



# 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: Poland

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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 Poland the CMPF partnered with Beata Klimkiewicz (Institute of Journalism and Social Communication, Jagiellonian University), 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 Annex 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).*

<b>Basic Protection</b>	<b>Market Plurality</b>	<b>Political Independence</b>	<b>Social Inclusiveness</b>
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

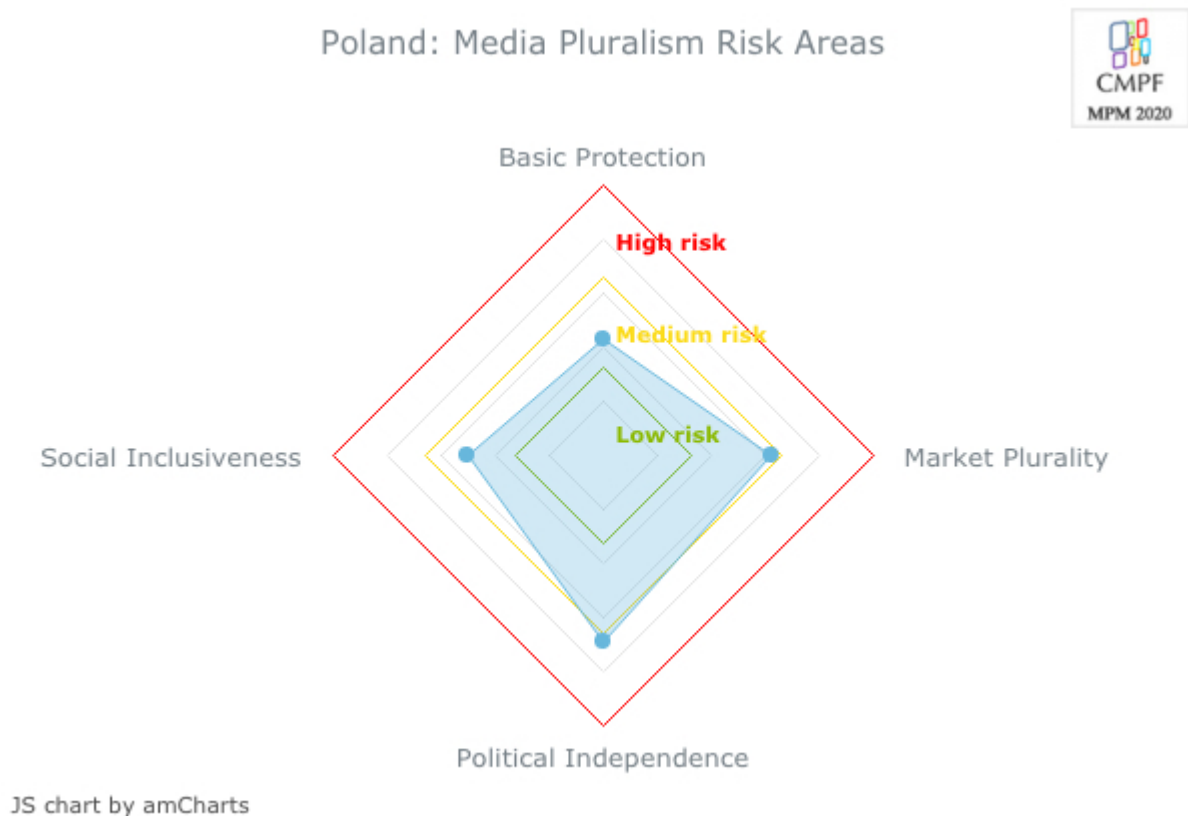
With 37,862,045 inhabitants (UN Worldometers, 2020), Poland ranks the 6th populous country of the European Union and the largest media and linguistic market among the Central and East-European EU Member States. An ethnic and linguistic structure of the population is relatively homogenous with 97% of citizens identifying with a Polish nationality (GUS, 2011). The state officially recognises 9 national minorities, 4 ethnic groups, and one language (Kashubian) enjoys officially the status of a minority and regional language (see the 2005 Act on national and ethnic minorities and on the regional language).

In 2019, European and general national (parliamentary) elections were held in Poland. In both of them a majority of votes was secured by the governing Law and Justice Party with Mateusz Morawiecki appointed as a Prime Minister for the second term (Law and Justice party collected 45% of votes in the elections to EP held on 26 May 2019 and 44% of votes in the national parliamentary elections held on 13 October 2019). While an overwhelming majority of Poles strongly approves membership in the EU (CBOS, 2019a), society is deeply polarized and divided across political and ideological lines. Likewise, the media and journalistic communities offer different narratives of social and political reality frequently leading to opposing accounts. In the 2019 CBOS polls, 80% of respondents declared that media coverage of the same issues is so different that it is very difficult to detect the truth (CBOS, 2019b).

A stable economic situation contributes to a relatively substantial development of most media sectors with the exception of traditional press. A steady growth of GDP averaging 4.2% per annum between 1991 – 2019 has been supported by a significant domestic market and competitiveness, especially in the EU labour market (Fredriksson, 2019). Proportions of both foreign and domestic capital and ownership (both EU and US-based) in the media sector are quite significant. The Polish media landscape is composed of strong and concentrated TV networks, which dominate news provision, weakening, but still influential and opinion-forming newspaper groups, growing news portals and start-ups offering journalistic commentary, investigations and analysis.

Between 2015 – 2019 the Constitutional Court, district courts, the National Judicial Council (KRS) and the Supreme Court underwent a deep and controversial legal reform bringing about a series of disputes between Poland and the EU. As many of these changes weaken independence of judiciary and make it fragile and exposed to political pressures, the implications for freedom of the media and media regulation can be far-reaching (Commissioner for Human Rights of the Council of Europe, 2019; Śledzińska-Simon, A., 2018). The two broadcasting law amendments introduced in 2015 (The 2015 Act Changing the Broadcasting Act) and 2016 (The 2016 Act on the National Media Council) led to stronger governance and political control of PSM and a leading national press agency (PAP). While the regulated state support for the private media sector in Poland has been minimal, recent funding flows through other tools, in particular state advertising, have led to asymmetries in media funding schemes. Some improvement can be seen especially in respect with tax reduction policies. An inclusion of e-press in 2019 among categories eligible for 8 per cent reduced VAT rates might help publishers to better secure online subscriptions (see: The 1997 Act on tax entail, as amended in 2019). Poland has not introduced a specific form of taxation for digital services so far, but there has been a debate about “digital tax” during the year.

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



The 2019/2020 MPM measurement shows that media pluralism in Poland continues to face medium risks in the areas of Basic protection, Social inclusiveness and Market plurality, while the area of Political independence remains challenged by a high risk (69%).

One of the highest risk in this area is detected in the field of independence of PSM governance and funding (83%). The PSM appointment and governance procedures set up in 2016, have resulted in growing political control. Lack of an impartial portrayal of political issues in PSM, especially as concerns 2019 electoral campaigns, has been openly defended by PSM management as a necessity to “balance heavy liberal bias” of the majority of private commercial media (Karnowski Jacek and Karnowski Michał, 2019).

News media concentration (91%) and online platforms concentration (85%) stand for the largest threat to diversity in the market plurality area due to relatively consolidated media sector markets (in particular audiovisual and cross-media) as well as lack of media-specific anti-concentration policies and lack of publicly available data displaying actual shares of companies in audience and revenue markets.

As regards the Basic protection area, criminalization of defamation and higher protection of public officials against journalistic criticism continue to raise concerns under the indicator on protection of freedom of expression (59%). In conditions of pending and controversial judicial reform unrestricted journalistic performance more critically depends on effectiveness of self-regulatory measures. These, however, have not been implemented effectively in Poland due to growing polarization, dividing also journalistic community. Moreover, media users have become increasingly confused and divided in their reception of media output (CBOS, 2019b).

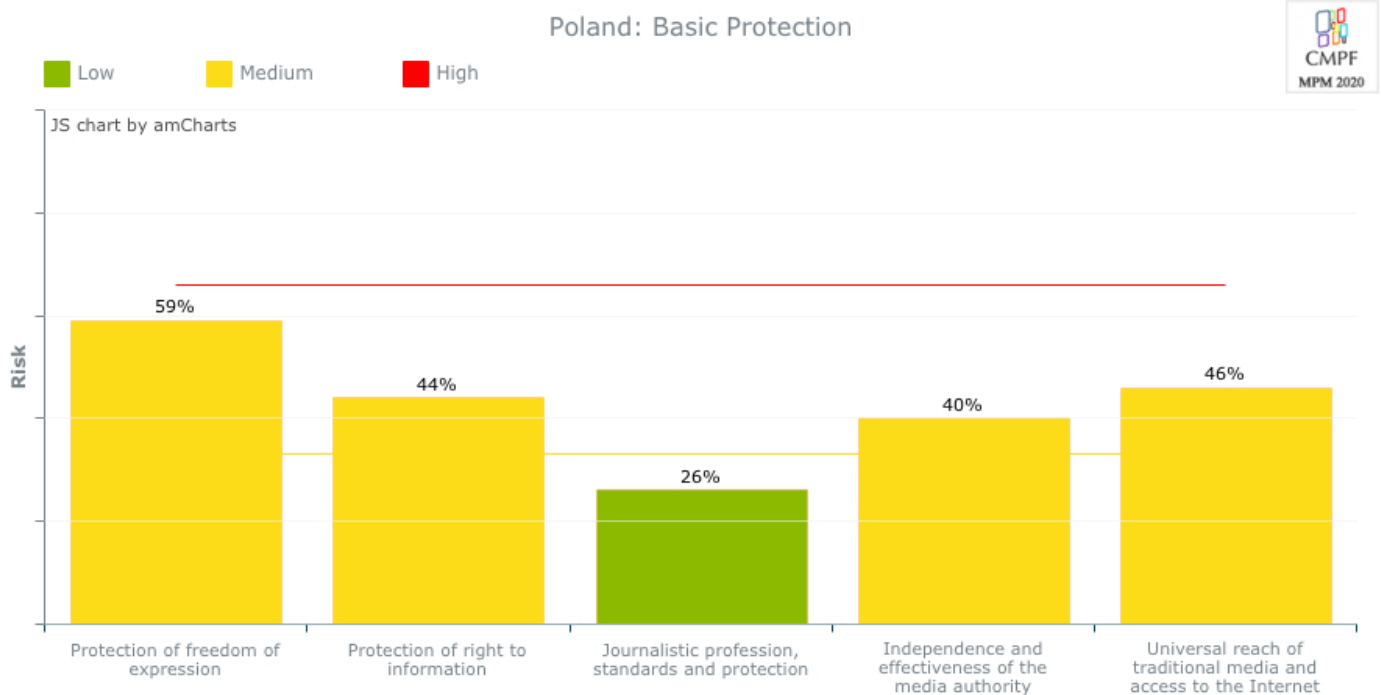
In the MPM 2020 measurement, only three indicators detect low risk: Journalistic profession, standards and protection (26%), Media viability (21%) and Access to media for people with disabilities (3%).

#### 3.1. Basic Protection (43% - medium 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 highest risk in this area manifests in the indicator on **Protection of freedom of expression** (59%). While media users in Poland generally enjoy a vast diversity of news services reflecting a variety of opinions, there are several risks that undermine this potential pluralism. At the beginning of 2020, the Law and Justice government introduced new disciplinary procedures for Polish judges (so called “gagging law”) that have been just a next step in an ongoing and controversial legal reform conducted since the end of 2015. The reform has affected judicial independence and led to several disputes between Poland and the EU, especially over the rule of law (Commissioner for Human Rights of the Council of Europe, 2019; Śledzińska-Simon, A. , 2018). Implications for media freedom and journalists are evident: judicial reform controversies deepen uncertainty among journalists and media professionals concerning their performance, especially as regards political reporting and investigative journalism. Moreover, problematic and unresolved issues from past, such as criminalization of defamation (under the controversial Article 212 of the Criminal Code) and criminal responsibility for insulting State symbols, senior public officials and religion, make journalists more vulnerable and potentially self-constraining in the new judicial conditions.

The indicator on **Protection of right to information** scores medium risk (44%). Right to information is relatively respected in Poland, albeit cases of denial occasionally happen. Access to information has been repeatedly denied at the local level, especially as regards information about activities of local/regional government or planned investments (CHR 2019). Other cases of denial included access of journalists to debates about educational and judicial reforms (CHR 2019).

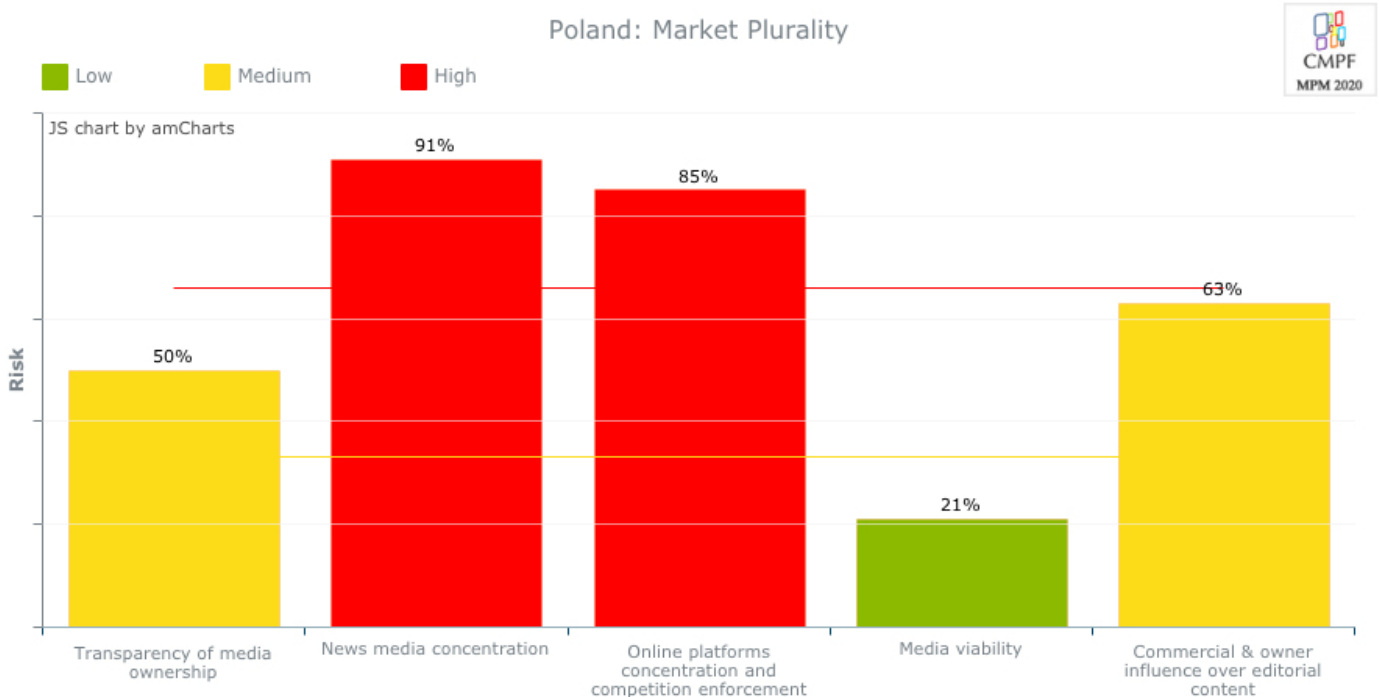
The lowest risk in this area is detected in the indicator on **Journalistic profession, standards and protection** (26%). While no journalists were killed in recent years in Poland and journalists are not arbitrary imprisoned, some attacks or threats to the physical safety of journalists occasionally happen. Access to journalistic profession is currently open, but in 2019 Law and Justice party announced plans to develop “law on a professional status of a journalist”. The eventual bill would aim at a legal definition of a status of a journalist and setting a self-regulatory body verifying and evaluating professional standards (PiS 2019: 196). The journalistic community in Poland lacks a unified institutional setup that would effectively represent journalistic interests and professional standards. The landscape of journalistic associations is very fragmented and ideologically divided. During the last few years, verbal aggression in the media has increased,

journalistic accounts have further polarized and public trust eroded (see e.g. CBOS 2019b; CoE 2020; press.pl 2017). The indicator on **Independence and effectiveness of the media authority** amounts to 40% and shows a medium risk. In practice, the appointment procedures for KRRiT have not effectively limited the risk of political influence. In 2016, some of the competences of KRRiT in the area of appointing PSM boards and supervising PSM were taken over by the newly established National Media Council (RMN), regrettably lacking conflict-of-interest rules as regards the membership of active politicians. None of these bodies proved effective in monitoring PSM's news performance in accordance with its legally-set remit. During 2017 - 2019 two academic reports (Uniwersytet Papieski JP II 2017; Rada Języka Polskiego 2019) providing evidence for TVP's political bias were largely overlooked by both KRRiT and RMN, while no electoral monitoring was ordered to analyse media coverage of 2019 campaigns to European and national parliaments.

The indicator on **Universal reach of traditional media and access to the internet** amounts to 46%. Medium risk in this area stems mainly from the lower penetration of fixed-line broadband internet in Poland (18.6 per cent in 2018) than EU average (34.1 per cent) (Office of Electronic Communications 2019). Also, coverage of the population by signal of PSM channels, in particular radio, seems lower than standard parameters in this area.

### 3.2. Market Plurality (62% - 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.*



Overall, Market plurality detects the medium risk (62 per cent) and seems to be the only area where risk for digital indicators is lower than for all indicators (61.4 per cent).

The indicator on **Transparency of media ownership** scores a medium risk (50%). While the news media sector is not regulated by sector specific provisions on transparency, some media-specific rules are at place in the sector of broadcasting. These refer to disclosure of information to the public body - KRRiT (Articles 10(2); 37a of the 1992

Broadcasting Act). In March 2018, Poland implemented the 4th ALM Directive introducing the obligation to inform about beneficial owners to the Central Register of Beneficial Owners (CRBO). Full compatibility of CRBO with the National Court Register (KRS) is expected in April 2020.

The indicator on **News media concentration** shows the highest risks among all of the indicators amounting to 91%. Market (93% in 2017) and audience shares (83.38% in 2018) of the 4 top owners have been particularly high in the audiovisual market (KRRiT, 2019a). Still, new mergers have taken place in the last two years. In 2018, European Commission approved, under the EU Merger Regulation, US Discovery's acquisition of Scripps, operating mainly on UK and Polish markets (European Commission, 2018). Lack of publicly available data displaying actual shares of companies in audience and revenue markets contributes to strengthening risk in this area. Possible regulatory changes concerning media concentration are addressed in an indirect way. For example, the Law and Justice 2019 electoral programme observes that "...a majority of the media is controlled by the opposition and this creates a mechanism of concentration of public opinion" (PiS, 2019: 36). The document also emphasizes a necessity to "construct a new media order" (2019: 227).

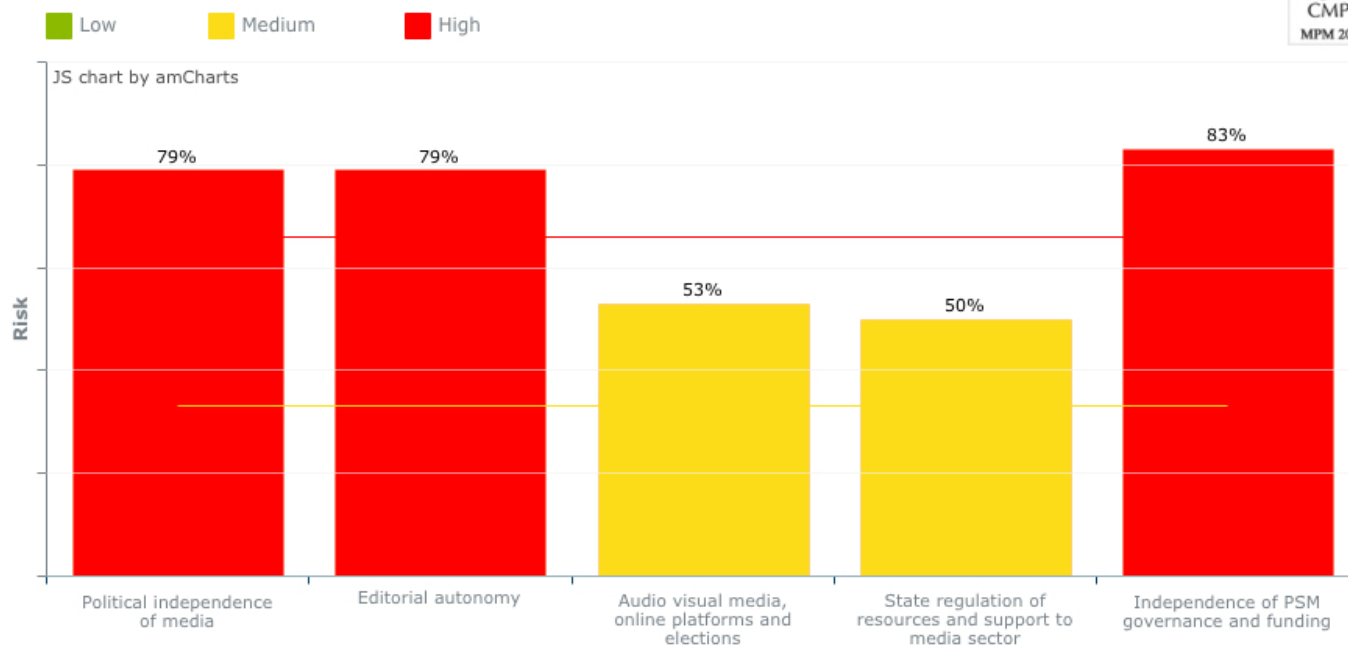
The indicator on **Online platforms concentration and competition enforcement** detects a high risk (85%) resulting mainly from a strong positions of leading platforms (particularly Google and Facebook) and lack of more precise and publicly available data exposing the online audience and advertising shares. According to IAB Online Advertising report, in 2018, Google's and Facebook's shares in Polish advertising market reached over 50 per cent. In addition to share in advertising, platform dominance plays the role in managing gateways to the news. According to available studies (Eurobarometer, 2016; Reuters Institute, 2019), a slight majority of Polish users accesses news online via social networks, search engines or other aggregators, thus preferring side-door rather than direct access.

The indicator on **Media viability** points to the lowest risk in this area (21%). This score stems mainly from growing advertising revenues in the audiovisual, radio sector and among the leading providers of digital native news. Expenditures for offline and online advertising have also increased in 2018 (KRRiT, 2019a). On the other hand, the revenue decrease in the newspaper and magazine publishing sectors puts under the question sustaining of the business models at place. Some publishers have been relatively successful with paid digital subscriptions and some journalists turned successfully to alternative sources of production and distribution. For example, Tomasz Sekielski produced a crowd-funded documentary [Tell No One](#) with 17 millions of users few days after its launch on Youtube. The documentary covered sexual abuse of children by catholic priests and spurred a debate about an institutional responsibility of Polish catholic church for covering up the crimes of disputed priests and silencing victims.

The indicator on **Commercial and owner influence over editorial content** ranks in the medium risk band (63 per cent). The amendment to 1984 Press Law Act from the end of 2017 removed obligations for journalists "to follow the editorial line of a particular title". The revised Article 10(2) now gives possibility to a journalist to reject a binding commendation if it contradicts with principles of fairness, objectivity and professional accuracy. Yet, the adequate social protection of journalists in case of ownership changes is still missing. Though some rules on advertorials exist in the 1984 Press Law Act (Article 12(2)), they are not effectively implemented. Commercial influence on the editorial content in Poland has been more subtle than political influence, often marked by editorial prudence and less exposed in the public debate.

### 3.3. Political Independence (69% - high 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 the area of political independence, the level of risk for media pluralism is the highest (69 per cent) among all measured areas and ranks in the high risk band.

A high score of the indicator on **Political independence of media** (79%) stems from the fact that relevant regulatory safeguards limiting political control over media outlets in Poland (e.g. limits on control of media by politicians) are missing. So are the rules on conflict of interests between owners of media and the ruling parties, partisan groups or politicians. While owners of largest media in Poland have no open affiliation with political parties, most of the news media promote distinct political views, including digital natives. As their legacy counterparts, digital news media have become more deeply polarized in the last few years.

In a similar vein, the indicator on **Editorial autonomy** shows the high risk (79%). Also, effective legal safeguards guaranteeing editorial autonomy are missing. Although several self-regulatory measures stipulate editorial independence, there is no agreement on what organization and which code of conduct would play a principal implementing role (SDP, 2001; SDRP, 1991; Wirtualnemedi.pl, 2019b; Media Ethics Charter 1995). As the CBOS survey from 2019 shows the perception of political bias in the media is widespread (Press.pl, 2019).

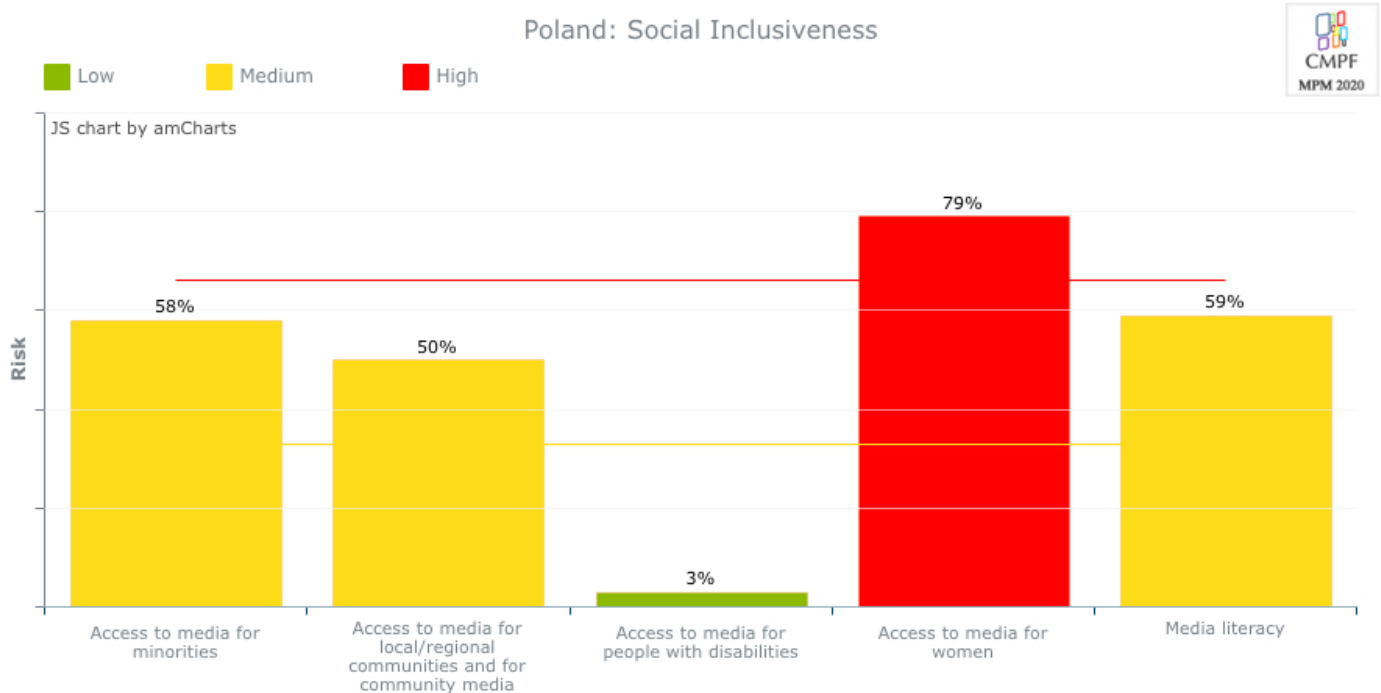
While the indicator on **Audiovisual media, online platforms and elections** shows a medium risk – 53%, some areas need decisive improvement. The existing impartiality rules concerning PSM’s news performance are formulated in a very general way and do not contain practical requirements of quality, accurate and impartial reporting. Moreover, current PSM do not respect much of these due to lack of effective monitoring by relevant public bodies. The observation of 2019 parliamentary elections in Poland and related media monitoring led to the following comment: “Favourable treatment of a political party by public media should be treated as an illegal use of public funds” (OSCE, 2019: 19). As it comes to political activities performed on platforms during elections, Poland occupies one of the top positions among countries with extremely high activity of bots, trolls and proportion of disinformation (Google, 2019a). The lowest level of risk in this area is detected by the indicator on **State regulation of resources and support to media sector** (50%). On the one hand, there has certainly been improvement especially in respect with tax reduction policies including digital press. An inclusion of e-press among categories eligible for reduced 5 per cent VAT rates might help publishers to better secure online subscriptions. Also, the specific tax rate (5 per cent) for local and regional press is likely to strengthen the condition of local and regional press. On the other hand, other forms of support, especially grants, loans and state advertising, are very fragmented, non-transparent and come with political strings. The scattered available data show that growing advertising expenditures of state-owned companies in the last three years have been distributed asymmetrically, along political lines (wp.pl. 2017; press.pl, 2019).

## The highest risk in this area is identified by the indicator on **Independence of PSM governance**

The biggest and lasting vulnerability stands for a mechanism of appointment of top PSM managers, including Directors General. In 2016, the appointment procedures underwent legal changes that strengthened political influence, especially by the newly established National Media Council controlled by active politicians of the governing party. Current PSM management, and TVP in particular, support bias in political representation justifying it by the need to “reinstat pluralism in the Polish public debate” (Karnowski Jacek and Karnowski Michał, 2019). For almost 30 years PSM also suffered from limited licence fee funding. Most of PSM’s activities were financed from advertising, sponsoring and other commercially related sources. In 2018, licence fees comprised 19.6 per cent of TVP’s revenues, while 66.5 per cent of Polish Radio’s revenues (KRRiT, 2019a). Currently, the government has contributed substantially to compensate the loss in licence fee revenues from the state budget (30.15 per cent of TVP’s revenues and 16.7 per cent PR’s revenues in 2018) (KRRiT, 2019). While contributions from the state budget might temporarily improve financial situation of PSM, in the long run this form of funding leads to dependence on the government and erosion of PSM’s autonomy.

### 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 ranks in the medium risk band (50%) with a slightly higher risk for digital indicators (59%).

**Access to media for minorities** scores medium risk (58%). Officially recognized minorities enjoy legally guaranteed access to airtime on PSM channels in practice, although larger minority groups are more likely to succeed with on-going programming and more convenient time slots. It is worth to notice that a share of programmes produced in minority languages in the TVP has remained fairly marginal, and has decreased almost in 25 per cent in the last four years (KRRiT, 2019b; CoE, 2019). Non recognized minorities do not enjoy the same guarantees as officially recognized minorities.

**Access to media for local/regional communities and for community media** scores a medium risk (50%). The

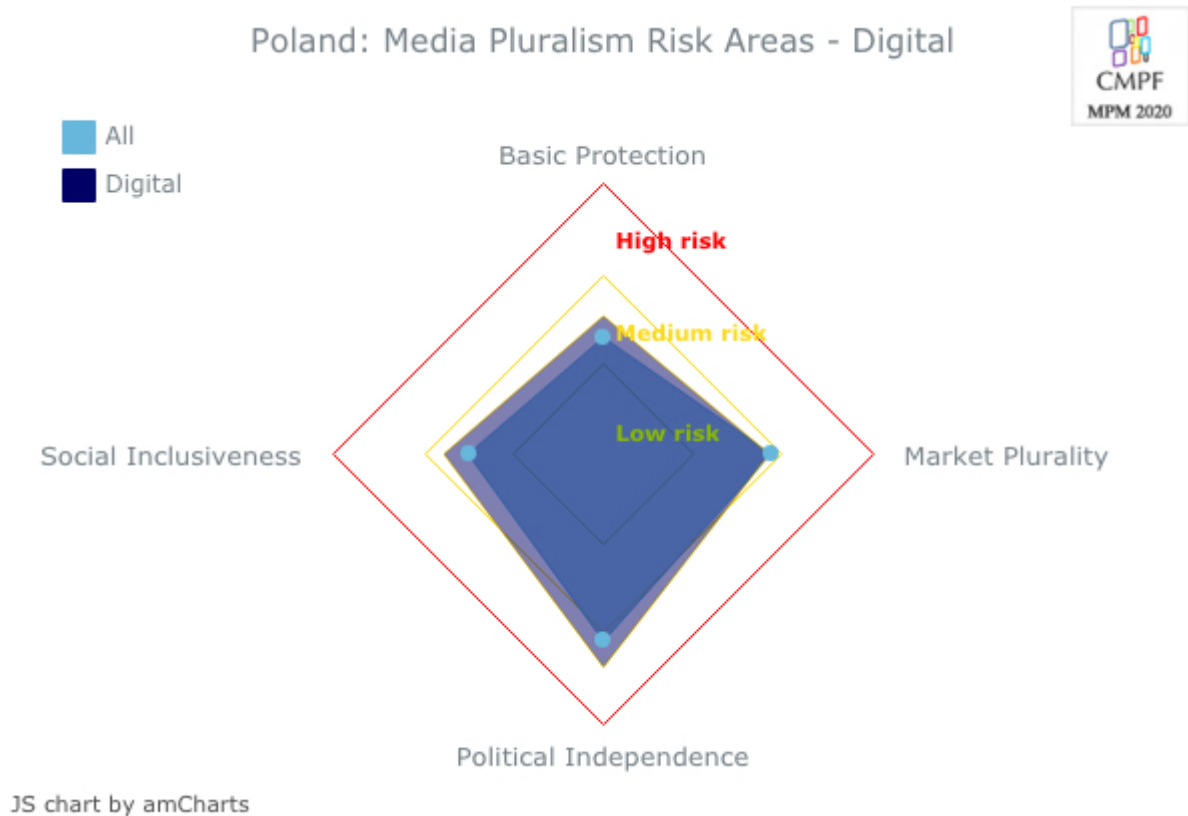
audience share of TV channels containing regional programming has decreased in the last three years, while in the case of radio channels the share has increased and it comprised 32.9 per cent in 2018 (KRRiT, 2019). Community media are not legally recognized as a third sector in Poland. The 1992 Broadcasting Act operates with the category of ‘social broadcasters’, but their independence is not recognized as a legal condition (Article 4(10) of the 1992 Broadcasting Act). In general, non-profit media such as student radios or minority media have quite marginal impact on a larger society with the exception of catholic media, in particular the Radio Maryja media network (including also TV Trwam among others). Whereas ‘social broadcasters’ are not formally subsidized on grounds of their status, the Radio Maryja network has benefited from various streams of public funding (provided by several ministries for special grants).

The indicator on **Access to media people with disabilities** scores the minimum risk at 3%. In general, the policy concerning access to media content by the physically challenged people has improved in recent years. Still, it does not seem to be fully satisfactory for media users with disabilities. In March 2018, 1992 Broadcasting Act was amended to increase quota from 10 per cent to 50 per cent of transmission time with appropriate aids such as audiodescription, subtitles for the hearing impaired and interpretations into the sign language (Article 18a). At the same time, available data show that overall proportion of programming with aids reaches levels below the EU average (KRRiT, 2019a).

**Access to media for women** scores the highest risk in this domain (79 %). Such a result stems mainly from three reasons. First, PSM lack a comprehensive gender equality policy other than general employment guidelines. Second, women are not proportionally represented in PSM management boards, and among members of management boards of private TV companies. Finally, available studies show that women tend to compose a fairly small portions of experts and guests invited to TV studios to discuss current affairs and political issues (e.g. Chrzyszczonowicz and Szczęśniak, 2018).

The indicator for **Media literacy** shows a medium risk (59%). On the one hand, media literacy seems to play an increasing role in media and communication policy in Poland and both KRRiT and PSM are supposed to promote and support it under the 1992 Broadcasting Act (Articles 6(2)13 and 21(1a)11). On the other hand, in practice media literacy policy is fragmented and activities of various institutions not well interrelated. The government has neither implemented a national media literacy programme, nor it has decided for formalization of media literacy programmes in schools (Ptaszek and Łysik, 2019). Hence necessary funding seems to fluctuate and lack stability. Effective teaching very much depends on support from school officials and engagement of parents. Most of the informal media literacy activities are carried out by NGOs, including projects on shaping safe online behavior.

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



Digital sub-indicators tend to mark higher risk scores in all of the areas with the exception of Market plurality than the overall scores.

In the **Basic Protection** area, the results for digital sub-indicators stand for 51% (medium risk) in comparison with 43% for the whole domain. Freedom of expression online does not function as a specific legal category distinguished from freedom of expression and freedom of the media in the Polish Constitution or media relevant laws (the 1984 Press Law Act and 1992 Broadcasting Act). The government has recently promoted freedom of expression in the internet as one of its flagship policy issues. The 2019 electoral programme of Law and Justice party acknowledged ‘freedom of expression and the media in internet’ as an important safeguard of democratic and creative freedom, while at the same time, standing in a possible conflict with the new Directive on Copyright in the Digital Single Market (PiS 2019). At the end of May 2019, Poland filed a challenge to the Copyright Directive to the CJEU on grounds that it may introduce preventive censorship and pose threat to freedom of speech in the internet (Mileszyk 2019). Digital safety of journalists has been occasionally threatened through surveillance by the police and intelligence services as well as the use of journalists’ telecom or internet data without their prior notification (Bychawska-Siniarska and Warso, 2015; Panoptiko, 2019). Also, in 2019 a case of mobile intimidating messages was reported in connection with investigative reporting performed by a journalist of the quality daily *Dziennik Gazeta Prawna* (CPJ 2019). Lower universal reach of broadband, especially as it comes to fixed-line broadband internet, contributes to higher scores of the risk attributed to digital sub-indicators in this area.

In the **Market Plurality** area, digital sub-indicators score a marginally lower level of the risk (61%) than the whole area (62%). One of the greatest risks pertains to the lack of publicly available data displaying actual shares of digital natives, online news providers as well as platforms in audience and revenue markets. Also, different methods applied for measurement of reach of the services among users (e.g. by Gemius/PBI 2019; or Reuters Institute 2019) come up with different results. The scattered available data show an unquestionably strong dominance of two digital native news portals – wp.pl and onet.pl, both at the digital natives and online news providers markets. The leading digital platforms (Google and Facebook in particular) have secured a majority share in Polish online advertising market (IAB 2018/2019). The platforms also largely provide a point of access to the news as a slight majority of Polish users prefers an indirect path rather than direct access to the news (Reuters Institute 2019). In Poland, direct state support for

the media sector, including digital news media, has been minimal. Albeit in 2019, the Parliament passed amendment to the 1997 Act on Tax Entail that reduced the tax for e-press from 23% to 8%. In 2019, the Polish government also launched legislative works on a specific form of taxation for digital services (largely based on the European Commission's directive on digital service tax), yet the strong criticism and preventive political steps taken by the US government contributed to rejection of the idea (polandin.com 2019).

In the area of **Political Independence**, digital sub-indicators display the highest risk across all of the domains (79%). In comparison with the legacy media, the digital native media environment seems to be more dynamic, open to entry of new forms of journalistic activities, such as civic or investigative journalism. Similarities on the other hand pertain to growing polarization and occasional political influences. In January 2020, OKO.press, an investigative and fact-checking news website revealed controversial editorial policies of the leading digital native news portal wp.pl (owned by Wirtualna Polska – WP - holding). According to investigations, hundreds of wp.pl articles were written under the names of faked journalists, some of which praised the Ministry of Justice and selected state-owned companies. Also, journalists were encouraged during editorial meetings to offer positive coverage of the Ministry of Justice in exchange for lucrative government advertising (OKO.press.pl 2020; notesfrompoland.com 2020; wirtualnemedial.pl 2020). The digital sub-indicators on specific codes of conduct concerning the use of social media show that these are largely absent in Poland. At the same time, journalists are aware of dividing or polarizing effect of social media on journalistic community, especially when referring to disputes about journalistic performance and quality of news work (Press Institute 2017). As regards rules on political advertising, in particular labelling political and issue-based advertising by platforms, leading players introduced new internal rules in 2019 in Poland. YouTube has used a tool to label publishers that are government or publically funded on the watch pages of their videos (Google 2019a), while Google launched the Fact Check Label in Google News and Search to facilitate access of users to fact-checked public information (Google 2019a: 18). Facebook introduced a proper registration for publishers of political or issue ads enabling users to see who is paying for the ad (Facebook 2019a). Finally, concerning PSM funding for the online remit, risks remain real. In current circumstances, legal provisions do not guarantee that funding adequately covers the online public service missions. In 2019, KRRiT initiated a public consultation about new internal PSM charters that could specify (among other issues) online PSM activities (in draft charters covered mainly by Article 2) (TVP 2019). After several months of consultations, KRRiT refused to accept proposed charters arguing that PSM lack a stable financing model (wirtualnemedial.pl 2019).

In the area of **Social Inclusiveness**, digital sub-indicators detect a medium risk level (59%). The sub-indicator on digital competencies shows that 44% of the population has basic or above basic overall digital skills which scores for the high risk, while 28% of the population has low overall digital skills (Eurostat 2019) which stands for the medium risk. As regards legal safeguards against hate speech, these are generally based on constitutional provisions, 1997 Criminal Code and 1992 Broadcasting Act. The Constitution provides general anti-discrimination provisions and protection against parties and organisations eventually disseminating hate speech, but does not explicitly prohibit hate speech (see Articles 13, 32(2) and 35 (1)). While the 1997 Criminal Code prohibits and punishes various forms of incitement to hatred, the catalog of punishable forms of discrimination seems rather modest including 'national, ethnic, racial or religious' differences, and omitting such grounds as sex (e.g. incitement of hatred against women), sexual orientation or disability. In practice, disciplinary actions concerning hate speech disseminated by the media or journalists rarely take place. As regards operation of platforms, recently some of the players operating in Poland improved content management rules, including protection against hate speech (see e.g. YouTube 2019a; 2019b; Facebook 2019b; Google 2019b). At the same time, in the last few years, platforms in Poland have had to deal with increasingly polarised and offensive contents. Targets of these comments have often been minorities including disabled persons, LGBT community, feminist activists, youth and other activists all over the political and ideological spectrum.



## 5. Conclusions

The MPM2020 measurement demonstrates that media pluralism has been challenged by medium risks in Basic protection (43%), Market plurality (62%) and Social inclusiveness areas (50%). The Political independence area has been exposed to a high risk (69%). Digital sub-indicators tend to mark higher risk scores in all of the areas with the exception of Market plurality.

Although the Basic protection area accounts for the lowest risk among all of the areas, the problematic issues generate systemic implications for media pluralism, especially as regards weakening of judicial independence, insufficient safeguards for independence of a media regulatory authority (KRRiT) and missing self-regulatory standards on responsible and high-quality journalistic practice (while several codes of conduct have been introduced by various journalistic organisations, these have not been respected by the whole journalistic community and thus also effectively implemented). A possible response to these risks may focus on:

- developing norms-based, widely accepted system of self-regulation that would effectively monitor breaches and implement professional sanctions. Such a system should be initiated by professional associations, eventually journalism schools and industry bodies, not the state institutions or political parties, and should cover journalistic activities in the whole digital environment, including social media and other platforms,
- strengthening judicial independence to ensure an enabling environment for freedom of expression and legal certainty for journalists and media industry,
- reinforcing independence of media regulatory authority (KRRiT) and strengthening its mandate in the area of effective PSM monitoring, media transparency and media literacy

In the Market plurality area, a relatively high ownership concentration and dominance doesn't only affect legacy media markets, but is also enhanced by new players. These include digital platforms that now function as principal gateways to the news, while also play a key role in setting rules on content management issues such as political advertising or hate speech. These risks may be addressed by:

- establishing effective rules that would limit concentration of media power and dominance (not only concentration of ownership) and be more sensitive to specific features of digital media markets, including 'distributor' and 'gateway' function of platforms,
- applying a broader and well-elaborated concept of media/news transparency providing clarity of beneficial ownership, acknowledgment of sponsorship and advertorial deals, disclosure of full information on state advertising, algorithmic transparency concerning news recommenders, etc.

Political independence proves to be the most vulnerable domain according to the measurement, in particular as pertains to independence and funding of PSM (83%). With growing challenges affecting the business models for news producers, and press in particular, insufficient transparency and asymmetric distribution of state advertising contributes to serious threat. The high score of the risk in this area can be balanced by:

- ensuring impartial model of PSM governance, especially appointment procedures that would allow to select PSM boards without influence of the government, political parties or commercial interests,
- providing substantial and long term funding for PSM other than loans from the state budget,
- introducing effective self-regulatory rules for limitation of political influence,
- guaranteeing transparent (full disclosure of information to citizens) and proportional distribution of state advertising for the news media, including digital natives, online providers and platforms.

In the area of Social inclusiveness, particular concern may be raised with regard to insufficient regulatory safeguards for

independence of community media, absence of gender equality policies in PSM as well as weak and fragmented national policy on media literacy. These risks may be tackled with:

- legal and policy recognition of non-profit community media while respecting their independent status,
- developing and implementing a more systematic and long-term approach towards media literacy (including formal curriculum), completed by regular monitoring of media use and observations of media users skills and competences,
- adopting the protective scope of measures on ‘hate speech’ that would encompass characteristics recognized under international human rights regime such as sexual orientation, gender equality and disability.

Finally, protection of media pluralism in a hybrid digital and news environment requires engagement of multiple actors including public institutions, journalistic organisations, news media industry, digital platforms as well as users themselves. It is the very condition of a high-quality news diversity that can ultimately strengthen resilience of democracy against growing societal polarization and fragmentation.

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## ANNEXE I. COUNTRY TEAM

First name	Last name	Position	Institution	MPM2020 CT Leader
Beata	Klimkiewicz		Institute of Journalism and Social Communication, Jagiellonian University	X

## 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
Alicja	Jaskiernia	University Professor - Academic	University of Warsaw, Faculty of Journalism, Information and Book Studies
Andrzej	Krajewski	Representative of a journalistic organisation	Towarzystwo Dziennikarskie (Society of Journalists)
Jolanta	Hajdasz	Director of CMWP; Vice-Chair of SDP	Press Freedom Monitoring Centre (CMWP) , Polish Journalists' Association (SDP)

