</tr>
</tbody>
</table>
‘Access to media for different social and cultural groups, and local communities’ (score 50% - medium risk). The Constitution safeguards the access to airtime on the PSM channels by different social and cultural groups. This is a duty that was assigned to the second PS television channel, RTP2 (Assembly of the Portuguese Republic, 2007). Additionally, in the Concession Contract for Public Service Television, Clauses 7 and 15, which relate to public service television and public service radio respectively, it is stated that two programme services must be specifically aimed at the Azores and Madeira. Clause 11 lays down, in a detailed manner, the obligations of programme services in television, including the minimum requirement for daily regional news programmes (AAVV, 2015).

In practice, we can say that PSM broadcasts, albeit to a limited extent, both regional news programmes and local news. The Regulation Report of the ERC (2014) confirms the practice of access and diversity in RTP2, although it also states that there is limited pluralism (of programmes as well as for social and cultural groups) in the main PSM channel (RTP1).

‘Availability of media platforms for community media’ (score: 100% - high risk). There is no tradition of community media in Portugal and the format is not regulated by the legal framework that is applicable. Community radio projects exist mainly on the Internet (Jedrzejewski & Oliveira, 2015; 255-257).

We must also underline that Portugal has no national minorities, according to the definition used by the MPM2015 (Council of Europe, 2013), although there are "ethnic media" in Portugal, which have, as their target audiences, the immigrant communities in the country.

‘Access to media for physically challenged people’ (negligible risk). There is a well-developed national policy concerning media content access by physically challenged people (Grupo de Reflexão Media e Deficiência, 2011). The obligation to facilitate accessibility for people with disabilities is a precondition for the awarding of the license that is required in order to operate as a public service broadcaster (Bachmeier, 2014: 20).

‘Centralisation of the media system’ (score 58% - medium risk). The Portuguese media system is highly centralised. Despite the absence of exact and updated information, the market shares of the daily newspapers that are published regionally, and of local and regional TV and radio broadcasters appear to be very low, especially if compared with the market shares of the nation-wide media (ERC, 2010, 2009; Davim, 2012). The existent availability of open signal free-to-air channels (both public and private) at the regional level is also “clearly below what could be expected and is desirable" (AdC, 2013: 48).

However, more recently, in 2015, the state implemented a new policy of subsidies for the support of the regional/local press (Decreto-Lei nº 23/2015), which may constitute a positive development for the media system.

‘Universal coverage of the PSM and the Internet’ (score 50% – medium risk). The Constitution, along with the Television and On-demand Audiovisual Media Services Law 2007 and the Radio Law 2010 guarantees the existence and operation of a public radio and television service.
However, the process of transition from analogue to digital television (Anacom, 2012), as well as the expansion of the Digital Audio Broadcasting (DAB) network (World DAB, 2015), may indicate risks in relation to accessibility to Public Service Media (PSM), as population coverage stands below 98% in either case.

In respect of broadband coverage, the percentage of broadband network coverage in rural areas is 99% (IHS Inc. & Valdani Vicari and Associati Portugal, 2013), but broadband penetration is only 57% (Eurostat 2013). According to Net Index/Ookai (2015), the average broadband speed in download (33 Mbps) and upload (7 Mbps), can also be respectively considered to be of low and high risks.

‘Media literacy’ (score: 67% - high risk). Policymaking in the domain of media literacy and media education in Portugal appears to be moving in the right direction (Costa et al., 2014: 5-9). However, despite relevant initiatives being taken by academics, civil society, and the media sector itself to promote media education (Jorge et al., 2014: 168-171), we may say that the national policies still have a long way to go. “There is a need for a formal structure dedicated to media education that can transform the fragmentation of projects and initiatives into a multi-stakeholder network with a strategy” (Costa et al., ibid: 25).

![Figure 5 Media Pluralism Monitor 2015 - Portugal, Social Inclusiveness Domain, Results by Indicators](image)
3. Conclusions

*Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.*

In media legislation, the concept of pluralism refers to several issues, including market plurality, ownership and competition. However, academic and other studies on political pluralism in the media (carried out at a global level, not just in Portugal) lack any analysis of specific content categories, such as the plurality of political voices (i.e., not exclusively within the political spectrum, but also the voices of independent citizens, scholars, entrepreneurs, minorities, ethnic groups, civil associations, and NGOs). Research should give stronger weight to this category of "other voices" in order to better understand the levels of political pluralism in the Portuguese media.

To reinforce the independence of the Portuguese regulatory authority for the media, the authors agree with those concerns that were expressed by Portuguese society, which suggest that the members of the regulatory authorities might be selected and nominated by the President of the Republic.

As regards the high levels of centralisation in the Portuguese media system, the authors recommend that the public authorities make a larger number of open signal/free-to-air channels (both public and private) available at the national/regional levels through the digital terrestrial television system.

Moreover, the authors suggest that the public authorities develop a consistent and long-term strategy in order to reinforce policymaking in the domain of media literacy.

In terms of ownership, the authors recommend the approval of a general media concentration law that:

(i) sets objective thresholds in order to address cross-media ownership;

(ii) promotes effective competition in media markets; and

(iii) protects content diversity in the TV and radio sectors.

The authors consider that the Portuguese public service operators (TV and radio) are necessary in order to overcome potential market failures, such as the lack of cultural programmes, to represent the diverse interests and needs of the Portuguese society and, more generally, to guarantee high programme quality.
Annexe I. List of national experts who were consulted

Alberto Carvalho
Entidade Reguladora para a Comunicação Social

Estrela Serrano
Centro de Investigação Media & Jornalismo

Nuno Conde
Pedroso de Lima & Associados - Sociedade de Advogados

Paula Cordeiro
Rádio e Televisão de Portugal
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**Legislation**


Media Pluralism in Romania

A Test Implementation of the Media Pluralism Monitor 2015

Authors:

Marina Popescu, Adina Marincea, Ruxandra Gubernat, Ioana Lupea, Roxana Bodea
(Median Research Centre)

October 2015

The Centre for Media Pluralism and Media Freedom is co-financed by the European Union
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<th>Social Inclusiveness</th>
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</thead>
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<td>Access to media for different social and cultural groups, and local communities</td>
</tr>
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<td>Concentration of media ownership</td>
<td>Politicisation of control over media outlets</td>
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</tr>
<tr>
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<td>Concentration of cross-media ownership</td>
<td>Politicisation of control over media distribution networks</td>
<td>Access to media for the physically challenged people</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td></td>
<td>State advertising</td>
<td>Centralisation of the media system</td>
</tr>
<tr>
<td></td>
<td></td>
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<td>Universal coverage of the PSM and the Internet</td>
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<td></td>
<td>Independence of news agencies</td>
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1. Introduction

2. Results from the data collection: assessment of the risks to media pluralism
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   2.2 Market Plurality
   2.3 Political Independence
   2.4 Social Inclusiveness

3. Conclusions

Annexe I. List of national experts who were consulted

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection.
1. Introduction

Romanian media is dominated by television. The financial crisis hit the press particularly hard, and this increased the precarious nature of journalistic careers, reducing professionalism and editorial independence to barely recognised principles. The MPM data underline that these essential pillars of media freedom and pluralism are endangered by numerous structural factors in both the private and the public service media.

Practically, no media outlet with a significant audience shows internal pluralism in its editorial content (i.e. excluding op-eds), and external pluralism is driven mostly by the owners, some of whom are covert, highlighting a problem with ownership transparency. There are medium risks to pluralism in all four domains, with the highest risks pertaining to ‘Market Plurality’ issues, especially for the ‘Concentration of cross-media ownership’, as well as for ‘Media literacy’, ‘Politicisation of control of media ownership’, ‘Independence of news agencies’, and ‘Journalistic profession, standards and protection’.
2. Results from the data collection: assessment of the risks to media pluralism

![Figure 1 Media Pluralism Monitor 2015 - Romania, Results by Risk Domain](image)
2.1 Basic Protection (37% risk – medium risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>31% risk (low)</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>31% risk (low)</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>67% risk (high)</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td>18% risk (low)</td>
</tr>
</tbody>
</table>

Despite what is an overall solid legal framework, there are issues regarding the effective implementation of the ‘Protection of freedom of expression’ (31% - low risk) and of the ‘Protection of right to information’ (31% - low risk). Although at low risk (18%), the opposite seems to be the case regarding the ‘Independence of national authorities’, which functions relatively well within the given imperfect and incomplete legal framework, with more serious issues pertaining only to the National Council for the Audiovisual (CNA). A particularly high risk in this domain is registered by ‘Journalistic profession, standards and protection’ (67%), due to a set of mutually reinforcing negative factors that put journalism in a very precarious situation, open to instrumentalisation/external influences, and that is unlikely to produce quality content in the public interest.

Journalists in a precarious economic situation (due to the frequent irregularities in payments and high job insecurity, as well as to a generally difficult economic situation in the media, especially newspapers) do not have either the professional support of journalistic standards/codes of ethics/conduct, which, in Romania, rarely exist in the newsrooms or as part of employment contracts, or because of the legal mechanisms granting social protection to journalists in the case of changes of ownership or editorial line. This takes place in a context that is low on journalistic representation and self-regulation. There are grassroots journalistic associations, but they are rather fragmented (Bajomi-Lázár 2011) and not very visible in the public sphere. We did not find hard evidence that they represent a broad range of journalists, meaning, firstly, a spread across outlets that include the major players and, secondly, a large enough number within each organisation or, at least, in each media domain. It is particularly difficult to estimate precisely, since we do not know how many of the MediaSind members (a federation of trade unions) are...
journalists, and how many are technical and other employees, or even workers in the cultural sector, and how membership across media outlets has changed since 2012, given the significant changes in the media market in the last three years.\textsuperscript{2} This leaves the fight for journalists’ rights in the hands of NGOs, whose very strong and prominent work lacks the legitimacy and weight of a broad based professional association.

Moreover, there are occasional attacks on, or threats to the physical safety of, journalists, threats to their digital safety through occasional surveillance by state institutions, and infringements of the protection of journalists’ sources. Attempts to force journalists to disclose their sources, especially by using reasons of national security or public order, which are very broadly and vaguely defined in Romania, are frequently reported. A recent legislative proposal, currently on hold, stipulated harsher penalties for those who disclose information in a criminal case, which drew criticism in relation to the possibility of incriminating both journalists and their sources\textsuperscript{3}.

In terms of the enforcement of regulations relating to freedom of expression, although defamation was decriminalised in 2006, since then, confusion has been created by back and forth decisions on re-criminalisation between the Parliament, the Constitutional Court (CCR) and the High Court of Cassation and Justice. This is a particularly pressing issue, since there are still occasional violations of freedom of expression in Romania, mostly involving local journalists who are unfairly charged with fines for defamation against public authorities or politicians.

National authorities in the fields of competition and telecommunications generally function effectively, given the often incomplete and imprecise regulations which they have to implement, as well as the delays in the application of the appeal mechanisms that are due to long trials (‘Independence of national authorities’ at low risk)\textsuperscript{4}. Party/politically nominated members of the audiovisual media authority (CNA-Council of National Audiovisual) continue to act as party representatives and do not act in light of the mission of the authority. Although there are no final court decisions, the credibility of the CNA was seriously damaged recently by judicial investigations for corruption that involve two of its members.

International Federation of Journalists. In 2012, when The FRJ MediaSind obtained a Court decision stating that it is representative of the “Culture and mass-media” sector, it had 5395 members (employees in mass-media: journalists, typographers, technical and administrative personnel), more than half of them (2909 members) coming from the public service media. In December 2013, FRJ MediaSind united with the Federation of Performing Artists’ Unions of Romania (FAIR), and declared that it had 10,000 members from 36 unions in the culture and mass-media fields.\textsuperscript{2} During the final conference in Florence, a representative of the EFJ commented that the number of affiliates to media trade unions in Romania is rather high. However, their effectiveness is limited.


\textsuperscript{4} NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).
including its then president, especially as the charges concern their activities at the media authority.  

![Graph showing data]

*Figure 2 Media Pluralism Monitor 2015 - Romania, Basic Protection Domain, Results by Indicators*

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2.2 Market Plurality (66% risk - medium risk)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency of media ownership</td>
<td>38% risk (medium)</td>
</tr>
<tr>
<td>Concentration of media ownership</td>
<td>61% risk (medium)</td>
</tr>
<tr>
<td>Concentration of cross-media ownership</td>
<td>100% risk (high)</td>
</tr>
</tbody>
</table>

‘Market Plurality’ scores highest overall among the four main domains (66%), whilst still registering medium risks, frequently due to a lack of adequate legislation. Due to a lack of legislation on cross-media ownership and of efficient verification and sanctioning mechanisms, combined with a tendency to hide the real ownership, the potential for cross-media monopolies cannot be properly evaluated.

Romania does not have a specific law that makes for the disclosure of the ownership of a media company, unless it is listed with the Stock Exchange or falls under the requirements of the National Audiovisual Law (indicator: ‘Transparency of media ownership’: 38% - medium risk). However, all Romanian companies must register their ownership structure with the publicly accessible National Trade Register Office. Still, the real owners sometimes remain undisclosed, or their tracking is lost in multiple companies that own shares in media companies. The results for this indicator show that the laws are not effective in disclosing the real owners of the media outlets: the extent of hidden ownership has not been evaluated in this monitoring exercise.

There is no specific limitation in the Romanian legislation concerning the ownership of print media and the internet sector, nor is there an efficient sanctioning power in regard to media ownership concentration in the area of radio. There are no effective measures preventing cross ownership, except for general media pluralism safeguards concerning the audiovisual sector. Largely due to the legal framework, sanctioning is not efficient and the verification mechanism is imperfect.

In evaluating the ‘Concentration of cross-media ownership’ between the relevant media in Romania (100% - high risk), some particularities need to be taken into account, mainly that data about the financial performances of the Top8 owners is available mostly in a consolidated form, which prevents the assessment of their media business. This is the case with one of the biggest media owners, RCS&RDS, which has an important cable and telecommunications division, for which it doesn't provide separate
Same problems persist in relation to the market share (in terms of revenues) of the top audiovisual media owners, radio, newspapers and ICPs (‘Concentration in media ownership’ – 61% medium risk). However, data are available for market share in terms of audience and readership, where the concentration for the audiovisual market is at 54%, radio is at 62%, newspapers at 74% and ISPs at 66%. Not surprisingly, the data underlines the fact that the newspaper sector - the media sector worst hit by recession, has contracted so much that it has led to a market concentration of national dailies.

Figure 3 Media Pluralism Monitor 2015 - Romania, Market Plurality Domain, Results by Indicators
2.3 Political Independence (47% risk - medium risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the media market, with a focus on state advertisement and public service media.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political bias in the media</td>
<td>36% risk (medium)</td>
</tr>
<tr>
<td>Politicisation of control over media outlets</td>
<td>81% risk (high)</td>
</tr>
<tr>
<td>Politicisation of control over media distribution networks</td>
<td>negligible</td>
</tr>
<tr>
<td>State advertising</td>
<td>58% risk (medium)</td>
</tr>
<tr>
<td>Independence of PSM governance and funding</td>
<td>69% risk (high)</td>
</tr>
<tr>
<td>Independence of news agencies</td>
<td>38% risk (medium)</td>
</tr>
</tbody>
</table>

‘Political Independence’ faces a medium risk (47%) in Romania, with the highest risks being related to issues of the ‘Politicisation of control of media outlets’ (81%), and the ‘Independence of PSM governance and funding’ (69%). Lacking transparency and being (ab)used to make or break media outlets, ‘State advertising’ (58%) represents a medium risk, just as the ‘Political bias in the media; (36%) and the ‘Independence of news agencies’ (38%) do. Finally, the indicator ‘Politicisation of control of media distribution networks’ presents a negligible risk.

The public TV channel (TVR) scores better than commercial media in regard to the indicators that are related to political bias. However, despite the fact that TVR offers a more balanced representation of political viewpoints than most commercial channels, at least in quantitative terms, several Romanian media experts\(^6\) have suggested that editorial, or more subtle types of bias are present (PSM bias, Electoral campaigns). Except for the representative of the broadcasters’ association\(^7\), all the other experts consulted agreed that politicians who own media outlets are prone to influence the editorial content so as to further their own agenda. Both indicators of high risk (‘politicisation of control of media outlets’, and

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\(^6\) Răzvan Martin (FreeEx Project Coordinator, ActiveWatch), Manuela Preoteasa (Publisher & Founder, EurActiv Romania; lecturer for the Faculty of Journalism and Communication Sciences, the University of Bucharest) made specific observations regarding editorial interference in the PSM news and electoral coverage. Dorina Rusu (Council Member, CNA) pointed out that: “there were several violations of the law on the apparition of the candidates in the public television programs in 2014’s presidential campaign, but they were a few and not so important to change the results of the elections”\(^8\). Other experts who agree that the regulatory safeguards are only partially implemented are: Ioana Avădani (Executive Director of the Centre for Independent Journalism), Miheaa Vasiliu (General Manager of Ringier Romania), Ovidiu Gherasim-Proca (Lecturer, Alexandru Ioan Cuza University).

\(^7\) Romanian Association for Audiovisual Communications (ARCA).
‘Independence of PSM governance and funding’) refer to such mechanisms of ownership interference with editorial content, a practice that was previously documented and possible in Romania due to a lack of effective regulatory safeguards in respect of both the privately-owned and public media.

In the private/commercial media, there is very little, if anything, which can prevent politically affiliated owners from interfering with the editorial content, for instance, by self-regulatory measures, since the codes of ethics in the largest media companies are created either by the management, or by the owners, and such codes are not duly implemented in practice. In a recent corruption investigation, prosecutors accused several politicians and public officials of having paid two of the main TV channels to tone down the critical coverage relating to a “protection fee” that was covered up as being for advertising services (Departmentul Social – Mediafax 2015). Moreover, there is no official aggregated data about the ownership or political affiliation of TV, radio or newspapers that could reliably and transparently estimate the scale of media politicisation (‘accessibility to data on media ownership’), not least given the possible issues with covert ownership by political or commercial interests.

The PSM is at a high risk of politicisation (‘Independence of PSM governance and funding’) due to structural factors that are related to a precarious funding situation (the PSM are dependent on yearly budgets and the government set license fee, without clear legal requirements relating to the amount, or the reasons for tinkering with it), which is currently further marred by high ‘historical’ debts. Moreover, the legal procedures regarding the nomination and dismissal of the management and board of the PSM do not encourage long term planning and evaluation, but do allow yearly dismissal by Parliament through the rejection of the annual report, without much justification or deliberation.

News agencies are less dependent on political groupings, though the variables do not allow an evaluation of their partisan content. Regarding the largest commercial news agency, Mediafax, recent judicial investigations of fiscal irregularities and potential covert ownership raise questions about the actual situation, and especially about potential future developments.

Existing reports, confirmed by the experts’ evaluations, show a medium risk in regard to state advertising. Several reports of the Centre for Independent Journalism (CJI) show the complexity of the matter and the ways in which the current legislation allows public authorities to distribute advertising funds based on criteria that lack transparency. Major difficulties in compiling full data on the percentage of state advertising within the budgets of various media outlets limit the possibilities of checking any correlations with audience share, ownership, or content.

Even in the case of the negligible political risks related to the media distribution networks, one needs to remain aware of the indirect threat to print media outlets that is posed by newspaper distribution networks

8 See http://www.tolo.ro/2015/10/20/purtatorul-de-cuvint-al-sri-a-negociat-cu-elena-udrea-un-contract-de-10-000-de-euro-in-campania-electoralal/

going bankrupt with huge debts. The newspapers consequently get in serious financial difficulties, which, in turn, pose a significant threat to their editorial independence and even to their existence.

![Diagram showing risk levels for various indicators]

**Figure 4 Media Pluralism Monitor 2015 - Romania, Political Independence Domain, Results by Indicators**

### 2.4 Social Inclusiveness (55% risk - medium risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

| Indicator                                                      | Risk          |
|                                                               |              |
| Access to media for different social and cultural groups, and local communities | 56% risk (medium) |
| Availability of media platforms for community media           | 51% risk (medium) |
| Access to media for the physically challenged people          | 50% risk (medium) |
| Centralisation of the media system                            | 65% risk (medium) |
| Universal coverage of the PSM and the Internet                | 25% risk (low) |
| Media literacy                                                | 83% risk (high) |
Of the six indicators, one presents a high risk (‘Media literacy’, 83%), and one a low risk (‘Universal coverage of the PSM and the Internet’, 25%), while the others show a medium risk.

The score on ‘Media literacy’ (83%) is driven by low internet use and digital skills, which are related to the country’s level of development. There are no policies being systematically implemented by the authorities for media literacy, though steps have been taken to provide basic digital skills. Starting from 2004, Romania made efforts to include digital skills in the national school curriculum, through ‘Information and Communication Technology’ courses. However, the more active interest to promote and develop media literacy lies with the non-formal educators in the NGOs and in some training centres, often in collaboration with the Ministry of Education and Scientific Research (e.g., The introduction in 2004 to the national high school curriculum of an optional course “Competence in the Mass Media” at the initiative of ActiveWatch; a collaboration between the Ministry and Save the Children Romania for the responsible use of the Internet, starting in 2011). State institutions remain focused on digital skills and e-learning, largely disregarding the development of a media literacy policy.

The ‘Centralisation of the media system’ scores highest among the medium risk indicators (65%), due both to legislation gaps and to the rather low audience shares of the different media channels at the local and regional levels. The main regulatory safeguards that support local and regional channels are the requirement that broadcasting distributors include, in their regional/local offer, at least 2 regional and 2 local programmes, as part of the “must carry” rule, as well as the provision of subsidies for regional/local PSM. Daily local newspapers take up around 30% of the entire newspaper market. Local and regional TV stations have only around 6% of the market share.

The policy for ‘Access to media for physically challenged people’ also poses a medium risk to media pluralism (50%). Legislation granting the right of access to audiovisual media services for people with hearing disabilities was adopted in 2014. In 2015, only six of 12 national TV stations, and 49 of the 189 local TV stations that were monitored by the CNA had introduced sign language.

‘Access to media for different social and cultural groups, and local communities’ is not guaranteed by law, which poses a medium risk to the diversity of the media (56%). However, the denial of access is penalised by the anti-discrimination legal framework if it is reported to the National Council for Combatting Discrimination (CNCD).

The ‘Availability of media platforms for community media’ (low risk, 31%) is mostly ensured through regulatory and policy safeguards concerning minority media. Among the policy measures that are aimed at supporting minority media are: the inclusion of special programmes in minority languages on the grids of both public radio and TV stations, and subsidies for newspapers in minority languages. However, as the experts underline, minority media face the same kind of problems as the rest of the Romanian mass media, in terms of independence. These problems arise from the political and economic context, rather
than from belonging to a minority.

Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.

The main risks come from the lack of mechanisms in the Romanian media to ensure editorial independence and journalistic professionalism, which are, in turn, significant pillars of media pluralism. Threats come from the use of media outlets as political tools, the frequent interference of owners in the editorial content, both in the private sector and in PSM, with journalists in a precarious situation economically, as well as in terms of professional and personal integrity. The factors that lead to these outcomes are interrelated and are often endogenous to issues of state capacity and general conceptions of professionalism and specialisations in the country.
We have four recommendations at this point. Firstly, given the lack of any provisions in terms of cross-media ownership, we recommend specific legislation to tackle this issue and, more generally, a policy discussion regarding transparency of ownership, not just illegal covert ownership, but ownership by companies abroad which have multiple unknown shareholders; specific requirements for disaggregated financial reporting by companies that also includes content producers, and easier access to state advertising data, for instance, collated data on state advertising per media outlet.

Secondly, since the ‘Independence of PSM governance and funding’ was shown to be problematic, a more general overhaul of PSM funding and governance will be necessary and this should involve a wide, well designed consultation that would ensure both an informed and an inclusive debate. More specifically, given the clear evidence about PSM funding in relation to the legal framework for the funding of PSM going clearly against known good practice to ensure independence, a fairly narrow change would be to legally remove the decisions on the allocation of state funding and on the quantum of the license fee from government, and to make it a multi stake-holder decision (Parliament, President, Audiovisual Council, etc.) and to have a multi-year plan.

Thirdly, the politicisation of the boards of the PSM (PSM Management), as well as of the CNA, are probably not due to the appointment of the boards by political actors (Parliament, Presidency, etc.), which is a common practice, but to the fact that these board members do not act as guarantors of the public interest and of the law, but as political delegates for those who nominated them. We would recommend adding more specific provisions to ensure that party appointees have a duty to act as professionals in the public interest, which would mean that the boards enjoy a pluralism of views that is naturally coloured by their political leanings, but that is not directed and driven by narrow partisan interests. These would be similar to those provisions that have contributed to the depoliticisation of the Competition Agency, or of other, better functioning, arms-length agencies, and more research will be needed to see how these were effectively implemented.

Finally, since the most complex risks come from the precarious nature of journalism and self-regulation is a preferred channel, in this domain, our recommendations point to legal incentives only in respect of a legal regulation of the separation between editorial decisions and management/ownership, which was explicitly considered unnecessary, and even inappropriate, by the representatives of the ownership in our expert panel.
Annexe I. List of national experts who were consulted

Răzvan Martin
ActiveWatch

Manuela Preoteasa
EurActiv

Mihnea Vasiliu
Ringier

Ovidiu Gherasim Proca
Alexandru Ioan Cuza University

Ioana Avădani
Centre for Independent Journalism (CJI)

George Chiriţă
Romanian Association for Audiovisual Communications (ARCA)

Dorina Rusu
National Audiovisual Council of Romania (CNA)
References


Mirela Neag, Cătălin Tolontan, Purtătorul de cuvânt al SRI a negociat cu Elena Udrea un contract de 10.000 de euro în campania electorală [SRI spokesperson has negotiated a contract of 10,000 euro with Elena Udrea in the electoral campaign], 20 October 2015, viewed October 2015, <http://www.tolo.ro/2015/10/20/purtatorul-de-cuvint-al-sri-a-negociat-cu-elena-udrea-un-contract-de-10-000-de-euro-in-campania-electorala>.


Media Pluralism in Slovakia

A Test Implementation of the Media Pluralism Monitor 2015

Author:

Andrej Školkay (School of Communication and Media)

October 2015
**About the project**

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the Member States of the European Union. This narrative report has been produced within the framework of the second pilot test implementation of the MPM, which was carried out in 2015. The implementation was conducted in 19 EU Member States with the support of a grant awarded by the European Union to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

The Monitor’s methodology is based on research carried out by national country teams in the 19 countries, except for Malta where data collection was carried out centrally by the CMPF team. The research is based on a standardised questionnaire and apposite guidelines that were developed by the CMPF. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly sensitive questions (see Annexe I for the list of experts).

Risks to media pluralism are examined in four main thematic domains, which are considered to capture the main areas of risk for media pluralism and media freedom: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area. The Basic Protection domain consists of four indicators; Market Plurality has three, while Political Independence and Social Inclusiveness each contain six indicators.

<table>
<thead>
<tr>
<th>Basic Protection</th>
<th>Market Plurality</th>
<th>Political Independence</th>
<th>Social Inclusiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>Transparency of media ownership</td>
<td>Political bias in the media</td>
<td>Access to media for different social and cultural groups, and local communities</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>Concentration of media ownership</td>
<td>Politicisation of control over media outlets</td>
<td>Availability of media platforms for community media</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>Concentration of cross-media ownership</td>
<td>Politicisation of control over media distribution networks</td>
<td>Access to media for the physically challenged people</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td></td>
<td>State advertising</td>
<td>Centralisation of the media system</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of PSM governance and funding</td>
<td>Universal coverage of the PSM and the Internet</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of news agencies</td>
<td>Media literacy</td>
</tr>
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<td></td>
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</tr>
</tbody>
</table>
The results for each domain and indicator are presented on a scale from negligible to 100%, a negligible risk being the lowest, and 100% risk being the highest score. Scores between negligible and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.
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2. Results from the data collection: assessment of the risks to media pluralism
   2.1 Basic Protection
   2.2 Market Plurality
   2.3 Political Independence
   2.4 Social Inclusiveness

3. Conclusions

Annexe I. List of national experts who were consulted

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection.
1. Introduction

The most popular medium in Slovakia, similarly to many other EU countries, is television, which is watched daily by 81% of the population. Radio is listened to on a daily basis by around two thirds of the population (65%). However, only 52% of Slovaks use the Internet every day, which is under the EU-28 average (60%). The medium which is least used on a regular basis is the print media: only every fifth Slovak reads newspapers every day (19%).\(^1\) In fact, the readership of the daily press in Slovakia has been in long-term decline.

In the past, about 25 years ago, the main problems with media plurality were related to political influences. The political consolidation of a liberal democracy around and after the year 2000 lead to the growing importance of the economic aspects of media pluralism. In the present media landscape, the potential consequences of media ‘oligarchisation’ (mainly, but not exclusively, in the print media sector) seem to represent a threat, although presently this is more latent than overt. The implementation of the Media Pluralism Monitor (MPM) in Slovakia in 2015 revealed that there is low risk in the ‘market plurality’ domain, although the 30% risk level is on the verge to medium risk. The ‘basic protection’ domain also shows low risk (23%), while the ‘social inclusiveness’ (35%) and ‘political independence’ (44%) domains both score medium risk. Overall, most indicators are assessed at low risk (11%), five indicators are at medium risk, and three indicators in the ‘political Independence’ domain are at high risk.

2. Results from the data collection: assessment of the risks to media pluralism

Figure 1 Media Pluralism Monitor 2015 - Slovakia, Results by Risk Domain
2.1 Basic Protection (23% risk – low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>22% risk (low)</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>29% risk (low)</td>
</tr>
<tr>
<td>Independence of national authority(ies) ²</td>
<td>15% risk (low)</td>
</tr>
</tbody>
</table>

The legal protection of freedom of expression does not show any substantial problems (‘Protection of freedom of expression’: 22% - low risk). Freedom of expression is explicitly recognised in the Constitution and in national laws. Slovakia is a party to the International Covenant on Civil and Political Rights (ICCPR), as well as to the European Convention on Human Rights (ECHR). However, the assessment of whether restrictions on freedom of expression are clearly and narrowly defined in law, in accordance with international and regional human rights standards, is more problematic, as interpretations of the same law have varied depending on the different actors, in particular, the police, prosecutors and the courts.

The issue of defamation is more problematic from an analytical point of view. Slovakia has not decriminalised defamation, although there has been some progress in this area in the last twenty years. With regard to the legal defences that can be used against a defamation claim, the courts’ interpretation varies on this matter, with the higher courts usually being more liberal in this area, in the sense that they are more likely to accept arguments that the disputed statement was an opinion, not an allegation or a fact; or that the publication or broadcasting of the disputed fact/opinion was reasonable or in the public interest. Further, defamation laws are not narrowly defined and they can be related to natural and legal persons.

² NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).
Legal remedies, in cases of violations of freedom of expression, are generally considered to be effective, although in most cases they are subject to delays. Finally, occasional violations of freedom of expression take place in Slovakia, although there are no known cases of violations of freedom of expression online.

‘Protection of right to information’ scores a low risk (25%). The laws on the protection of the right to information are satisfactory and do not pose any particular risks. Their implementation has not yet been tested in the case of the Press Law, but only in the case of Freedom of Information Act, where the procedures of the appeal mechanisms are occasionally misused. There is also some evidence of the violation of right to information, actually including some by the courts.

‘Journalistic profession, standards and protection’ scored 29%, indicating a low risk. Only a limited proportion of journalists is represented by professional associations or other journalists' organisations. Further, these associations are only partially effective in guaranteeing editorial independence and/or a respect for professional standards. The working conditions of journalists depend on the type of medium, with good working conditions for journalists who work for the PSM or for big media houses, while those who work in local media and smaller media outlets face greater job insecurity and/or lower income levels. There are no effective mechanisms granting social protection to journalists in the case of changes of ownership or editorial line, and commercial entities, or the owner of the media company, occasionally influence, or seek to influence, the editorial content of broadcasters or the press. Overall, both MPM2015 and our experts’ assessments show low to medium risks in these indicators.

Figure 2 Media Pluralism Monitor 2015 - Slovakia, Basic Protection Domain, Results by Indicators
2.2 Market Plurality (30% risk - low risk)

*The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.*

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency of media ownership</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Concentration of media ownership</td>
<td>61% risk (medium)</td>
</tr>
<tr>
<td>Concentration of cross-media ownership</td>
<td>4% risk (low)</td>
</tr>
</tbody>
</table>

The risk related to ‘transparency of media ownership’ scores a low risk (25%). The national law contains transparency and disclosure provisions that oblige media companies to publish their ownership structures on their website or in records/documents that are accessible to the public, and to report ownership structures to the public authorities. Moreover, sanctions can be imposed in cases of failure to respect disclosure obligations. However, in practice, some of the key agenda-setting media have non-transparent ownership, which is indeed problematic.

‘Concentration of media ownership’ shows a medium risk (61%). The Slovak media legislation contains specific limits to prevent a high level of horizontal concentration of ownership. However media concentration seems to be a concern with regard to Slovak media. The author estimates the market share of the Top4 audio-visual media owners to be 85%, and the market share of the Top4 newspapers’ owners to 70%. Moreover, the audience concentration for the audiovisual media and for the radio market in Slovakia are estimated at 75% respectively, while the readership concentration for the newspaper market seems to be even higher (90%).

‘Concentration of cross-media ownership’ indicates a low risk, scoring 4%. This value is due to the existence of laws on cross-media concentration and the unavailability of data on Top8 owners’ concentration, which is assessed as not being relevant in this specific case. The media legislation defines some limits in the case of the nation-wide press and TV/radio media cross-media concentration. This is regulated by broadcasting law, however. In other words, there is no specific regulation on the newspapers’ ownership, only the general anti-monopoly law, as well as regulation on cross-ownership (but from the point of view of the broadcasting law, not of the Press Law). The media legislation does not contain specific thresholds or limits which are based on objective criteria, such as their circulation, distribution of share capital or voting rights, and turnover/revenue, to prevent a high level of horizontal concentration of ownership and/or control in the newspaper sector. This is, in general, dealt with through anti-monopoly legislation.
2.3 Political Independence (44% risk - medium risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the media market, with a focus on state advertisement and public service media.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political bias in the media</td>
<td>3% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media outlets</td>
<td>67% risk (high)</td>
</tr>
<tr>
<td>Politicisation of control over media distribution networks</td>
<td>17% risk (low)</td>
</tr>
<tr>
<td>State advertising</td>
<td>67% risk (high)</td>
</tr>
<tr>
<td>Independence of PSM governance and funding</td>
<td>35% risk (medium)</td>
</tr>
<tr>
<td>Independence of news agencies</td>
<td>75% risk (high)</td>
</tr>
</tbody>
</table>

The highest risk among the political indicators has been detected in the indicator ‘Independence of news agencies’ (75%). The market share of the leading news agency is estimated at 65% and at least one news agency has political affiliations. The indicator ‘state advertising’ which assesses the influence of the state
on the functioning of the media market, focusing particularly on the risk of discrimination in the
distribution of state advertising, scores a high risk (67%). However, it is worth noting that government
policies in this area are improving, e.g. the tenders for governmental PR activities are becoming more
open. There is also a trend towards the wider use of various media platforms for state-sponsored
advertisements. The author notes a problematic aspect of the latter development: an abundance of
advertisements that are paid for with EU funds for the glorification of the achievements reached due to
EU funds, a circumstance which occurred shortly before the parliamentary elections in March 2016 (see
Kaľavský 2015).

The indicator ‘Politicisation of control over media outlets’ also scores as high risk (67%). Although there
are no politically affiliated newspapers, and the lack of data about politically affiliated radio and
television stations does not seem to be problematic, information about the political affiliation of media
owners is not always either publicly available and/or transparent. In addition, not all of the major media
outlets have measures that will stipulate editorial independence, which increases the risk for this indicator.

The indicator ‘Politicisation of PSM governance and funding’ scores as being at medium risk (35%), due
to the fact that there is no body which will actively monitor the implementation of regulatory safeguards
that aim to de-politicise the appointments to the PSM’s boards, and there is evidence of conflicts
concerning appointments to these PSM boards. In addition, media law prescribes transparent and
objective procedures to determine the amount of money to be granted to the PSM, but the ability of the
state to interfere is reflected in the fact that the state contributes 30% of the PSM budget, and it can
independently decide on the amount of some of the elements of those budgets.

Only one of the distribution networks for print media seems to be politically affiliated, so the overall risk
for ‘Politicisation of media distribution networks’ is low (17%). The indicator ‘Political bias in the media’
also scores as being at low risk. All legal safeguards seem to be in place, different political viewpoints
appear to be represented in the media, and political actors are guaranteed coverage during electoral
campaigns.
2.4 Social Inclusiveness (35% risk - medium risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to media for different social and cultural groups, and local communities</td>
<td>13% risk (low)</td>
</tr>
<tr>
<td>Availability of media platforms for community media</td>
<td>42% risk (medium)</td>
</tr>
<tr>
<td>Access to media for the physically challenged people</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Centralisation of the media system</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>Universal coverage of the PSM and the Internet</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>Media literacy</td>
<td>33% risk (low)</td>
</tr>
</tbody>
</table>

Overall, the ‘Social Inclusiveness’ domain shows medium risk. Different social and cultural groups
(including minorities), and local communities have adequate access to the media (low risk). Access to airtime on PSM channels for different social and cultural groups is guaranteed by law, and the law is implemented. However, the PSM are not obliged to have a minimum proportion of regional or local communities involved in the production and distribution of content, or to have a balance of journalists from different geographical areas.

The ‘Availability of media platforms for community media’ is at medium risk (42%). The law contains provisions granting legal recognition to community media (in particular, to local media) as a distinct group alongside commercial and public media. However, the law lacks provisions that would grant the minority media access to media platforms, and only limited policy and financial support is available to such minority media. The number of media channels (TV/radio/newspaper) dedicated to minorities is less than proportional to the size of the minority population, which results in medium risk.

‘Access to media for people with physical challenges’ is at low risk (25%), given that the state policy in this area is well-developed. However, subtitles and sound descriptions for people with hearing impairments who watch TV are available only on an irregular basis.

The ‘Centralisation of the media system’ represents a medium risk at 50%. The media legislation recognises regional/local media as being specific categories of media with a special mission and obligations, and the law reserves frequencies for regional/local radio or TV. However, the legislation is not fully effective in safeguarding regional/local media. Many local and regional media depend on municipalities or self-governing regions, either financially or politically, and only a limited number of policy measures or subsidies are available to the regional/local media.

The ‘Universal coverage of the PSM and the Internet’ is at medium risk (50%). The risk is increased by the fact that only 95% of the population is covered by the terrestrial signal of the public TV and radio channels. Slovakia shows a medium risk on Internet access, given that 85% of the rural population is covered by broadband and the overall broadband penetration is at 74%.

‘Media literacy’ is at low risk (33%). The media literacy policy is underdeveloped. The Media Education Conception was approved by the Government in December 2009, and there are two governmental plenipotentiaries in closely related areas (one for the knowledge economy, and another for the information society). Despite these initiatives, governmental policies on media literacy development are only nascent, and they focus mainly on the younger generation. Slovakia shows better results in terms of Internet use (low risk), and the majority of the population has at least basic digital skills (medium risk).
Figure 5 Media Pluralism Monitor 2015 - Slovakia, Social Inclusiveness Domain, Results by Indicators
3. Conclusions

Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.

Several conclusions can be drawn following the implementation of the Media Pluralism Monitor in Slovakia. Firstly, the legal framework complicates news broadcasting (especially live broadcasting), for minorities, in spite of having been softened after its introduction. Secondly, from the civic and political perspectives, the ongoing gradual, and partially indirect or covert, consolidation of key segments of the media market, present a potential danger. Furthermore, vital issues for future debate and policy measures with respect to media plurality in Slovakia include the following: how to deal with ongoing media ownership concentration; how to re-define the rules of conduct for interaction between journalists and government; and how to deal with the ethical-professional regulation of online and print media, with the possibility of imparting more rights to the media regulator. Special attention should be paid to the need for a widely respected, and functional, journalistic organisation. Local and regional media are rarely truly independent and their direct and indirect (not only financial) support might be considered. Finally, clear-cut guidelines are needed for an effective role to be played by either the media regulator and/or the anti-monomopoly authority with regard to both cross-ownership and indirect ownership, or the ownership of media houses through so called “hidden” owners.

3 There are two related laws, one regulating the languages of “recognised” minorities, and one general state language law.
Annexe I. List of national experts who were consulted

Pavol Múdry
International Press Institute

Tomáš Kameneč
Association of Independent Television and Radio Stations

Ľuboš Kukliš
Office of the Board for Broadcasting and Retransmission

Pavel Lacko
Society for the Support of Arbitration

Juraj Filin
Goodwill

Peter Krug
DEVínsky EXpres

Jozef Viskupič
Member of Parliament
Július Lőrincz
former chair of the Press Council

Michal Beňadík
Association of the Publishers of the Regional Press

Daniel Modrovský
Slovak Syndicate of Journalists

Lukáš Fila
Denník N

Miroslava Kernová
Media watch dog expert monitor

Juraj Hrabko
Freelance commentator and journalist
References

Media Pluralism in Slovenia

A Test Implementation of the Media Pluralism Monitor 2015

Authors:

Marko Milosavljević (University of Ljubljana)

October 2015
About the project

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the Member States of the European Union. This narrative report has been produced within the framework of the second pilot test implementation of the MPM, which was carried out in 2015. The implementation was conducted in 19 EU Member States with the support of a grant awarded by the European Union to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

The Monitor’s methodology is based on research carried out by national country teams in the 19 countries, except for Malta where data collection was carried out centrally by the CMPF team. The research is based on a standardised questionnaire and apposite guidelines that were developed by the CMPF. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly sensitive questions (see Annex I for the list of experts).

Risks to media pluralism are examined in four main thematic domains, which are considered to capture the main areas of risk for media pluralism and media freedom: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area. The Basic Protection domain consists of four indicators; Market Plurality has three, while Political Independence and Social Inclusiveness each contain six indicators.

<table>
<thead>
<tr>
<th>Basic Protection</th>
<th>Market Plurality</th>
<th>Political Independence</th>
<th>Social Inclusiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>Transparency of media ownership</td>
<td>Political bias in the media</td>
<td>Access to media for different social and cultural groups, and local communities</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>Concentration of media ownership</td>
<td>Politicisation of control over media outlets</td>
<td>Availability of media platforms for community media</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>Concentration of cross-media ownership</td>
<td>Politicisation of control over media distribution networks</td>
<td>Access to media for the physically challenged people</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td></td>
<td>State advertising</td>
<td>Centralisation of the media system</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of PSM governance and funding</td>
<td>Universal coverage of the PSM and the Internet</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of news agencies</td>
<td>Media literacy</td>
</tr>
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<td></td>
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</tbody>
</table>
The results for each domain and indicator are presented on a scale from negligible to 100%, a negligible risk being the lowest, and 100% risk being the highest score. Scores between negligible and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.
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2. Results from the data collection: assessment of the risks to media pluralism
   2.1 Basic Protection
   2.2 Market Plurality
   2.3 Political Independence
   2.4 Social Inclusiveness

3. Conclusions

Annexe I. List of national experts who were consulted

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection.
1. Introduction

Media pluralism, in general, at least from the quantitative aspect, is in a good state in Slovenia. Regulations for ensuring media pluralism are mostly clearly defined by laws and legal acts, and there are authorities that monitor compliance with the rules. However, implementation is often weak and monitoring and sanctioning is ineffective and slow. There are some especially high risks in certain areas of media pluralism, namely regarding media literacy, politicisation of control over media outlets, state advertising, the independence of PSM governance and funding, and the independence of news agencies.

2. Results from the data collection: assessment of the risks to media pluralism

*Figure 1 Media Pluralism Monitor 2015 - Slovenia, Results by Risk Domain*
2.1 Basic Protection (29% risk - low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>35% risk (medium)</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>19% risk (low)</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>29% risk (low)</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td>33% risk (low)</td>
</tr>
</tbody>
</table>

‘Protection of freedom of expression’ (35% - medium risk): As regards the legal protection for freedom of expression, Slovenia shows a medium risk. Although it has effectively implemented international regulatory safeguards, legal standards on the restrictions upon freedom of expression are not always followed. The system for providing legal protection for the freedom of expression presents a medium risk, as it is semi-effective: the regular remedies and instances are all costly and long lasting procedures and they can also be misused by politicians. Cases of violations of freedom of expression have been noted, mainly in the prosecutions of journalists who disclose classified documents or data is in the public interest. Violations of freedom of expression online have been noted as well, especially regarding freedom of expression on social media, for example, a journalist employed by TV stations was fired due to her Twitter comments regarding a show; a PR person was fired by his company due to his comments on government politics (which were not related to his company).

‘Protection of right to information’ (19% - low risk) presents a low risk and it is explicitly recognised in the Constitution, as well as in law. Restrictions on the freedom of information on the grounds of the protection of personal privacy are not narrowly defined, however, they are mentioned in the Constitution. Appeal mechanisms for denials of access to information present a medium risk. Although the possibilities for Appeals are in place and are decided by the Information Commissioner, the procedures have little effective control. In general, there are not many cases of violations of the right to information in Slovenia, although sometimes obtaining information can be quite a long process for either journalists or the public.

‘Journalistic profession, standards and protection’ (29% - low risk). There is a low risk in the indicator on the journalistic profession, standards and protection. Access to the journalistic profession is open, both on paper and in practice. Journalists are represented by three different professional associations, although these are only partially effective in guaranteeing independence and respect for professional standards, as they do not have real power leverage. As for the protection of journalists, there is a medium risk, as there
have been some rare cases of attacks or threats to the physical safety of journalists. In general, there is a high risk in relation to the working conditions of journalists due to bad economic circumstances. As for editorial content, the Code of Journalism Ethics (2001), as well as the Mass Media Act (2006), officially prohibit commercial parties from influencing editorial content. The protection of journalistic sources is explicitly recognised by the Mass Media Act but there have been some infringements recently, for example prosecution of Anuška Delič from newspaper Delo.

‘Independence and the effectiveness of national authority’ (33% - low risk). As regards the national authorities, the risk is low, but is at only slightly below medium risk. While there are legal guarantees for the independence of all of the authorities in question (media, competition and telecommunications), the appointment procedures are not satisfactory (they are quite loose and therefore not always effective in safeguarding independence). The same goes for the appeal mechanisms of the media and telecommunications – they can be very slow and inefficient. The powers of both the media and the communication authority are not always used in the interest of the public, as there were reports on the potential abuse of their powers for personal reasons. The government can, at times, arbitrarily overrule the decisions of all three of the national authorities.

1 NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).
2.2 Market Plurality (25% risk - low risk)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency of media ownership</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Concentration of media ownership</td>
<td>41% risk (medium)</td>
</tr>
<tr>
<td>Concentration of cross-media ownership</td>
<td>8% risk (low)</td>
</tr>
</tbody>
</table>

‘Transparency of media ownership’ presents a low risk (25%). If media are to function, they have to disclose information on their ownership structures to the Ministry of Culture and this information is published in the Media Register, which is accessible to everyone and checked by the regulator, but this information still does not show the ownership structure for every media.
‘Concentration of media ownership’ is at medium risk (41%). Media legislation contains a specific threshold (20%), above which the approval of the Ministry of Culture is needed in order to prevent a high level of horizontal concentration of ownership. There are several authority bodies that actively monitor compliance, over which the Ministry also has sanctioning powers. Violations still happen, as the ownership is easily hidden using so-called paper companies. The radio sector has seen an intense process of concentration and takeovers in the past years. As for newspapers, the authorities have also been quite ineffective in preventing controversial takeovers. Internet content providers are not mentioned in the law regarding ownership and concentration.

A high level of horizontal concentration of ownership can be prevented through the provisions of the Mass Media Act, but there is a need for stronger and more decisive control of the relevant authorities. The Top4 owners almost completely control the audiovisual market in Slovenia.

The ‘Concentration of cross-media ownership’ presents almost no risk at all (8%). Media legislation contains measures to prevent a high degree of cross-ownership among the different media. Monitoring bodies are designated to monitor those provisions and they can refuse to give a license, although these powers are not always used. However, some recent cases show that cross-media concentration is developing, although it is officially prohibited by the Mass Media Act, showing that there are inefficiencies, or passive (on purpose) behaviour, in the regulatory bodies, for example Media24 and related companies’ activities in radio, television, and daily print (for example Svet24, Radio Veseljak, Radio Salomon, TV Veseljak).

There is no exact data on the market shares, or relevant media-related revenues, in relation to all the media actors. The issue is also whether to include the public service broadcaster in these measurements, since their income mostly overshadows that of all of the other media actors, and this would show a different picture if it were not included in the overall market analysis.
2.3 Political Independence (61% risk - medium risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the media market, with a focus on state advertisement and public service media.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political bias in the media</td>
<td>51% risk (medium)</td>
</tr>
<tr>
<td>Politicisation of control over media outlets</td>
<td>79% risk (high)</td>
</tr>
<tr>
<td>Politicisation of control over media distribution networks</td>
<td>Negligible</td>
</tr>
<tr>
<td>State advertising</td>
<td>67% risk (high)</td>
</tr>
<tr>
<td>Independence of PSM governance and funding</td>
<td>72% risk (high)</td>
</tr>
<tr>
<td>Independence of news agencies</td>
<td>100% risk (high)</td>
</tr>
</tbody>
</table>

‘Political bias in the media’ is at medium risk (51%). The Radio and Television Corporation of Slovenia Act imposes rules that aim at fair, balanced and impartial representation of political viewpoints on PSM channels and services. The Media Inspectorate of the Republic of Slovenia is designated to monitor the law, but it does not have the specific task of monitoring the direct representation of political viewpoints.
However, it is possible to file a complaint to the guardian of the rights of viewers and listeners of RTVS. In the case of noncompliance, however, sanctions are not clearly stated in the law.

PSM has very exact rules regarding the representation of different groups of political actors. There are differences in the coverage of parliamentary parties and non-parliamentary parties, which can lead to problems when a new party or movement is running a campaign, even if they are very popular in the public-opinion polls.

‘Independence of PSM governance and funding’ presents a high risk (72%). Although the RTVS Act states that voting by the Programme Board shall in all matters be made public, the appointed constellation is not that fair. While members of boards chosen by political parties should take into account the relative representation of the political parties in the National Assembly, this is not a strict enough regulation to provide for the independence of PSM boards.

Although the government does not directly decide on the wages of PSM employers, the wages are influenced by austerity measures that the government has been implementing in recent years – e.g., reducing the salaries of civil servants, or more generally in the public sphere. No measures for transparent and objective procedures concerning the amount of money to be granted to PSM are prescribed.

‘Politicalisation of control over media outlets’ presents a high risk (79%). There is no data on TV channels that may be owned by politically affiliated entities. However a new radio station and a TV station will start to broadcast by the end of 2015, both run by the second-largest, right-wing party, SDS. This shows the direct political interest and influence of particular parties on the broadcast media.

The largest media outlets do not have any self-regulatory measures that are implemented to guard editorial independence. There are also no measures in the Code of Ethics of the Slovenian Association of Journalists.

The indicator on the ‘Politicalisation of control over media distribution networks’ presents a negligible risk. The leading distribution networks (television, radio stations and print) are not politically affiliated.

‘State advertising’ is at high risk (67%), as, despite the privatisation of state-owned companies in the 2010s, there are still allegations that the advertising revenues are not distributed transparently. There is no specific recent data regarding state advertising, or regarding the advertising of state-owned or controlled companies.

‘The independence of news agencies’ is under high risk (100%), since the leading news agency, the state-owned Slovenian Press Agency (STA), has a dominant position with almost complete control over the domestic news agencies’ market. However, a law was passed in 2011 to resolve its status and to enhance its transparency and independence.
Figure 4: Media Pluralism Monitor 2015 - Slovenia, Political Independence Domain, Results by Indicators
2.4 Social Inclusiveness (43% risk - medium risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to media for different social and cultural groups, and local communities</td>
<td>42% risk (medium)</td>
</tr>
<tr>
<td>Availability of media platforms for community media</td>
<td>58% risk (medium)</td>
</tr>
<tr>
<td>Access to media for physically challenged people</td>
<td>Negligible</td>
</tr>
<tr>
<td>Centralisation of the media system</td>
<td>60% risk (medium)</td>
</tr>
<tr>
<td>Universal coverage of PSM and the Internet</td>
<td>31% risk (low)</td>
</tr>
<tr>
<td>Media literacy</td>
<td>67% risk (high)</td>
</tr>
</tbody>
</table>

‘Access to media for different social and cultural groups, and local communities’ is under medium risk (42%). Although guaranteed by law and with two designated bodies with sanctioning powers monitoring compliance, there are no data on their effectiveness, as the law is in the process of amendment. The Constitution of Slovenia protects two traditional national minorities, Italian (0,3%) and Hungarian (0,1%), and the Roma community. A number of big ethnic and religious groups in Slovenia are not recognised as national minorities, namely the Croats (1,8%), Serbs (2%), Muslims and Bosnians (1,6%).

Access to airtime on PSM channels for recognised minorities is guaranteed by law, whereas, in practice, the access depends on the group, its size, history, strength, and its representation at the public broadcasters’ council.

As for access to media by local communities, PSM are not obliged to have a minimum proportion of regional or local communities involved, nor are they obliged to have a balance of journalists from different geographical areas, or to have news in local languages. Additionally, a number of local correspondents have been cut in the last few years. The PSM regularly broadcast local news programmes.

The ‘Availability of media platforms for community media’ is under medium risk (58%). The Mass Media Act recognises student television and radio programmes, as well as non-profit radio media, to be a

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2 Muslims were defined as ethnic group in former Yugoslavia (including Slovenia) until 1991, and there are still issues with different names for people from Bosnia and Herzegovina in today's Slovenia, as they are defined either as Bosnians or as Muslims (to clarify that they are not Croats or Serbs from Bosnia) in official definitions.
separate group. However, the law does not guarantee the independence of community media, only the independence of their editorial policy.

The law contains specific provisions granting access to media platforms for minority media. The body monitoring compliance with the law has sanctioning powers, although there is no data relating to their effectiveness. No appeal mechanisms are in place, although an administrative dispute is possible.

‘Access to media for physically challenged people’ presents a negligible risk. The state policy on access to media content by physically challenged people is well developed. Subtitling and sound descriptions are available on public service television channels at different times. However, a full service for handicapped people who have trouble hearing or seeing is still not available.

‘Media literacy’ is under quite a high risk (67%), as it is often mentioned in different government documents that are related to the media, but there is a lack of consistent policy and programmes. Over 50% of the population has at least basic digital skills.

The ‘Universal coverage of the PSM and the Internet’ presents a low risk (31%). The former is guaranteed by law, and the public broadcaster provides good coverage of the territory and the population with the signals of its TV and radio channels. According to the EC, 100% of the rural population is covered by broadband (EC 2013). However, according to the Point Topic research for the European Commission, in Slovenia, most rural households were not able to access high-speed services. DSL services covered less than 70% of the households in Slovenia in 2012, placing it well below the EU average for coverage.

The ‘Centralisation of the media system’ is overall below medium risk (60%). The media legislation recognises regional or local media as being specific categories of media, and reserves frequencies for local radio or TV. However, the legislation is not effective in safeguarding local media as, due to the economic crisis, many local/regional media have difficulty with economic sustainability.
Figure 5L Media Pluralism Monitor 2015 - Slovenia, Social Inclusiveness Domain, Results by Indicators
3. Conclusions

Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.

Slovenia is an example of a country where many aspects of media pluralism, including large numbers of media outlets in different sectors, frequently with different, unrelated owners, are fulfilled. However this quantitative aspect is very often not supported also from a qualitative aspect: the important issue of the diversity of radio programming, for example, still exists – despite there being a large number of radio stations, most of them offer similar if not actually the same, programming and content, with very little variety in genres, specialisation, but particularly in relation to more demanding music and other content.

This problem of diversity persists in other media sectors also, but there are also many others, particularly issues relating to the economic sustainability of quality content production and journalism. Public interest interventions by the state and its institutions are still mostly limited to the political aspects of “pluralism”, which is very often defined or perceived almost exclusively in terms of political frictions and the split between “left-wing” and “right-wing” politics.

The economic crisis that has affected the Slovenian economy as a whole, and the media sector in particular has shown the weaknesses of the market model of media financing in smaller countries / markets, particularly when these are faced with the weak or slow reactions of regulatory authorities (see, for example, an attempt by the publishing company, Delo, to take over the newspaper Večer, which – although illegal – still lasted for almost five years). The crisis – which is still continuing – has left most of the media companies weaker and more exposed to different pressures, including political and advertising, pressure from owners and also from other actors in society.

Slovenian media policy therefore needs to focus on the issues of both the short- and long-term support of quality media and quality journalism that foster the critical and independent role of the media in Slovenian society, which can offer benefit also to the quality of the political process and to the quality of life in general. This includes (but is not limited to) the following points. First, immediate measures to allocate funds and to implement (new) measures for the stable employment of journalists. Second, tax reductions for media or content, particularly that which is in the (defined) public interest. Third, a transparent financial structure in cases of takeover or merger attempts.
Annexe I. List of national experts who were consulted.

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References

Media Pluralism in Spain

A Test Implementation of the Media Pluralism Monitor 2015

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October 2015
About the project

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the Member States of the European Union. This narrative report has been produced within the framework of the second pilot test implementation of the MPM, which was carried out in 2015. The implementation was conducted in 19 EU Member States with the support of a grant awarded by the European Union to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

The Monitor’s methodology is based on research carried out by national country teams in the 19 countries, except for Malta where data collection was carried out centrally by the CMPF team. The research is based on a standardised questionnaire and apposite guidelines that were developed by the CMPF. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly sensitive questions (see Annexe I for the list of experts).

Risks to media pluralism are examined in four main thematic domains, which are considered to capture the main areas of risk for media pluralism and media freedom: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area. The Basic Protection domain consists of four indicators; Market Plurality has three, while Political Independence and Social Inclusiveness each contain six indicators.

<table>
<thead>
<tr>
<th>Basic Protection</th>
<th>Market Plurality</th>
<th>Political Independence</th>
<th>Social Inclusiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>Transparency of media ownership</td>
<td>Political bias in the media</td>
<td>Access to media for different social and cultural groups, and local communities</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>Concentration of media ownership</td>
<td>Politicisation of control over media outlets</td>
<td>Availability of media platforms for community media</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>Concentration of cross-media ownership</td>
<td>Politicisation of control over media distribution networks</td>
<td>Access to media for the physically challenged people</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td></td>
<td>State advertising</td>
<td>Centralisation of the media system</td>
</tr>
</tbody>
</table>

|                                |                                | Independence of PSM governance and funding                                            | Universal coverage of the PSM and the Internet      |
|                                |                                | Independence of news agencies                                                          | Media literacy                                     |

|                                |                                |                                     |                                                     |
The results for each domain and indicator are presented on a scale from negligible to 100%, a negligible risk being the lowest, and 100% risk being the highest score. Scores between negligible and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.
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   2.1 Basic Protection
   2.2 Market Plurality
   2.3 Political Independence
   2.4 Social Inclusiveness

3. Conclusions

Annexe I. List of national experts who were consulted

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team who carried out the data collection.
1. Introduction

Spain’s population of over 46 million represents a large media market. Media content is produced in Spanish for both the national and the Latin American audiences. Television represents the most important news source. According to the Eurobarometer (EB823, Autumn 2014), 64% of the Spanish population uses television as their first source of news, while only 11% of the population relies on the Internet, and 8% on the printed press.

The 1978 Constitution divides Spanish territory into autonomous communities that are granted broad, yet limited, political and legal autonomy. Local and regional governments have normative competencies with which to establish, organise and develop audiovisual services in their own territories.

There are three minority languages: circa 17% of the population speak Catalan, 7% Galician and 2% Basque. The most relevant ethnic minority are the Roma, who represent 1% of the population. Roma generally hold Spanish nationality and they are not officially recognised as being a specific minority.

The political situation is stable: new political parties share the political arena with the classic conservative and socialist parties. After years of crisis, the economy is growing again, contributing to the growth and development of media services, especially in the digital market. However, having accumulated large debts during the financial crisis, the media industry in Spain is still encountering difficulties. The print industry is diminishing, and massive layoffs of journalists have prompted concerns about whether some of Spain’s most read newspapers have lost their editorial independence. Moreover, in 2015, the Conservative government passed the so-called ‘gag law’, which imposes high penalties for unauthorised political protests, or for the publication of amateur video footage of police officers. The government has also increased its control over Spain’s public television and radio broadcaster (RTVE); and in 2012 a law was introduced that allows the government to appoint RTVE’s head, without the consent of other political parties. The general condition of media pluralism is reasonable in three domains, but the MPM analysis shows a high risk in the Market Plurality domain (69%), due to growing concerns that are associated with media concentration. Risks to media pluralism in Spain are low in the ‘Basic Protection’ domain (25%). The ‘Political independence’ and ‘Social Inclusiveness’ domains indicate a medium risk (34%).

2. Results from the data collection: assessment of the risks to media pluralism

The results were collected from April to October 2015. The MPM shows the following figures: low risk in about half of the indicators (nine), medium risk in eight of them, and high risk in the remaining two. The highest risk is found in ‘Market Plurality’.

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1 The 2015 elections will affect that stability insofar as it is the first time in the Spanish democracy that there are four political parties which are relevant in the Parliament. Any change in media regulation will need negotiation and at least three (of the four) top parties’ agreements.
2.1 Basic Protection (25% risk – low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.
Spain has a well-developed legal and regulatory system with which to protect and promote the freedom of expression. The freedom of expression and information is a fundamental right in Spain, and it is enshrined in the Spanish Constitution (1978). In regard to international fundamental rights, treaties that lay down the signatory states’ duty to safeguard freedom of expression, Spain signed the ICCPR in 1976 and ratified it in 1977, with no exemptions. The ECHR was signed in 1977 and was ratified in 1979.

Spain has not decriminalised defamation, which is prosecuted according to the Criminal Code. Courts are expected to rule on cases of defamation, in line with the principle of proportionality that was established by the case law of the European Court of Human Rights.

The Citizen's Security Act (also known as the "gag law" because of its potential effect on the exercise of freedom of expression and other fundamental rights and freedoms) has recently been introduced. This law represents one of the main concerns relating to journalistic freedom, and it allows for the imposition of fines of up to €600,000 for a variety of “public order” offences, including unlicensed demonstrations outside a parliament building, inciting an unauthorised protest online, and disrespecting the Police. The provisions regulating the aforementioned types of conduct are, however, drafted in vague terms, thereby leaving room for interpretation. Combined with the sanctions that the law imposes, this vague wording may produce a chilling effect on freedom of expression. For example, it may discourage citizens from expressing their views on matters of common concern and could limit the press coverage of demonstrations by professional journalists. Photojournalism is also under threat because the dissemination of footage, or of any type of images, of security officers (the police) may be considered a “serious offence”. The second area of risk derives from the Criminal Procedure Act, which prescribes that photos of demonstrations, the police and public officials cannot be taken, and that other images of criminal defendants are restricted.

The risk increases from low to medium in the digital arena. Several problems have been identified here. For example, the “right to be forgotten” seems to be exercised in an arbitrary manner, and the requests to be de-listed from search engines are very often used to censor past political activity. This adversely affects the rights of citizens to receive and have an impact on information, and it prevents journalists from accessing additional sources of information in order to report news in an accurate manner. Moreover, restrictions on freedom of expression online, most notably the blocking of websites, are based on administrative rather than judicial proceedings, thereby raising concerns about the independence (or the
lack thereof) of the bodies that are in charge of limiting access to information that is distributed through the Internet.

The introduction of the aforementioned measures represents a clear step backwards in relation to the protection of freedom of expression. However, it is still too early to evaluate the impact of these measures properly. This goes partway towards explaining why the overall score for this indicator amounts to 33%, thereby indicating a low risk.

The right to information has two facets in the Spanish Constitution: Article 20 recognises and protects the right to communicate and to receive truthful information by any means. Article 105 provides that a citizen will be provided with access to administrative files and records, subject to specific conditions.

Moreover, based on the Constitution, the Spanish legislator has enacted the Organic Statute on the Civil Protection of the Right to Honour, Personal and Family Privacy, and Personal Image.

The score indicates a negligible risk and that there is a level of protection that is sufficient in terms of how the relevant institutional system has both been designed and functions.

The indicator “Journalistic profession, standards, and protection” highlights the inefficiency of professional associations and trade unions. Both denounce pressures at the editorial level, but they lack powerful enforcement mechanisms on the basis of which they can ensure journalistic independence. Moreover, the weakness of these professional bodies makes it difficult to obtain evidence of commercial influence over content. Physical attacks on journalists, or threats to their safety have not been reported. This remark is valid in both the off- and online environments. Finally, it is worth noting that neither the Constitution nor specific laws explicitly refer to the protection of journalistic sources. The indicator scores 50%, a medium risk.

The indicator “Independence of national authorities” scores low risk. In 2013, a new regulator was created as a result of the merging of the previously existing regulators in the fields of telecommunications, energy and competition: the National Commission of Markets and Competition (Comisión Nacional de los Mercados y de la Competencia, CNMC). The laws regulating the media-related authorities respect European standards, and they thereby indicate a low level of risk. However, that the laws have been drafted in line with European standards does not necessarily mean their effective implementation. Ineffective implementation may be inferred from the fact that the CNMC has occasionally required media and telecoms companies to pay fines that, however, do not seem to have produced a deterrent effect, or to have improved the behaviour of these companies.

NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).
On the organisational side, the risk appears to be increasing through the merger of the media regulator with the competition authority. This was acknowledged by the Spanish Supreme Court which, in July 2015, asked the Court of Justice of the European Union for a preliminary ruling as to whether the CNMC is compatible with the European standards for regulators. Firstly, the CNMC is a "super-regulator", in that it brings together different areas of interest and economic sectors. As a result, there is no body that deals only with media-related issues, something which has a particular connection to fundamental rights. According to the Statute regulating the CNMC, audiovisual services fall under the same umbrella as competition. The fact that media regulation and general market competition are merged together may be detrimental to the development of clear and specific policies in relation to freedom of expression and media pluralism. The regulator does not make any distinction between media and competition, thereby not attaching importance to the particularities of the media markets. This latter issue was also raised by the Supreme Court which, in its reference to a preliminary ruling, asked the Court of Justice of the European Union whether the inexistence of an independent audiovisual authority, realised by the new law on CNMC, and its replacement by a new authority can be seen to be detrimental to the independent governance of the media sector.

Members of the governing bodies of the CNMC are appointed in a legal and transparent manner. However, our qualitative analysis led to the conclusion that such appointments are not necessarily driven by professional competencies. Rather, they seem to replicate the Parliamentary seats’ structure.

![Figure 2 Media Pluralism Monitor 2015 – Spain, Basic Protection Domain, Results by Indicators](image-url)
2.2 Market Plurality (69% risk, high risk)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency of media ownership</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>Concentration of media ownership</td>
<td>58% risk (medium)</td>
</tr>
<tr>
<td>Concentration of cross-media ownership</td>
<td>100% risk (high)</td>
</tr>
</tbody>
</table>

In regard to the “Transparency of media ownership”, Spanish law seems to be in line with the European standards. After notifying the initiation of activity through a general authorisation or license, audiovisual media companies are included in a specific Registry. The information that must be included in the Registry concerns their ownership structure. Any modifications in the structure in question must be notified within one month. However, no specific registry exists for print or digital media. In addition, problems exist in relation to the implementation of the rules on the transparency of media ownership, since the registration does not hint at any type of relationships among the different actors in the media, telecoms, or other markets. The public therefore receives a distorted view of the participants in the value chain. For this reason, the risk for this indicator has been evaluated as being at the medium level.

“Concentration of media ownership” indicator also scores medium risk. The law establishes that no company is allowed to own shares in more than one TV outlet if, as a result, the accumulated audience of two or more companies is over 27% of the national audience. According to the digital technical plan, a single operator is not allowed to control more than two multiplexes: one multiplex at the regional level; or more than three private channels. This approach seeks to protect pluralism in the media market and, more precisely, the audiovisual media market. The medium-high level of the concentration of the audiovisual market, and of the audience shares, raises the general score of the risk.

As explained below, there are no cross-media ownership rules and therefore general competition rules apply. The Competition Authority (which is a division of CNMC) finds itself in the privileged position of formulating the Spanish media policy, as it has already decided upon issues concerning television mergers, radio mergers, and even mergers within the printed sector. These decisions also affect telecoms companies. It appears that applicable rules have not been strictly enforced; this remark is also valid for remedies that were imposed on firms that fell under CNMC’s scrutiny. Moreover, it is worth noting that, in terms of enforcement priorities, during the past two years, the CNMC has opened 26 cases, which
primarily concerned advertising management rather than media concentration. At the regional level, courts may control the decisions that are adopted by the regional audiovisual authorities. The most active of these authorities is the Catalan Audiovisual Authority, whose decisions have, in some cases, been controversial. For instance, it approved the merger of two major television broadcasters on the basis of the Ley General de la Comunicación Audiovisual (Audiovisual Law). This transaction was criticised because it reduces competition in the audiovisual media market.

Cross-media ownership is the element that causes great concern, for the purposes of the MPM, since no cross-media ownership rules exist in Spain. The only point to consider here is that public authorities (agencies, courts) may take cross-media ownership into consideration when assessing the potential harm to the media market of a merger operation. The economic variable within the MPM indicator shows that there is significant media concentration across media; 58% of the media market is currently controlled by only three companies. The overall indicator points to the highest level of risk in the 2015 MPM.

2.3 Political Independence (34% risk - medium risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the
media market, with a focus on state advertisement and public service media.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political bias in the media</td>
<td>29% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media outlets</td>
<td>31% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control over media distribution networks</td>
<td>17% risk (low)</td>
</tr>
<tr>
<td>State advertising</td>
<td>39% risk (medium)</td>
</tr>
<tr>
<td>Independence of PSM governance and funding</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>Independence of news agencies</td>
<td>38% risk (medium)</td>
</tr>
</tbody>
</table>

The “Political bias in the media” considers four factors: (1) bias in PSM reporting; (2) bias in commercial media; (3) bias in electoral reporting; and (4) political advertising. The main problem that is related to this indicator concerns the enforcement of the applicable laws. More particularly, the PSM mechanisms do not appear to be implemented effectively; for example, the Managing Board acts without attaching significant weight to the recommendations made by trade unions, journalists’ associations or consumers’ lobbies. Appeal mechanisms do not seem to be particularly successful. Moreover, journalists find the system of airtime distribution arbitrary, because it is based on the number of parliamentary seats. The political coverage on the private channels is not always fair, balanced and impartial, but, due to extensive political parallelism, most of the political viewpoints reach the citizens. The low risk may increase if the lack of efficient control mechanisms persists.

“Politicisation of control over media outlets” scores low risk. Media providers that are affiliated to political parties are not common in the Spanish media system. Those that do exist do not seem to play a major role in influencing public opinion. However, with regard to the transparency of media control, it is worth noting that some companies do not comply with the required disclosure provisions, and, even when they do comply, the ownership structure is presented in a way which is too complicated for the public to understand.

The “Politicisation of control over media distribution networks” scores a low risk too. Distribution is based on economic rationales and there is no evidence of any cases of censorship.

Despite an existing legal framework, state advertising represents one of the main concerns in relation to media pluralism in Spain. A commission distributes funding according to particular criteria, but these criteria are not clear, and they do not consider the audience share, as has been suggested by independent media. Media companies call for a clearer set of indicators in regard to campaigns, including the advertising budget and other sources of state funding. In relation to digital media, digital media companies consider that the traditional media receive favourable treatment. At the local level, the lack of clear information relating to advertising poses risks to the development of local news media. This must be
combined with the consideration that, at the local and regional levels, close relationships between the media and the political parties appear to exist.

“Independence of PSM governance and funding” scores medium risk. The main problems in this domain concern the organisation of PSM. Recent legal changes have eliminated the consensus required to appoint the managers or board members of the PSM. There are control mechanisms in place (the Parliamentary Control Commission and the Council of News), but they are considered to be ineffective. The media law prescribes procedures that seem to be transparent and objective in determining the amount of money to be granted to the PSM. Direct grant to fulfill PSM mission and budgetary assignments are opaque to the extent that the criteria and evaluation (value for money) are vague. The definition of the public service mission lacks an informed debate.

“Independence of news agencies” also scores medium risk. In Spain, there are three important news agencies. Agencia Efe is a public news agency that is state funded, while Europa Press and Servimedia belong to different business groups. There are also some regional news agencies: ICAL (Castilla-León), Vasco Press (País Vasco) and Axencia Galega de Noticias (Galicia). This indicator has been classified as being a medium risk due to the lack of data concerning the independence of news agencies. Despite market concentration, the independence of news agencies is not an issue that is on the political agenda.

Figure 4 Media Pluralism Monitor 2015 - Spain, Political Independence Domain, Results by Indicators
2.4 Social Inclusiveness (34% risk - medium risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to media for different social and cultural groups, and local</td>
<td>35% risk (medium)</td>
</tr>
<tr>
<td>communities</td>
<td></td>
</tr>
<tr>
<td>Availability of media platforms for community media</td>
<td>75% risk (high)</td>
</tr>
<tr>
<td>Access to media for the physically challenged people</td>
<td>Negligible</td>
</tr>
<tr>
<td>Centralisation of the media system</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Universal coverage of the PSM and the Internet</td>
<td>19% risk (low)</td>
</tr>
<tr>
<td>Media literacy</td>
<td>50% risk (medium)</td>
</tr>
</tbody>
</table>

“Access to media by different social and cultural groups” is provided with the rules governing public service media (Audiovisual Law, Article 3.2,j) in order to support the social integration. This means that public service media organisations are obliged to produce and broadcast content for minorities, or content that is created by minorities. A similar statement appears in the Catalan Media Law. More particularly, the law establishes certain criteria to encourage an increase in diversity, such as emphasising the parliamentary representation and representation of other social and cultural organisations (e.g., unions and universities). Since 2009, airtime access has been co-regulated through a compendium of basic guidelines. However, there is no data available regarding the effectiveness of co-regulation. It is worth noting that, in 2007, the board of RTVE created an Ombudsman, the "Defensor de RTVE", who is entrusted with protecting audiences, including minorities, by communicating with them directly. However, the Defensor de RTVE lacks the power to influence programming, distribution or content.

“Availability of media platforms for community media” scores high risk. The biggest problem in the ‘Social Inclusiveness’ domain is reflected in this indicator, since there are no media platforms for community media. Under Law 7/2010, on Audiovisual Communication, Article 32, non-profit audiovisual services are to be regarded as community media. The digital switchover has contributed to the decline of community media in Spain. The current technical plan grants no space to community television stations. The MPM analysis indicates that the community media have limited access to traditional media channels, although reliable data are lacking. Most of the community media organisations have decided to move to platforms such as YouTube, or similar, in order to avoid obtaining any type of license. In the
case of radio, we can find some exceptions connected to new social movements in Spain (“Indignados” and “15M groups”). However, the community radio stations that are managed by these movements have limited audiences.

The indicator “Access to media for the physically challenged people” scores negligible risk. The law (Article 8, Audiovisual Law) and quality standards (AENOR, UNE 153010) that regulate access to the media for physically challenged people, and the criteria for subtitling content, are clear.

“Centralisation of the media system” is at low risk. Local and regional governments can create, organise and develop audiovisual services in their respective territories. The two axes are: identity (language) and proximity. The Audiovisual Communication Law (Article 40) supports decentralisation. The local and regional media cover about 99% of the population. Moreover, in territories with language diversity (Catalonia, Galicia, and the Basque region), regional legislation preserves and promotes the local media. The subsidies are organised in different ways: institutional advertising; subsidies for the use of local language; direct subsidies to the press; Public Service Broadcasting: radio, television, and new media in the respective regional language.

Overall low risk is also scored for the “Universal coverage of the PSM and the Internet”. The Audiovisual Law (Article 2.3) establishes that the "services of radio and television broadcasting will aim to achieve universal coverage, defined as the highest levels of coverage in the country." Internet coverage is not universal. Rural broadband coverage is 98%, while overall broadband penetration is 65%.

Spain has an under-developed media literacy policy. Existing policies are at their nascent stages, and measures that have been taken in recent years are fragmented. There is no specific plan on media education, and there is no specific agency or department that is responsible for media education in Spain. The National Institute of Educational Technology and Teacher Education is the only national institution that is developing courses to introduce technology and literacy into the curricula. On the other hand, the National Digital Agenda Plan refers to media literacy within the digital plan, and the General Law on Audiovisual Communication includes media literacy amongst its objectives.
3. Conclusions

Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.

The analysis of the situation in regard to media pluralism in Spain suggests that there are areas for improvement.

Legal reforms are necessary. Clear and effective rules should be enacted to improve transparency, particularly in the area of cross-media ownership. The public service media remit should be better defined and an effective supervisory mechanism checking compliance with this remit should be established. Severe concerns about the freedom of expression have been raised ever since the Parliament approved ‘the gag law’ – which imposes high penalties for unauthorised political protests, or for the publishing of amateur video footage of police officers – in addition to increasing governmental control over Spain’s public television and radio broadcaster (RTVE).

Professional associations lack the power to enforce their decisions when deontological codes are violated. Hence, a dialogue with these associations in relation to the potential establishment of a co-regulatory mechanism, similar to that underpinning the functioning of the Bar Associations, should be initiated.
Reflection is required on the need for an independent media authority with a specific mandate. The Spanish Supreme Court has asked for a preliminary ruling from the Court of Justice of the European Union on this matter and, in principle, it seems advisable to follow the patterns that exist in other Member States, which have established bodies that are entrusted with a mission to oversee the media sector only. In order to foster independence, the appointment system of the governing body of this authority should also be designed in such a way that it ensures that the rules are properly implemented. The body should have the power to impose sanctions to ensure greater transparency and plurality in the media. In regard to the objective of ensuring diversity, it is necessary to protect net neutrality. Otherwise, inequalities will be reproduced in the digital environment. Firstly, digital markets should be liberalised in order to increase competition and reduce the costs of the bandwidth (which is currently the highest in Europe). Secondly, the state should guarantee universal access to new digital services in every household. Moreover, in order to co-ordinate all new media and emerging media technologies, we recommend the creation of a Chief Technology Officer, who would be concerned with long-term perspectives, major trends and innovation. In general, media literacy that is linked to digital literacy should be an important part of the political and legislative agenda, arguably with a body that is in charge of promoting these policies.

Furthermore, many media companies depend on institutional advertising and other subsidies. Spain needs a clearer system with which to evaluate public advertising, because it is a risky practice. Moreover, a national/industrial rationale is needed in the audiovisual sector. Over recent years, digital transition has been based only on the number of channels, but not on the quality of such media projects. This point is particularly relevant in the case of public service licenses. Moreover, it is necessary to promote digital media companies through a VAT reduction.

The depoliticisation of appointment procedures in the PSM, and the separation of functions (political control of budgets and remits vs. professional execution) is needed.

The public service media are still necessary in order to promote plurality and to endorse diversity. However, they need to adapt to new competitive environments and to repurpose their mission so as to achieve social objectives, including investigative journalism, in democratic societies.

Politicians have exercised a significant influence over the representation and management of public service media. In order to guarantee pluralism, and policymakers need to increase social representation. More particularly, it is important to include professionals, journalists, universities, content producers, and other stakeholders in the decision-making process. Here, the relationships between journalistic associations and universities may be opportunities to diversify institutional participation and to strengthen ties.
Annexe I. List of national experts who were consulted

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Alejandra Iturriaga
CNMC
Media Pluralism in Sweden

A Test Implementation of the Media Pluralism Monitor 2015

Author:

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October 2015
About the project

The Media Pluralism Monitor (MPM) is a research tool that was designed to identify potential risks to media pluralism in the Member States of the European Union. This narrative report has been produced within the framework of the second pilot test implementation of the MPM, which was carried out in 2015. The implementation was conducted in 19 EU Member States with the support of a grant awarded by the European Union to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

The Monitor’s methodology is based on research carried out by national country teams in the 19 countries, except for Malta where data collection was carried out centrally by the CMPF team. The research is based on a standardised questionnaire and apposite guidelines that were developed by the CMPF. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly sensitive questions (see Annexe I for the list of experts).

Risks to media pluralism are examined in four main thematic domains, which are considered to capture the main areas of risk for media pluralism and media freedom: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area. The Basic Protection domain consists of four indicators; Market Plurality has three, while Political Independence and Social Inclusiveness each contain six indicators.

<table>
<thead>
<tr>
<th>Basic Protection</th>
<th>Market Plurality</th>
<th>Political Independence</th>
<th>Social Inclusiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>Transparency of media ownership</td>
<td>Political bias in the media</td>
<td>Access to media for different social and cultural groups, and local communities</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>Concentration of media ownership</td>
<td>Politicisation of control over media outlets</td>
<td>Availability of media platforms for community media</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>Concentration of cross-media ownership</td>
<td>Politicisation of control over media distribution networks</td>
<td>Access to media for the physically challenged people</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td></td>
<td>State advertising</td>
<td>Centralisation of the media system</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of PSM governance and funding</td>
<td>Universal coverage of the PSM and the Internet</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Independence of news agencies</td>
<td>Media literacy</td>
</tr>
</tbody>
</table>
The results for each domain and indicator are presented on a scale from negligible to 100%, a negligible risk being the lowest, and 100% risk being the highest score. Scores between negligible and 33% are considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.
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   2.1 Basic Protection
   2.2 Market Plurality
   2.3 Political Independence
   2.4 Social Inclusiveness

3. Conclusions

Annexe I. List of national experts who were consulted

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection.
1. Introduction

The Swedish media system is dominated by public service broadcasters. Public service radio and TV both have a solid reputation as being trustworthy and reliable news providers. The Swedish public service television company (SVT) has the widest range of programming of all of the TV companies in Sweden. SVT and Sveriges Radio (Radio of Sweden) are the most trusted outlets, along with TV4, the largest private channel. Sweden is also characterised by a high newspaper penetration. The level of press circulation is amongst the highest in the world, the overall consumption of broadcast media, however, has decreased slightly recently (Nord 2011). At the same time, Sweden has an excellent ICT infrastructure, affordable ICT access, and very high Internet usage (The World Economic Forum 2015; Eurostat 2014).

The implementation of the MPM2015 in Sweden shows a generally low risk for media pluralism in the country: 80% (16) of the indicators demonstrate low risk. However, there are important exceptions. Sweden scores high risk on two of the ‘Market Plurality’ indicators, ‘Concentration in media ownership’ and ‘Concentration of cross-media ownership’. In sum, media pluralism as a whole can be perceived as being both entrenched and secured. However, the alternative conclusion is that certain aspects of media pluralism may be endangered in Sweden in the near future.

1 About SVT: http://www.svt.se/aboutsvt/the-swedish-public-service-broadcaster
2. Results from the data collection: assessment of the risks to media pluralism

Figure 1 Media Pluralism Monitor 2015 - Sweden, Results by Risk Domain
2.1 Basic Protection (16% risk - low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy and they measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for the freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; as well as the independence and effectiveness of the national regulatory bodies, namely, media authorities, competition authorities and communications authorities.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of freedom of expression</td>
<td>27% risk (low)</td>
</tr>
<tr>
<td>Protection of right to information</td>
<td>6% risk (low)</td>
</tr>
<tr>
<td>Journalistic profession, standards and protection</td>
<td>25% risk (low)</td>
</tr>
<tr>
<td>Independence of national authority(ies)</td>
<td>4% risk (low)</td>
</tr>
</tbody>
</table>

Overall, the conclusion of the ‘Basic Protection’ domain indicators is that they pose relatively low risk. Of the total of 4 basic indicators, 4 scored a low risk.

Sweden benefits from a long regulatory tradition for media freedom. Media legislation in Sweden is based on a strong tradition of press freedom.\(^2\) The Freedom of Expression Act ensures freedom for the content of Swedish broadcast media, and additional laws regulate organisational and technical conditions.

The basic indicators for Sweden vary between 4% and 27%.

Regarding the ‘Independence of national authority’\(^3\) and the ‘Protection of right to information’, Sweden scores a low risk. Instead, it is interesting to note that the specific dimension used to measure the ‘Protection of freedom of expression’ and the ‘standards and protection of the journalistic profession’ are the measures that rank the worst, in terms of low risk, among the basic protection domain indicators (27% and 25%).

In Sweden, freedom of expression has been included in the Swedish Constitution since 1991. Amending the Swedish Constitution involves a special procedure, requiring two consecutive parliamentary decisions with an election between them. It is important to note that these two measures indicate two different

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2 Press freedom is regulated in the Constitution since 1766.
3 NB: It needs to be noted that this indicator has been found to be problematic in the 2015 implementation of the Media Pluralism Monitor. The indicator aimed to combine the risks to the independence and effectiveness of media authorities, competition authorities and communication authorities, but it was found to produce unreliable findings. In particular, despite significant problems with regard to the independence and effectiveness of some of the authorities in many of the countries, the indicator failed to pick up on such risks and tended to produce an overall low level of risk for all countries. This indicator will be revised in future versions of the MPM (note by CMPF).
elements. Concerning the freedom of expression, the score reveals more about the interpretation of the indicators that are meant to capture freedom of expression violations than about actual violations. There have been relatively few cases of freedom of expression violations in Sweden in recent years. It would thus be more accurate to speak in terms of exemptions that are, first and foremost, related to the controversial Mohammed cartoons and examples of the censorship of certain cultural expressions, than about systematic violations.

However, regarding the ‘Standards and protection of the journalistic profession’, the score tells a completely different story about the threats to both the physical and digital safety of journalists. A recent report from The Swedish National Council for Crime Prevention shows that more than 30% of Swedish journalists are threatened and harassed each year because of their work as journalists. These results, from the J-panel at the University of Gothenburg, also show that as many as 80 percent of the Swedish journalists who answered questions about threats and abusive comments during the last 12 months reported that email was the most common mediation of threats and abusive comments. In addition, one-third of Swedish journalists are without permanent employment. This will most likely have negative consequences for a democratic society in the long run.

![Figure 2 Media Pluralism Monitor 2015 - Sweden, Basic Protection Domain, Results by Indicators](image)
2.2 Market Plurality (49% risk – medium risk)

The Market Plurality indicators examine the existence and effectiveness of the implementation of transparency and disclosure provisions with regard to media ownership. In addition, they assess the regulatory safeguards against high concentration of media ownership and control in the different media, within a media market as well as cross-ownership concentration within the media sector.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency of media ownership</td>
<td>negligible</td>
</tr>
<tr>
<td>Concentration of media ownership</td>
<td>70% risk (high)</td>
</tr>
<tr>
<td>Concentration of cross-media ownership</td>
<td>77% risk (high)</td>
</tr>
</tbody>
</table>

Overall, the conclusion of the Market Plurality domain indicators is that they pose a high risk. Of three indicators, two indicators scored a high risk, while one scores a negligible risk. Sweden scores high risk on the indicators concerning ‘Concentration of media ownership’ (70%) and in ‘Cross-media ownership’ (77%). The limits to prevent a high level of horizontal concentration of ownership in the media sector in Sweden are regulated by the Radio and Television Act and also in the broadcasting licenses. In addition, the media sector is regulated on the basis of the more general Competition Act. However, the Radio and Television Act contains no clearer criteria than the wording: "ownership may not change more than to a limited extent". It is thus up to each control authority to assess what is really meant by "more than to a limited extent". It is also remarkable that this formulation has absolutely no constitutional support.

Cross-media ownership is also regulated by the Swedish Competition Act through two main provisions: (1) Prohibition of anti-competitive co-operation; (2) Prohibition of the abuse of a dominant position. The Competition Act also contains rules for: (1) Anti-competitive sales activities by public entities; (2) Control of concentrations between undertakings. However, there is no specification about cross-ownership in terms of media companies.

Moreover, the digitalisation of the Swedish media system has now lasted for more than a decade. Just as in other European countries, the Swedish media market is in the midst of an extensive transformation. Newspapers are losing readers, especially young readers of printed editions. In addition, the broadcasting media are being forced to revise their old business models in order to adjust to new and changing conditions in the wake of technological change. Five large actors dominate the Swedish TV market. Among the Swedish newspapers, there is a trend toward cutbacks, stripped-down newsrooms, and increased co-ordination of editorial work. This has consequences for the ownership structure and ownership concentration in the Swedish media system.
Regarding ‘Transparency in media ownership’, Sweden scores a negligible risk. Sweden does not have any specific rules on transparency for media companies. Instead, they follow the general rules stated in the Law of Financial Relations, also called the Transparency Act. Everyone can access the annual reports of media companies, including information about the ownership. Most companies also have the reports available for download on their websites.

![Figure 3 Media Pluralism Monitor 2015 - Sweden, Market Pluralism Domain, Results by Indicators](image)

2.3 Political Independence (17% risk - low risk)

The Political Independence indicators assess the existence and effectiveness of the implementation of regulatory safeguards against the biased representation of the political viewpoints in the media, and also the extent of the politicisation over media outlets, media distribution networks and news agencies. Moreover, it examines the influence of the state on the functioning of the media market, with a focus on state advertisement and public service media.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political bias in the media</td>
<td>4% risk (low)</td>
</tr>
<tr>
<td>Politicisation of control of media outlets</td>
<td>Negligible</td>
</tr>
<tr>
<td>Politicisation of control over media distribution networks</td>
<td>Negligible</td>
</tr>
<tr>
<td>State advertising</td>
<td>50% risk (medium)</td>
</tr>
<tr>
<td>Independence of PSM governance and funding</td>
<td>4% risk (low)</td>
</tr>
<tr>
<td>Independence of news agencies</td>
<td>50% risk (medium)</td>
</tr>
</tbody>
</table>
The conclusion of the Political Independence domain indicators is that they pose a relatively low risk. Of the total of 6 indicators, 4 score low risk and 2 indicators score a medium risk.

Concerning the risk related to ‘Political bias in the media’, Sweden scores a low risk (4%). The result also corresponds with a number of evaluations of the Swedish media content that have previously been conducted, during, after and between elections since 1998. For example, the latest report shows that the Swedish PSM channels are fair, balanced and impartial (Asp 2015). This document also reveals that plurality has increased somewhat in the PSM channels, whereas it decreased in the commercial channels between 2013 and 2014. Moreover, the results from the Swedish Media Election Survey, a detailed campaign survey of the news covering in press, radio, and television during the last four weeks before election day, which has been conducted since the Swedish parliamentary elections in 1979, show that Swedish media (both commercial and PSM) generally offers proportional and non-biased representation (Asp 2011).

It is also important to note that the Swedish laws on public service media (PSM) demand diverse programming, and that all PSM have editorial freedom. Furthermore, the general competition regulation and the broadcasting licenses are backed up by the Swedish media subsidy system for the written press, both print and online, with the stated objective of strengthening and maintaining media pluralism.

The risks of ‘Politicisation of control over media’ and ‘Politicisation of control over distribution networks’ is, in both cases, negligible. The Swedish media companies refer to these issues in their annual reports; moreover, the theme is regulated in the Annual Report Act. Some may argue that the main risk with, for example, Swedish newspaper distribution, is how it is co-ordinated, and this concerns logistics, rather than political affiliations.

For the indicator ‘Independence of PSM governance and funding’ (4%), in the case of the broadcast media, the license regulates the operations of the public service that are to be characterised by independence from the state and from different economic interests in society. Independence is also regulated by the Radio and Television Act and the Freedom of Speech Act. The appointment procedures also provide for the independence of PSM boards and management. However, they are not fully effective in guaranteeing their independence. The boards are appointed by the government at the proposal of the political parties in parliament. Nonetheless, to prevent the general election from having an immediate impact on the management of the board's composition, the Chairman and six other members are appointed by the government in the year that follows the general election. The authors have searched for examples of conflicts concerning the appointment and dismissal of the managers and board members of the Swedish PSM, but have found none.

The indicators on ‘State advertising and Independence of news agencies’ score medium risk (50% each). It is striking that it is impossible to say anything substantial about state advertising in Sweden due to the
lack of data. However, it is important to note that the lack of data can be problematic when it comes to competition on equal terms, or to determining whether public funds spent on advertising are at a reasonable level. Lastly, the Swedish news agency Tidningarnas Telegrambyrå (TT) is alone in having a continuous rolling news flow in text and pictures, both from Sweden and the world, covering all subject areas. However, some minor Swedish news agencies compete with TT by specialising in specific areas (economics, medicine, and engineering) and by targeting particular groups of users. In these areas, TT has a much smaller share of the market.

![Figure 4 Media Pluralism Monitor 2015 - Sweden, Political Independence Domain, Results by Indicators](image-url)
2.4 Social Inclusiveness (9% risk - low risk)

The Social Inclusiveness indicators are concerned with access to, and availability of, media for different, and particularly vulnerable, groups in the population. They assess regulatory and policy safeguards for access to media by various cultural and social groups, by local communities and by people with disabilities. Moreover, they assess the centralisation of the media system, and the quality of the country’s media literacy policy, as well as the digital media skills of the population.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to media for different social and cultural groups, and local communities</td>
<td>13% risk (low)</td>
</tr>
<tr>
<td>Availability of media platforms for community media</td>
<td>29% risk (low)</td>
</tr>
<tr>
<td>Access to media for the physically challenged people</td>
<td>Negligible</td>
</tr>
<tr>
<td>Centralisation of the media system</td>
<td>8% risk (low)</td>
</tr>
<tr>
<td>Universal coverage of the PSM and the Internet</td>
<td>6% risk (low)</td>
</tr>
<tr>
<td>Media literacy</td>
<td>Negligible</td>
</tr>
</tbody>
</table>

Overall, the conclusion of the Social Inclusiveness domain indicators is that they pose relatively low risks. Of the total of 6 indicators, 6 scored a low risk.

In Sweden, the 'independence of community media is part of the idea of media plurality and encompasses diversity in both media providers and media content, as the low levels of risk for the indicators ‘Centralisation of the media system’ (8%) and ‘Universal coverage of the PSM and the Internet’ (6%) attest. PSM also has a special responsibility to offer a diverse range of programmes, including programmes with both mass and more specific attraction. These should reflect the diversity of the entire country, be characterised by a high level of quality, versatility and relevance, and be accessible to all (Sveriges Television n.d.). Likewise, the Swedish broadcasters have a major responsibility to take into account the needs of both the national linguistic and ethnic minorities⁴ (indicator ‘Access to media of different social and cultural groups, and local communities’: 13%), as well as ‘Access to media for the physically challenged people’ (negligible risk). Operations such as the state support for cultural magazines and press subsidies that are aimed at linguistic minorities, must therefore be a priority; and they are expected to work actively to improve accessibility and give minority media access to media platforms. In terms of ‘Media and Information Literacy’ (MIL), Sweden is currently in a state of transition and development. Many MIL-related projects have recently been undertaken in Swedish schools, with many stakeholders and actors being involved (indicator Media literacy: negligible risk).

⁴ Sweden has five recognised minorities (Samer, Jews, Roma, Swedish Finns, and Tornedalians). However, according to the definition of minorities that is used by the MPM project, there is only one minority group that amounts to over 1 percent of the Swedish population (Swedish Finns, 6 percent).
Figure 5 Media Pluralism Monitor 2015 - Sweden, Social Inclusiveness Domain, Results by Indicators
3. Conclusions

Based on the findings of the MPM2015, the following issues have been identified by the country team as being more pressing or as deserving particular attention by policy-makers in order to promote media pluralism and media freedom in the country.

The implementation of the 2015 media pluralism monitor for Sweden in general demonstrates a low risk for media pluralism in the country. However, two particular aspects stand out. The first aspect covers the standards and protection of the journalistic profession. The results of the MPM2015 show that Sweden, despite representing a highly developed democratic context, does not manage to fully guarantee journalistic safety. Intimidation and harassment are effective ways to silence journalists even in Sweden. There is a need to add a dimension of external pressure and threats to the discussion on journalistic autonomy to the media policy agenda in both Sweden and the EU; self-censorship includes more than merely the chilling effects of government mass surveillance and the adoptions to the economic and political power structures.

The other aspect is the concentration of media ownership. Media pluralism and the opportunity for people to gain unimpeded access, and to generate and share a wide range of information, are essential pillars of democracy to ensure transparency and accountability. They are also essential for the functioning, sustainability and legitimacy of a democratic regime. Moreover, the media are expected to work as a platform for free expression for all, to foster constructive public debate, to empower the citizens, to enhance government efficiency, and, last but not least, to provide the government with the information needed to govern responsively and in the interest of citizens.

The Swedish media landscape is undergoing an extensive transformation. This is characterised by a steady increase in the convergence of media services, with a visible move towards intertwining traditional media and the Internet. This transformation presents both opportunities and challenges in terms of media plurality. Although it has never been easier for people to access, generate and share information, this transformation has led to an increased concentration of media ownership, more cutbacks, and an increased conformity of information and news. It is not sufficient that the media companies, like any other company, are included in the Swedish general laws that are supposed to ensure competition – the media companies have a much wider responsibility in a democracy. A media landscape that undergoes an extensive transformation also leads to extensive outcomes, which need to be investigated further.
Annexe I. List of national experts who were consulted

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References


