



Monitoring Media Pluralism in the Digital Era: Application of the Media Pluralism Monitor in the European Union, Albania and Turkey in the years 2018-2019

Country report: Austria

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Annexe 1. Country Team

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Monitoring Media Pluralism in the Digital Era: Application of the Media Pluralism Monitor in the European Union, Albania and Turkey in the years 2018-2019

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1. About the project

1.1. Overview of the Project

The Media Pluralism Monitor (MPM) is a research tool designed to identify potential risks to media pluralism in the Member States and Candidate Countries of the European Union, and considering both online and offline news environments. This narrative report has been produced within the framework of the implementation of the MPM carried out in 2019, under a project financed by a preparatory action of the European Parliament. The implementation was conducted in 28 EU Member States, Albania and Turkey 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.

1.2. Methodological note

The CMPF partners with experienced, independent national researchers to carry out the data collection and to author the narrative reports, except in the case of Italy where data collection 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.

In Austria the CMPF partnered with Josef Seethaler, Maren Beaufort (Austrian Academy of Sciences, Institute for Comparative Media & Communication Studies), who conducted the data collection, scored and commented the variables in the questionnaire and interviewed relevant experts. The report was reviewed by CMPF staff. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly evaluative questions (see Annexe II for the list of experts).

Risks to media pluralism are examined in four main thematic areas, 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 (see Table 1 below).

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

Table 1: Areas and Indicators of the Media Pluralism Monitor

The Monitor does not consider the digital dimension to be an isolated area but rather as intertwined with traditional media and existing principles of media pluralism and freedom of expression. Nevertheless, the Monitor allows for an extraction of a digital-specific risk score and the report contains a specific analysis of risks related to the digital news environment. The results for each domain and indicator are presented on a scale from 0 to 100%. Scores between 0 and 33% are

considered low risk, 34 to 66% are medium risk, while those between 67 and 100% are high risk.

On the level of indicators, scores of 0 were rated 3% and scores of 100 were rated 97% by default, to avoid an assessment of total absence or certainty of risk.

Disclaimer: The content of the report does not necessarily reflect the views of the CMPF or the EC, but represents the views of the national country team that carried out the data collection and authored the report. Due to updates and refinements in the questionnaire, the MPM2020 scores may not be fully comparable with MPM2017 ones. For more details, see the CMPF report on MPM2020, soon available on: <http://cmpf.eui.eu/media-pluralism-monitor/>.

2. Introduction

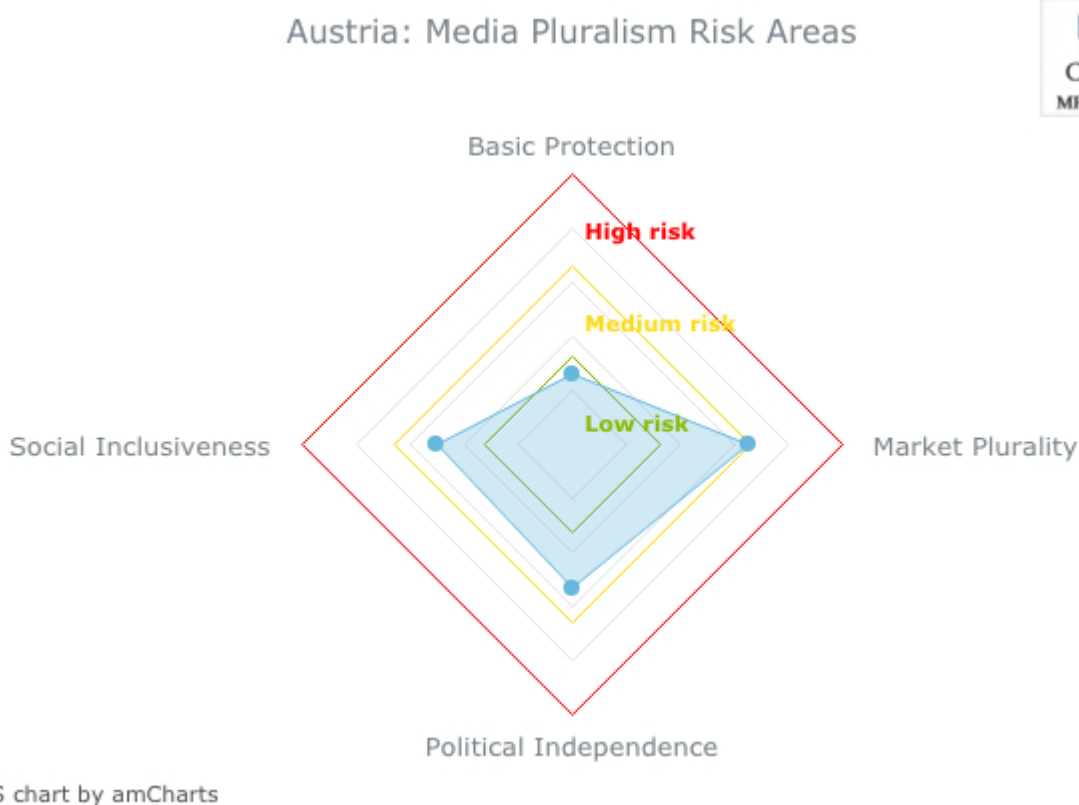
Austria covers an area of 83,878 square kilometres and has a population of 8,858.775 (as of January 1, 2019), including 1,438,923 foreign citizens (16.2% of total population). The largest groups are from Germany (192,426), Serbia (121,348), Turkey (117,231), Romania (112,684), Bosnia and Herzegovina (95,893), Croatia (79,999), Hungary (82,712), and Poland (63,429). Around two million people with a migration background (i.e. 23.3 % of the total population) live in Austria, one third of them are Austrian citizens (data from 2018). Due to immigration mainly from other parts of Europe society has become culturally more diverse, but has remained socially relatively homogeneous compared to most European countries. German is the official language, and Burgenland-Croatian, Slovenian and Hungarian are recognised as official languages of autonomous population groups in some regions.

The Austrian economy grew by 2.4% in real terms in 2018, which means a slightly slower growth compared to 2017 (2.9%). Nevertheless, Austrian economy ranks high in the EU: The volume index of GDP per capita in Purchasing Power Standards (PPS) is 128 (compared to the EU average = 100). The unemployment rate was at 4.9% in 2018 (according to the ILO definition; 7.7% according to the national definition), but the youth unemployment rate (15 to 24 years old) was at 9.4% (ILO)—despite a slight decline since 2017.

All political institutions established by the Constitution (including the Federal President) are voted into office through either direct or indirect elections. After a long time of consensual policy-making, Austrian politics has become more pluralistic and polarized. Currently, five political parties are represented in the Austrian Parliament. After the national election in September 2019 (a snap election because of the “Ibiza” scandal), the two biggest winners, the conservative Austrian People’s Party (ÖVP), which has been part of the government since 1986, and the Greens formed a coalition. The Conservatives’ former government partner, the right-wing Austrian Freedom Party (FPÖ), lost almost 40% of its prior voters, but also the Social Democrats (SPÖ) suffered losses. The traditionally weak Liberals experienced small gains.

Two thirds of the Austrian population are highly interested in news. Television remains the most significant source of information, although daily viewing time of almost three hours is significantly lower than the EU average of 3:30. Despite a steady decline, the public service broadcaster (which is the most trusted news source in Austria) has maintained a relatively high market share of almost one third of the television market, while the market share of the German ProSiebenSat.1 group, the largest private provider, rose to 21.6% following the merger of the two biggest private TV companies (ATV and PULS4). Although the newspaper industry, which is strong in Austria (partly because of its involvement in the radio and online sector), is facing increasing challenges due to online advertising, newspapers are still the second most significant source of information—but only thanks to the intensive use by the over-45 age groups. The two quality newspapers *Die Presse* and *Der Standard* are second and third in the ranking of the most trusted media outlets. For 36% of people under 24 years of age, social media is the main daily news source, and two thirds of people under 35 use it as one of their sources. The latter even use legacy media primarily online, while smartphones are the main way to access news online for all age groups under 55 (cf. Gadringer et al., 2019; Seethaler and Beaufort, 2019).

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



The implementation of the MPM 2020 indicates (like MPM 2017) that media pluralism in Austria is at medium risk in all but one areas of investigation (Basic Protection). Five of 20 indicators represent a high risk, eleven a medium risk and only four a low risk.

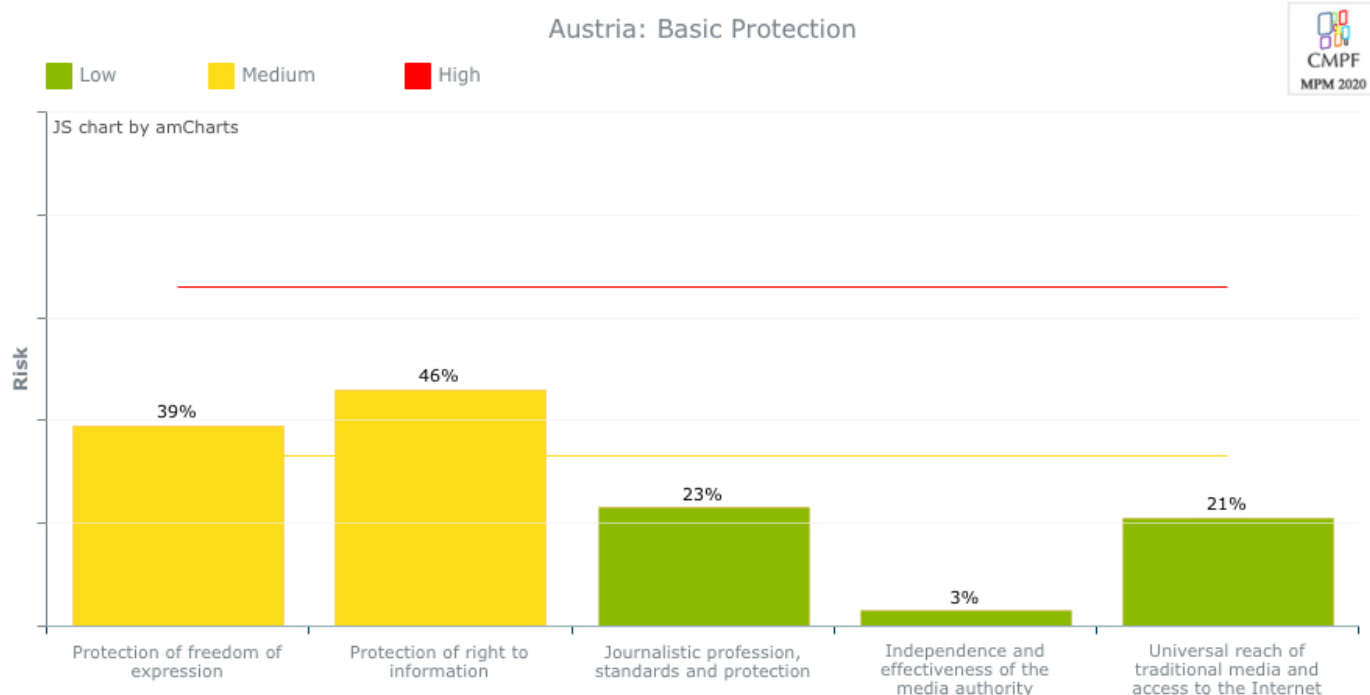
It has to be emphasized that the very foundations of the democratic media system are intact and strong: freedom of expression is well protected; journalism is in many ways legally recognised as a public-interest function; media authorities work independently; and people can choose between a diversity of different media outlets, including public service, commercial and non-profit community media. During election campaigns political ads are forbidden in public service broadcasting, and the ORF does a fairly good job in representing the parliamentary parties. The public service broadcaster feels also responsible for providing access to media for people with disabilities, and, equally important, there is a rich and varied supply of regional and local media services, including a lively community broadcasting sector. Risks to media pluralism in Austria are primarily due to horizontal and cross-media concentration, missing incorporation of changes in the media landscape into competition law, the lack of protection of the right to information, limited access to media for women and minorities, a declining number of journalists, endangered editorial autonomy, political and - to a lesser extent - commercial influence over editorial content, threats to the independence of PSM governance and funding, a system of state subsidies that is in urgent need of reform, and a missing policy (and missing resources) for promoting media and digital literacy.

Based on the aforementioned viable foundations, it is up to all stakeholders to remedy the shortcomings, to provide growth potential especially in the online sector, and to prepare not only for tomorrow's media infrastructure development, but also for the challenges and needs of a democratic and diverse society.

3.1. Basic Protection (26% - low risk)

The Basic Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy. They measure a number of potential areas of risk, including the existence and effectiveness of the implementation of

regulatory safeguards for freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; the independence and effectiveness of the national regulatory bodies that have competence to regulate the media sector, and the reach of traditional media and access to the Internet.



The Austrian media system is generally well-protected, especially with regard to its constitutional foundations (the **Basic Protection** risk is only 26%). Freedom of expression has been enshrined in the Austrian Constitution since 1867. Austria ratified the European Convention on Human Rights (which was given constitutional status six years later) and the International Covenant on Civil and Political Rights (ICCPR) in 1958 and 1978 respectively. Today, the legal remedies against violations of freedom of expression can be considered largely effective; however, in prior years, the European Court of Human Rights (ECHR) has overturned a considerable number of national courts' decisions (Voorhoof et al., 2017).

There are two main reasons why the Media Pluralism Monitor has deemed the indicator on **protection of freedom of expression** to show a medium (39%) risk (compared to its low-risk status in recent years) for the first time since it was established.

Firstly, after the inauguration of the center-right government in December 2017, Index on Censorship recorded a significant rise in the intimidation of media outlets, particular the ORF and several “critical” newspapers, and smear campaigns against journalists. Several representatives of journalistic organizations, including Rubina Möhring, president of Reporters Without Borders, observed “increasing signs that media freedom is being restricted” (Index on Censorship, 2018, p. 12). The situation seems to have changed after the resignation of the government in May 2019.

Secondly, Art. 111 of the Criminal Code allows for an increased prison sentence for defamation when it has been made accessible to a wider public by means of the mass media. Art. 116 explicitly extends the provisions of Art. 111 and 115 (regarding insults) to national and regional parliamentary bodies, army and government offices. Fortunately, the Austrian Supreme Court generally applies ECHR case law and considers Art. 29 of the Media Act (that takes into account basic journalistic duties, the nature of potentially libel statements and public interest in the given information), thus overruling a number of decisions of lower courts on this matter.

The **protection of the right to information**, the necessary counterpart of freedom of expression, is also at medium risk (46%). Although Art. 20(4) of the Federal Constitution guarantees the right to information, Art. 20(3) clearly states that the obligation of administrative authorities (at a national, regional and local level) to maintain secrecy takes precedence over that to disclose information—and this is only done upon request (which is difficult to file). Not surprisingly, Austria ranked second to last in a recent survey of 128 countries on the global right to information

conducted by Access Info Europe and the Centre for Law and Democracy (2019). Governments have yet to agree on certain provisions of a proposed freedom of information law even though transparency of state entities and public bodies promotes accountability, deters abuse of power, and strengthens trust in the functioning of the democratic system. Austria has, at least, an effective regulatory framework since 2016 to enable and protect whistleblowers, which can be considered protection of the right to information.

The indicator on **journalistic profession, standards and protection** reveals a low risk (23%). Access to the profession is free and open, and professional associations play a vital role in advocating editorial independence and respect for professional standards. Unfortunately, so far they have paid too little attention to the status and independence of freelancers and the growing number of manifold peripheral actors in journalism (such as citizen journalists, bloggers, social media activists, etc.).

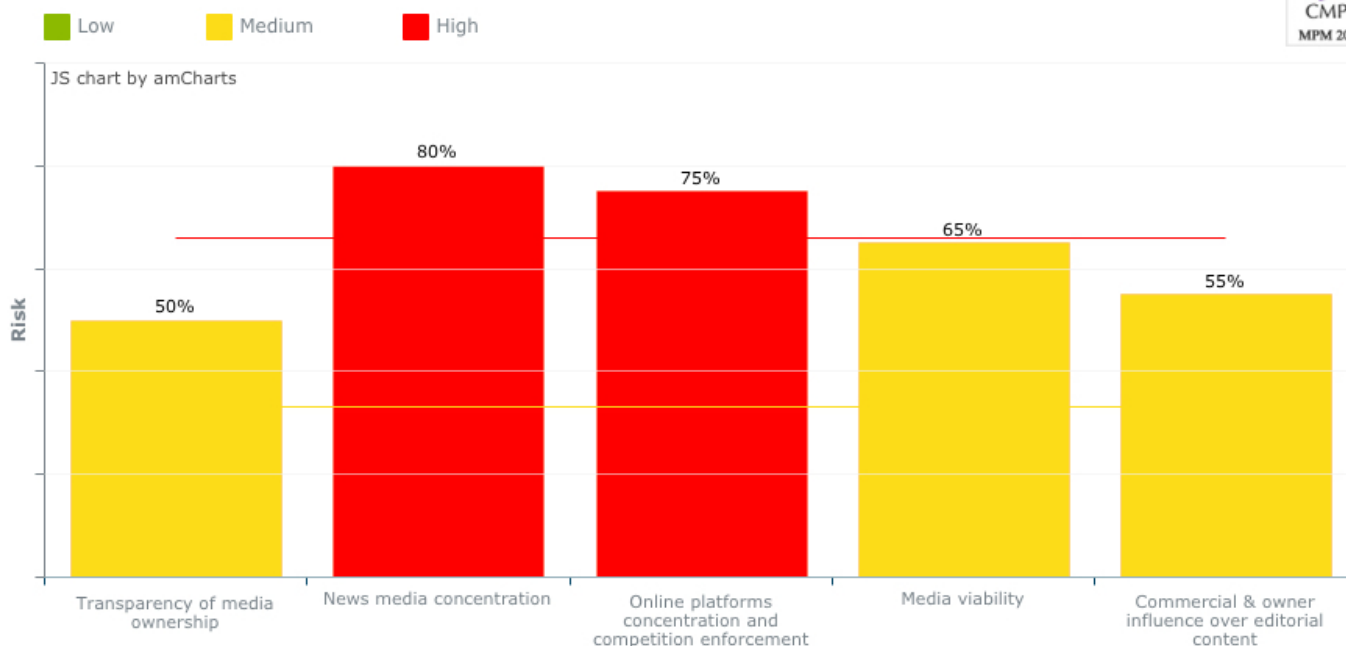
There are no cases of physical attacks on journalists. Art. 31 of the Media Act provides strong protection to the confidentiality of journalists' sources. However, information-gathering processes are made more difficult by official secrecy provisions, and editorial autonomy is not generally protected (see Chapter 3.3).

The indicator on **independence and effectiveness of the media authority** is ranked as being at (very) low risk (3%). The Austrian Communications Authority (KommAustria), which was founded in 2001, and the Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR) work fully independent of the government. Their duties and responsibilities as well as the procedures for the allocation of budgetary resources are defined by law (KommAustria Act). KommAustria has policy-implementing, decision-making and sanctuary powers. Its independent status and transparent work has made it highly respected.

The indicator on **universal reach of traditional media and access to the Internet** shows a low risk (21%). Public TV and radio signals reach almost the entire population (mainly via satellite and cable), more than 90% of the population is covered by broadband (with an average internet connection speed of 19 Mbps), and the broadband subscription rate is 88%.

3.2. Market Plurality (65% - medium risk)

The Market Plurality indicators examine the existence and effectiveness of provisions on transparency of media ownership and the existence and effectiveness of regulation or self-regulation against commercial & owner influence on editorial content. In addition, they assess the risks related to market concentration in the production as well as in distribution of news: as for production, considering separately horizontal concentration in each sector and cross-media concentration; as for distribution, assessing the role of online platforms as gateways to news, the concentration of online advertising market, and the role of competition enforcement and regulatory safeguards in protecting information pluralism. Moreover, they seek to evaluate the viability of the news media market.



Market Plurality is under threat. Although a risk of 65% still falls within the middle range, it is close to high risk. In particular, there is a considerably high degree of horizontal and cross-media concentration in Austria. Consequently, the indicator that scores the highest risk is the one on **news media concentration** (80%). All concentration measurements for ownership and audience concentration in the audiovisual, radio and newspaper markets are between 72 and 89% (data from 2018), and therefore far too high to be acceptable from a democratic point of view. According to data on the 18 largest media companies that are tax-registered in Austria (Fidler, 2019), the market share of the Top 4 news media owners across different media markets is 65%. The problem is that only legislation for the audiovisual and radio sectors contains specific restrictions regarding areas of distribution and market shares in order to prevent horizontal and cross-media concentration; these restraints, however, are not very tight. As a result, Austrian media and cartel law has been ineffective in preventing mergers of media companies - from the Mediaprint deal in 1988 (a joint venture of the owners of the two biggest newspapers at the time, *Kronen Zeitung* and *Kurier*) to the 2017 merger of the two biggest private TV stations, ATV and PULS 4, both of which are now owned by the German ProSiebenSat.1 group. Moreover, changes in the media landscape have not yet been significantly incorporated into competition law. Thus, the indicator **online platforms concentration and competition enforcement** is given a similarly high risk rating (75%).

The other three media plurality indicators score within the medium risk range. Despite the fact that media law establishes provisions with the aim of ensuring **transparency of media ownership**, information on the ultimate ownership structures of media companies is not generally available (Berka et al., 2019), partly due to a vague formulation in the 2011 amendment to the media law (the German word “Inhaber” can be interpreted as “100 percent owner”). Unfortunately, information on the holdings of affiliates or on interests by the media company in other non-media businesses is not required, and several exclusions exist for foreign state publications and publications of Austrian public authorities.

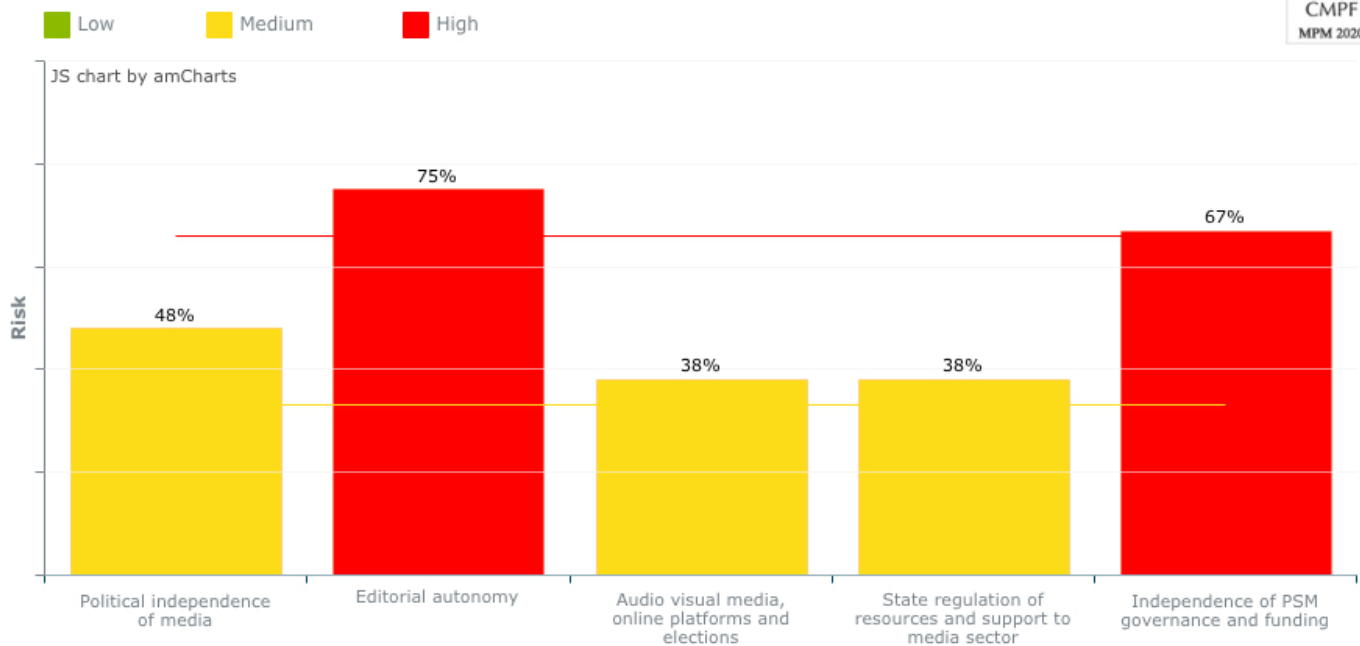
Regarding **commercial and owner influence over editorial content**, several media laws contain provisions that prevent the use of advertorials and stipulate that the journalistic profession is incompatible with activities in the field of advertising. Legal mechanisms dating back to the year 1920 grant social protection to journalists in case of changes of ownership or editorial line, and a short clause in the Journalistic Code of Ethics stipulates that the economic interests of the media company’s owner should not influence editorial work. However, there are no explicit regulatory safeguards ensuring that decisions regarding appointments and dismissals of editors-in-chief have to be made independently of the commercial interests of media organizations. According to the results of the most recent *Worlds of Journalism* survey, more than 80 percent of journalists perceive an increase in economic pressure on editorial work; more than 70 percent say the same of advertising pressure (Seethaler, 2017). Two relatively new phenomena should also be mentioned in this

context. Firstly, a growing number of media organizations are (at least partially) owned by a newcomer to the trade. For example, the Austrian energy drink company Red Bull owns a TV station, magazines, books, music and movies, and distributes content both online and offline; and in November 2018, the German Funke group sold half of its stakes in two of the biggest newspapers, *Kronen Zeitung* and *Kurier*, to the owner of a real estate empire, who now owns about 25 percent of both companies. Secondly, new forms of marketing such as content marketing, brand journalism and native advertising, which follow some journalistic rules but do not fulfil the core function of journalism of facilitating self-observation of society, are likely to further erode journalistic media's stagnating or dwindling advertising revenues.

Regarding **media viability**, the media markets are not growing, the number of journalists is declining, and the system of state subsidies is in need of reform. Revenues in the audiovisual sector and the newspaper publishing and press agency sectors have remained largely stable (1.10% GDP share in 2017, 1.08% in 2018), and the same is true for total advertising expenditure on news media (0.74% GDP share in 2017, 0.72% in 2018; European Audiovisual Observatory, 2019; Fidler, 2019). No sufficient data is available for the radio sector. The number of journalists employed in the audiovisual, radio and press agency sectors has so far remained largely stable, while the number of journalists employed in the print sector as well as in local media in general is in decline. Taken all together, the number of journalists working at least 20 hours a week is decreasing, and the average age of journalists is increasing, which can be interpreted as an alarming sign for future development (Kaltenbrunner et al., 2007; 2020). Austria has a well-established system of state subsidies, covering all media sectors except online media, with by far the least amount of funds being allocated to non-commercial community media (which is by no means justifiable). Subsidies are also available for accelerating the digitalization of the broadcasting sector, in particular for introducing DAB. However, media experts have long been criticizing the “watering can principle” and calling for reforms that would give more attention to democratic quality and journalistic training (Haas et al. 2012).

3.3. Political Independence (53% - medium risk)

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



In accordance with a long history of media-party parallelism in Austria, **Political independence** in general is at medium risk (53%).

The same applies to the specific indicator on **Political independence of media**, which acquires 48% risk by assessing the existence and effective implementation of regulatory safeguards against control of media by government and politicians. According to the Austrian Broadcasting Corporation Act, independence from political parties, political and economic lobbies, and other politically related actors is not only a right of the public service broadcaster but an obligation as well, while in all other media sectors there is no equally precisely formulated legislation in force. In contrast to the spirit of the law, however, attempts by political parties to influence appointment and dismissal procedures for management and board functions at the ORF occur frequently (see below “Independence of PSM governance and funding”).

In the private sector, neither the government nor political groups control any TV channels, and there is a legal obligation to provide impartial and pluralistic information not only for the public broadcaster ORF but also for commercial broadcasters. Nevertheless, there is lot of anecdotal evidence that some media owners have political affiliations. This is also true for newspapers and their online platforms. Experts argue that mutual influence between politics and media is, for example, evident in some kind of barter which trades advertisement investments for privileging reporting (Koziol 2018).

The only big news agency in Austria, the Austrian Press Agency (APA), is owned by 12 Austrian newspapers and the ORF, and works largely independent from political groupings.

The indicator on **Editorial autonomy**, which was always close to high risk, has now exceeded that threshold (75%). There are no regulatory safeguards in place to prevent political influence over the appointments and dismissals of editors-in-chief. Only the editorial statute of the public service broadcaster stipulates that the editorial committee must at least be informed and heard during appointment procedures. Even this minimum requirement does not exist anywhere else. Actually, only TV and radio stations are obliged to have editorial statutes at all; all other media are allowed, but not required to establish editorial statutes. Thus it comes as no surprise that the two largest newspapers (*Kronen Zeitung* and *Heute*) refrain from self-regulatory measures, and are not members of the Austrian Press Council.

The indicator on **Audiovisual media, online platforms and elections** is at medium risk (38%). The PSM in Austria is obliged by law to cover political matters in an unbiased and impartial manner, and KommAustria is responsible for the legal supervision. However, there are no legal provisions specifically relating to election campaigns. For at least the last two decades, the ORF has offered to a considerable extent a fair representation of the various parliamentary parties during election campaigns. This cannot be fully said of commercial channels and newspapers (Seethaler and Melischek,

2010; 2014; 2019).

Since 2002, political advertising in PSM has not been allowed during election campaigns. It may only be bought from private stations (and has to be identified as paid advertising). Media companies are urged to provide all parties with equal conditions for advertising because of Art. 7 of the Federal Constitution, which refers to the principle of equal opportunities for all political parties, but no measures guaranteeing equal conditions and rates of payment have been implemented in media law. The same applies to online political advertising during election campaigns (apart from the online platform of the public service broadcaster).

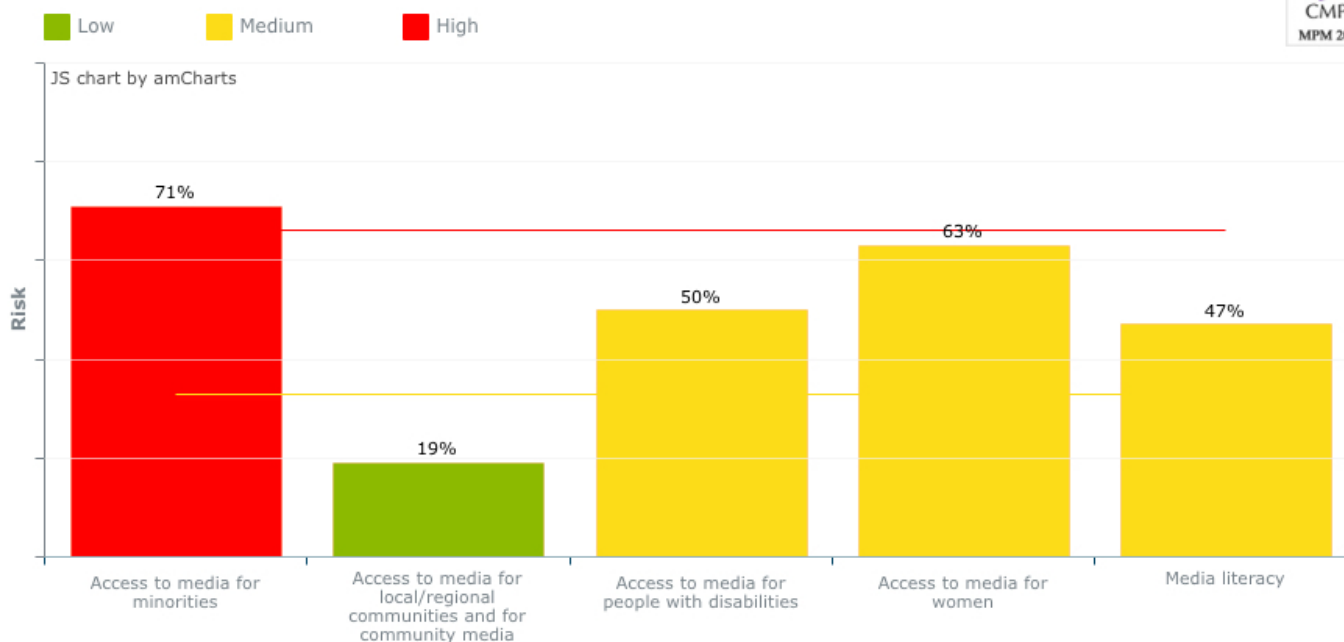
The indicator on **State regulation of resources and support to media sector** shows a medium risk (38%). The practice of spectrum allocation in Austria is codified in Art. 54 of the Telecommunication Act and guarantees impartial, transparent and non-discriminatory spectrum allocation in accordance with EU requirements. The rules for the distribution of direct and indirect subsidies can be considered to be transparent, but not entirely fair. For example, high-circulation tabloid newspapers benefit disproportionately from the funding, and the Private Broadcasting Fund is about seven times higher than the Non-Commercial Broadcasting Fund. Experts have long criticized the effectiveness of the rules in terms of ensuring media plurality. The 2012 Media Transparency Law, which forces the government, public bodies and state-owned corporations to disclose their relations with the media (such as advertisements and other kinds of support), does not provide rules ensuring a fair distribution of state advertising among media outlets. In fact, a large share of state advertising goes to a few important media outlets, particularly tabloids. While, in 2018, state subsidies for the media amounted to 40 million euros, nearly 170 million euros was spent on state advertisements.

Independence of PSM governance and funding is at high risk (67%). This is mainly due to the appointment procedures of the *Stiftungsrat* (Foundation Council) which appoints all high officials, approves the budget, and monitors financial conduct. Fifteen of its 35 members are appointed by the federal government, six of which in consideration of the proportionate strength of the political parties represented in parliament. Moreover, each of the nine Austrian federal states nominates a representative. This “politics-in-broadcasting system” is the basis for the entanglements between PSM and political actors, and is highly questionable from a democratic perspective.

Attempts to gain control over the public service broadcaster have become particularly virulent in the last few years, when the Austrian Freedom Party and the tabloid press wanted to abolish licencing fees and force ORF to turn to parliament for funding every year (Seethaler and Beaufort, 2019). Due to a lack of legal regulations, provincial governors are, to an extent, already allowed to use licensing fees for purposes beyond what they are intended for (Fidler, 2020). Despite existing restrictions regarding advertising time, some proponents of political parties have demanded an advertising ban in television programming (completely or during prime time). This would threaten the independence of public service broadcasting because advertising revenues account for about a quarter of the overall revenues.

3.4. Social Inclusiveness (50% - medium risk)

The Social Inclusiveness indicators are concerned with access to media by various groups in society. The indicators assess regulatory and policy safeguards for community media, and for access to media by minorities, local and regional communities, women and people with disabilities. In addition to access to media by specific groups, the media literacy context is important for the state of media pluralism. The Social Inclusiveness area therefore also examines the country's media literacy environment, as well as the digital skills of the overall population.



The **Social Inclusiveness** area is in general at medium risk (50%).

Among all indicators in this area, **Access to media for minorities** is the only indicator ranked as being at high risk (71%). PSM law guarantees the representation of the six legally recognised minority groups by requiring an “appropriate” share of airtime. However, it does not provide any framework for the assessment of “appropriateness”. TV and radio news programmes (which are partly broadcast weekly, partly less frequently) are only available in the languages of the six legally acknowledged minorities, which are not among the largest minorities in Austria. Private commercial television and radio stations do not provide any airtime to minorities. Only non-commercial community broadcasters dedicate reasonable parts of their programmes to legally recognised and not recognised minorities (for example, the TV channel OKTO and Radio Orange in Vienna, the Carinthian Radio AGORA or Radio OP in Burgenland), and 30.5% of all community programme makers have a migrant background (Verband Freier Radios Österreich et al., 2019). Considering that non-Austrian citizens make up 16.2% of the total population (among them Serbs, Turks, Romanians and Bosnians), and 23.3% of the population has an immigration background, more should be done to safeguard proportional access to media for minorities.

The indicator on **Access to media for local/regional communities and for community media** represents a low risk (19%). This is because of four reasons: (1) the law grants regional and local media access to media platforms, and access to radio and TV frequencies is regulated via public tendering; (2) subsidies for private radio and television companies are explicitly contingent upon the provision of local or regional programmes (even when funding sometimes fails to achieve its goal: in 2019, *Radio Austria* has become the second nationwide private radio station to be licensed, and the owner - the *Mediengruppe Österreich* - has incorporated its numerous regional radio licenses into this license); (3) the public broadcaster operates regional broadcasting studios in all nine federal states, that provide nine regionally broadcast radio programmes and TV newscasts; and (4) Austria has a comparatively well-developed system of community media, encompassing, so far, 14 radio stations and 3 TV stations. Broadcasting laws, however, are still lacking a consistent legal recognition of community media as a distinct broadcasting sector in terms of function, mode of operation and financing, albeit they generate a wide range of public values, are strongly anchored in their respective local environment, and operate free from political interference (Seethaler and Beaufort, 2017). Unfortunately, media law does not provide sufficient details regarding licensing processes and criteria concerning community media.

The policy framework on **Access to media for people with disabilities** shows a medium risk (50%) and must be regarded expandable. The Austrian PSB is required by law to provide access to media content (including on-demand media content) for disabled people in accordance with current technology and as far as economically reasonable. Despite the fact that the legal text is non-committal in its wording, the ORF continuously improves the status quo of

accessibility of media content. Nevertheless, there is a strong imbalance between the extent of media access for hearing-impaired people, which is rather well developed (in 2018, about 70% of ORF programmes were subtitled and/or presented in sign language), and for visually impaired people, which is rather poorly developed. The “Publikumsrat” (Viewers’ and Listeners’ Council) of the ORF has one representative for people with disabilities.

Private television law simply states that providers are obliged to incrementally improve accessibility for people with disabilities without stipulating specific requirements and actions to achieve this goal. Accordingly, the two largest private broadcasters (ATV and PULS 4) do not provide any services for people with hearing or visual impairments. Only community broadcasters work towards including people with special needs by making studios and equipment accessible.

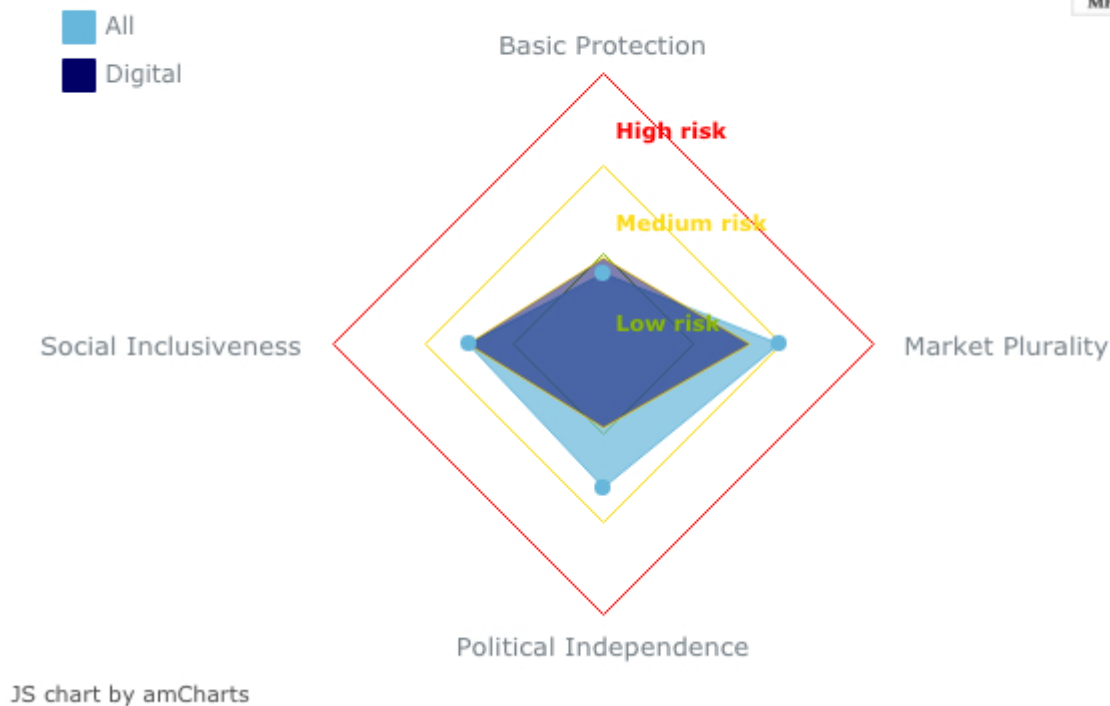
The indicator on **Access to media for women** is ranked as being at medium risk (63%), but near the threshold to high risk. PSM law provides a (rather vague) policy regarding gender equality which, in terms of programming content, is not monitored or assessed. According to a study based on a representative sample of about 3,000 TV reports in news and current affairs programmes in 2014, women accounted for only 17.6 percent of all people who appeared in news stories as subjects or as sources, with the two biggest private TV stations - PULS 4 and ATV - scoring better than the ORF (Seethaler, 2015). Little is known about the role of female experts in TV news programs; in newspapers, women account for only 31 percent of all presented experts (Pernegger, 2019).

With regard to personnel issues, PSM law provides a framework for actively ensuring gender equality by stipulating the implementation of a gender mainstreaming plan and requesting the ORF to assess the status quo of gender equality in the organization every other year. In 2018, the ORF almost achieved its self-imposed objective of ensuring 45% of its total staff is made up of women (44.2%). The share of women among directors is 40%, among members of the management board only 26% (data from 2019). The numbers for the two private TV companies with the largest audience share are much lower: 0 and 13% respectively. Furthermore, only 25% of the editors-in-chief of the eight leading news media outlets are female.

Media literacy is ranked as being at medium risk (47%). It is part of the curriculum at the primary and secondary school levels, at least to some extent, and there are a lot of initiatives fostering media literacy competence among young people in particular and improving media pedagogical work (mainly sponsored and/or hosted by the Federal Ministry for Education, Science and Research). One important first step was the “Grundsatzlerlass Medienerziehung”, a decree for media education, from 2012, which was developed to cope with requirements of media use in an educational context. Additionally, the federal states as well as several interest groups have started smaller projects in that regard, and there is a strong commitment among community media to media literacy as a tool for social inclusion through creative participation in media content production (Chapman et al., 2019). Nevertheless, a comprehensive governmental strategy fostering the development of media literacy in all sections of society (as recommended by the Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010) is missing in both the formal and the non-formal education sector. This is all the more regrettable considering that media literacy - and, as the Austrian Federal Ministry for Digital and Economic Affairs (2019) has stated, digital literacy - not only means having technical skills, but also being able to use (digital) media in a competent and reflective manner.

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

Austria: Media Pluralism Risk Areas - Digital



The area of **Basic Protection** shows a generally low risk in Austria. The Constitution also guarantees freedom of expression online. A UN Human Rights Council report (Kaye, 2015) highlights a few countries that have implemented legislation to protect encryption (which can be regarded as a safeguard for freedom of expression online) following the ICCPR, Austria among them. Furthermore, Austria never intended to install a data retention regime since this regime was repealed by the Constitutional Court in 2014 following a decision of the ECJ.

The Austrian legislator has complied with Directive (EU) 2016/680 of the European Parliament, which prevents illegal monitoring of journalists by law enforcement authorities, with the formulation of Art. 9 in the Data Protection Amendment Act 2018. Unfortunately, this article only refers to journalistic activities within the framework of a media company.

There are no cases of physical attacks on journalists, but offensive and threatening speech - especially against female journalists and journalists working at the Public Service Broadcaster, ORF - has been increasing (Index on Censorship, 2018). Austria participates in the two UNESCO “Groups of Friends on the Safety of Journalists” founded in Paris and New York in 2016, informal working groups of states committed to strengthening the UN Plan of Action on the Safety of Journalists and the Issue of Impunity and its implementation at the national level. So far, however, no formal mechanism for the security of journalists has been established.

No specific legislation concerning the blocking of internet sites is in place, except in the field of intellectual property rights, which is in line with EU law (in case of child pornography and Nazi propaganda websites, ISPs voluntarily monitor and—if hosted in Austria—remove such pages.) Experts consider the problems of regulating online content that is or seems to be illegal or undesirable for the community, as well as issues surrounding the proportionality of such measures, as “particularly sensitive” (Berka and Trappel, 2016). Blocking measures may incite providers to block legally permitted content too in order to avoid legal liability. Such self-censorship by intermediaries and ISPs could act against free speech.

This was made evident by a decision of the European Court of Justice (ECJ), which had been asked by Austria’s Supreme Court to intervene in the case *Eva Glawischnig-Piesczek v. Facebook*. The ECJ ruled that EU law does not preclude a court of a member state from ordering a social platform to remove content - and, in certain circumstances, even equivalent content - previously declared to be illegal. Moreover, EU law does not oppose a worldwide deletion

obligation of defamatory or otherwise illegal content imposed by a national court within the European Union, even in countries where this content is not illegal. Internet Service Providers Austria (ISPA), a non-profit association which represents the interests of the Austrian Internet industry, argues that the implementation of the targeted monitoring obligation for posts with identical content or meaning requires automated monitoring and filtering technologies only the Internet giants have the resources to build. People and politics, therefore, must consider whether they want to have an Internet filtered exclusively by private companies or to make the necessary investments to make Internet law enforcement faster, more efficient and comprehensible for all parties involved. An independent office with judicial competence and/or a voluntary joint cooperation between government institutions and stakeholders in civil society could create a remedy.

The RTR monitors net neutrality in accordance with the TSM Regulation of the European Union, which came into force in November 2015. According to the RTR's (2019) most recent report, most ISPs manage network traffic in a way that does not violate net neutrality.

The Top 4 Internet service providers constitute a full 90% of the market (European Commission, 2018), which can be considered as highly concentrated.

Risk to **Market Plurality** is lower for online media than for the media in general. This is partly because the audience share of the Top 4 owners competing in the digital market is 38% (based on data for 41 online news media outlets, provided by reppublika.com). If, however, news aggregators and digital intermediaries such as search engines and social media (which, alarmingly, represent the main way in which people access online news) are included in the calculation, the market share of the Top 4 online competitors increases to 55%. (Please note that the data is unsatisfactory: the Österreichische Webanalyse (ÖWA) collects usage data only on some Austrian offerings, with most digital native media missing; information on online advertising market shares of platforms and news media is not available.)

Regarding digital platforms, the Austrian government adopted the Digital Tax Act 2020, which levies a 5% digital tax on domestic online advertising services provided by large multinational companies. Domestic online advertising services are defined as services that are "received by a user with a domestic IP address and whose content and design are (also) targeted at domestic users". The digital tax applies mainly to companies like Facebook, Google, and Amazon that are assumed to generate a yearly domestic revenue of 25 million euros from providing online advertising services. It can be said that the government is trying to establish fairer conditions for competition in the online sector, although it is too early to assess whether the legal provisions are effective and whether they violate current EU law. The digital services tax revenues shall be used for supporting the digital transformation of Austrian media companies. So far, online media is not covered by public support schemes.

With regard to media viability, online advertising expenditure that goes to news media seems to be stationary (European Audiovisual Observatory, 2019), and there is only a limited, albeit growing, number of initiatives aimed at developing alternative sources of revenue (such as apps for tablets and smartphones, various paywall models, combined subscriptions for print and digital editions, and crowdfunding). According to the Reuters Digital News Report, about 9 percent of Austrians spent money on online news in 2018 - and the trend is rising: 14.4 percent of 18- to 24-year-olds and 12.6 percent of 25- to 35-year-olds are willing to pay. From a global perspective, Austria is in the lower midfield for paid content offerings (Gadringer et al., 2019).

The measures in legacy media laws, which stipulate that the exercise of the journalistic profession is incompatible with activities in the field of advertising, only apply to the online platforms of legacy media, not to all digital news media. By contrast, provisions on separation and labelling of advertising and journalistic contributions apply both to native advertising and influencer marketing (unfortunately not to content marketing). There are even solutions for advertising labelling for tweets and posts, which the PR Ethics Council describes in its online code of conduct.

In the area of **Political Independence**, online dimension is again at lower risk than the media in general. However, this may have to be attributed to a lack of data, as there is not sufficient research on political affiliation of online news media.

The Austrian Broadcasting Corporation Act provides detailed and very strict provisions concerning funding of the online public service missions of the PSM aimed at preventing the interference of competition with private media

actors. Only the public service broadcaster has guidelines for journalists' use of social media, and only self-regulatory measures regarding the PSB's online platform are in place. These aim to ensure equal opportunities for online political advertising during electoral campaigns. Regarding political parties, the 2012 Federal Act on the Financing of Political Parties restricts campaign expenses and makes it mandatory for parties to disclose their income (including sources of income) and expenditures. While reporting on campaign spending on online platforms is not explicitly mentioned in the law, Facebook has been publishing the expenditures for political advertising, including election advertising, since March 2019. Moreover, Facebook's Ad Library was operational during the last elections for the European Parliament and the Austrian Parliament.

The Austrian Data Protection Authority takes sufficient account of the proper use of personal data.

The area **Social Inclusiveness** shows an equally high risk for online media and platforms as for media in general.

67% of the Austrian population has basic or above basic overall digital skills. Austria ranks 13th out of the 28 EU Member States in the European Commission's 2019 Digital Economy and Society Index (DESI), thus remaining slightly above the EU average. The gap between Austria and the best performing countries, however, has increased. This is because Austrians perform below average in connectivity, use of internet services and integration of digital technologies, and Austrian enterprises (which suffer from a lack of skilled IT workers) do not take full advantage of digital technologies.

Nevertheless, digital literacy not only refers to technical skills, but also to cognitive skills such as being able to use digital media in a competent and reflective manner. This becomes particularly apparent when it comes to hate speech.

A report by the NPO ARTICLE 19 (2018) states that "relevant protections against 'hate speech' are found in a range of laws, which contribute to confusion about this topic," and that criminal law, which is predominantly applied in this matter, contains a number of speech-related provisions which do not comply with international standards. This was also one of the criticisms of the former government's draft bill urging forums to conduct an authentication of their users ("digital disguise ban"). Civil society groups argued that the bill would be a worrying step backward for online freedom. The Austrian (self-)regulatory framework is not sufficient for addressing hate speech in the media. Most of the Press Council's decisions regarding hate speech concern journalists' statements on social media platforms and are issued against a small number of (mostly tabloid) outlets, which are usually not members of the Press Council.

The lack of comprehensive action from official institutions is supplemented by the work of several civil society organizations. Anti-racism NGO ZARA monitors instances of hate speech on social media and publishes an annual report on its findings. It often refers cases to law enforcement agencies and notifies social media providers about serious cases, including requests for content moderation. Although a few Austrian media outlets have taken measures recently to professionalize their community management departments, most newsrooms lack structures and clearly communicated guidelines for dealing with hate speech and discrimination.

5. Conclusions

The MPM 2020 found the Austrian media system to be basically in good condition. However, the findings also indicate that there is ample room for improvement.

In the area of **Basic protection**, the government should implement its plan to amend:

- the laws on the right to information
- the transparency laws, particularly related to the digital environment, as soon as possible.

All political and societal organisations are called upon not only to refrain from, but to publicly outlaw threatening speech and smear campaigns against journalists.

In the area of **Market Plurality**, lawmakers should incorporate the changes in the media landscape into competition law, particularly aiming to prevent a further increase in cross-media concentration. This is all the more important as the rates of horizontal ownership and audience concentration are far higher than acceptable from a democratic point of view.

Concerning **Political Independence**, all political actors should refrain from any intervention in and attempts to influence editorial decisions and/or management policies of media outlets, in particular the public service broadcaster.

The current system of media subsidies should be financially upgraded and revised to support the democratic quality of all types of media, thus ensuring the plurality of perspectives and positions in the public debate. A revised system of subsidies should focus on

- social diversity in media content, newsrooms and management boards;
- information for local communities as vital cells of democracy (Crouch, 2004);
- and empowerment of the people by providing support to civil society initiatives and enabling citizens take part in media content production and discussions on matters of public interest.

As all three of these objectives are already being met by non-profit community media, ensuring their financial sustainability and increasing their numbers (for example, according to the number of NUTS 3 regions) must be considered a priority. This is in line with Recommendation CM/Rec(2018)1[1] of the Committee of Ministers to Member States on media pluralism and transparency of media ownership.

All media outlets in every sector should be legally obliged to implement self-regulatory measures that establish and foster internal plurality, editorial independence from political and commercial influences, participation of editorial staff in appointment procedures for leading positions in the editorial department, an internal quality management system, and moderation of online discussion forums.

The last two recommendations are also designed to promote **Social Inclusiveness**.

In this respect, the ongoing changes in media use underline the need for comprehensive political efforts to establish media literacy as an integral part of the mandatory school curriculum. In accordance with the Directive (EU) 2018/1808 of the European Parliament and of the Council, more measures are needed to promote critical and reflective media consumption, to create sensibility for implicit effects (Beaufort, 2019) which are becoming more prevalent in today's media environment, and to foster communication skills, particularly when using social media, in order to raise awareness of hate speech and personal insults toward others.

Finally, since much of the data considered necessary to carry out the MPM assessments is not easily available to the Austrian public or is not detailed enough (particularly concerning advertising expenditures, ownership and revenue structures of several media companies, and audience measurement in the radio, television, and—above all—Internet markets), addressing this lack of transparency would increase confidence in the media and media policy.

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ANNEXE I. COUNTRY TEAM

First name	Last name	Position	Institution	MPM2020 CT Leader
Josef	Seethaler	Deputy Director	Austrian Academy of Sciences, Institute for Comparative Media & Communication Studies	X
Maren	Beaufort	Scientist	Austrian Academy of Sciences, Institute for Comparative Media & Communication Studies	

ANNEXE II. GROUP OF EXPERTS

The Group of Experts is composed of specialists with a substantial knowledge and experience in the field of media. The role of the Group of Experts was to review especially sensitive/subjective evaluations drafted by the Country Team in order to maximize the objectivity of the replies given, ensuring the accuracy of the final results.

First name	Last name	Position	Institution
Walter	Berka		University of Salzburg
Alfred	Grinschgl		Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR)
Dieter	Henrich		Verband der Regionalmedien Österreichs
Helga	Schwarzwald		Association of Community Radios
Daniela	Kraus		Presseclub Concordia
Daniela	Zimmer		Arbeiterkammer Wien/Viewers' and Listeners' Council (Publikumsrat), ORF

