

# MONITORING MEDIA PLURALISM IN THE DIGITAL ERA

## APPLICATION OF THE MEDIA PLURALISM MONITOR IN THE EUROPEAN UNION, ALBANIA, MONTENEGRO, THE REPUBLIC OF NORTH MACEDONIA, SERBIA & TURKEY IN THE YEAR 2020

Country report: Austria

Josef Seethaler, Austrian Academy of Sciences, Institute for Comparative Media & Communication Studies

Maren Beaufort, Austrian Academy of Sciences, Institute for Comparative Media and Communication  
Studies (CMC)

**Research Project Report**

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# 1. About the project

## 1.1. Overview of the Project

*The Media Pluralism Monitor (MPM) is a research tool designed to identify potential risks to media pluralism in the Member States of the European Union and in candidate countries. This narrative report has been produced on the basis of the implementation of the MPM carried out in 2020. The implementation was conducted in 27 EU Member States, as well as in Albania, Montenegro, the Republic of North Macedonia, Serbia and Turkey. This project, under a preparatory action of the European Parliament, was supported by a grant awarded by the European Commission to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.*

## 1.2. Methodological note

### Authorship and review

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

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

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

<b>Fundamental 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 women
Independence and effectiveness of the media authority	Media viability	State regulation of resources and support to media sector	Media Literacy
Universal reach of traditional media and access to the Internet	Commercial & owner influence over editorial content	Independence of PSM governance and funding	Protection against illegal and harmful speech

Table 1: Areas and Indicators of the Media Pluralism Monitor

## **The digital dimension**

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

## **The calculation of risk**

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

*Scores between 0 and 33%: low risk*

*Scores between 34 to 66%: medium risk*

*Scores between 67 and 100%: high risk*

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

**Disclaimer:** The content of the report does not necessarily reflect the views of the CMPF, nor the position of the members composing the Group of Experts. It represents the views of the national country team that carried out the data collection and authored the report. Due to updates and refinements in the questionnaire, MPM2021 scores may not be fully comparable with previous editions of the MPM. For more details regarding the project, see the CMPF report on MPM2021, soon available on: <http://cmpf.eui.eu/media-pluralism-monitor/>.

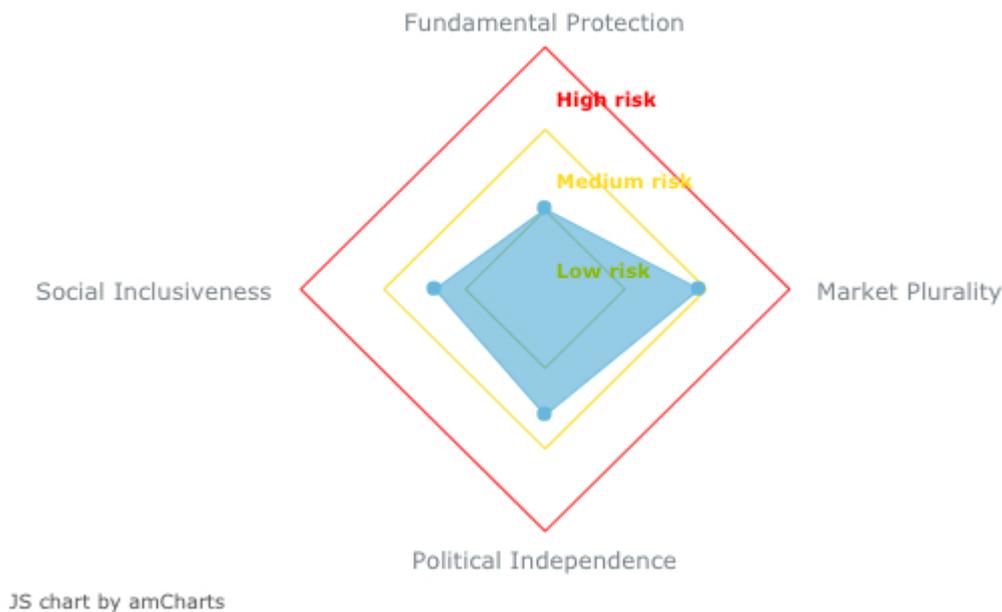
## 2. Introduction

- **Country overview:** Population: 8,933,346 (preliminary data of 1 January 2021); geographic area: 83,878 mm<sup>2</sup>
- **Languages:** German; in some regions, Burgenland-Croatian, Slovenian and Hungarian are recognised as official languages of autonomous population groups
- **Minorities:** According to preliminary data from 1 January 2021, 17.1% of the population are citizens of other countries. These include Germany (2.3%), Romania (1.5%), Serbia (1.4%), Turkey (1.3%) and Bosnia and Herzegovina (1.1%). According to the 2020 annual average, 24.4% of the population come from a migrant background (i.e. they are first- or second-generation immigrants). (all data: [www.statistik.at](http://www.statistik.at))
- **Economic situation:** The COVID-19 pandemic hit the Austrian economy hard in 2020: minus 6.6% GDP in real terms. According to Statistics Austria, this places Austria in the lower third of EU member states. The unemployment rate was 5.4% in 2020 (according to the ILO definition; 9.9% according to the national definition), but the youth unemployment rate (ages 15 to 24) reached 10.5% (ILO). (all data: [www.statistik.at](http://www.statistik.at))
- **Political situation:** All the political institutions established by the Constitution (including the Federal President) are voted into office through either direct or indirect elections. After the [national election](#) in September 2019 (a snap election because of the so-called 'Ibiza' scandal), a coalition was formed between the two biggest winners, the conservative Austrian People's Party (ÖVP), which has been part of the government since 1986, and the Greens. The former government partner of the ÖVP, the right-wing Austrian Freedom Party (FPÖ), lost almost 40% of its former voters, but the Social Democrats (SPÖ) also suffered losses. The traditionally weak Liberals experienced small gains.
- **Media market:** Two thirds of the Austrian population are highly interested in news. Television remains the most significant source of information, and the public service broadcaster has maintained a relatively high market share of about one third of the television market. Although numerous radio stations and news sites have their origins in newspapers, printed newspapers are losing importance both as an advertising medium and as a source of information. Only for the 55+ generation are they still the second most significant news source. For 36% of people under 24 years of age, social media is the most significant daily news source, and two thirds of people under 35 use it as one of their sources. Even if under-35s use legacy media, they primarily do so online, and smartphones are the main way to access news online for all age groups under 55 (Gadringer et al., 2020).
- **Regulatory environment:** Since January 1, 2021, a new law aimed at combating hate speech on the Internet has been in force (Bundesgesetz, mit dem Maßnahmen zur Bekämpfung von Hass im Netz getroffen werden, 2020). Moreover, on February 22, 2021, the Austrian government agreed on a freedom of information law which has been the subject of wrangling for decades. At the time of writing this report, the draft legislation is under consultation (Republik Österreich – Parlament, 2021a).
- **COVID-19:** In order to cushion the effects of the COVID-19 crisis, special government subsidies amounting to almost 35 million euros have been granted. A coronavirus relief fund was also established to cover liquidity requirements and overheads, and VAT was temporarily reduced for newspapers and other periodicals, including electronic publications. These extraordinary state support schemes were widely seen as effective in compensating for the decrease in revenues due to the COVID-19 pandemic, but – like the Austrian media support system as a whole – not appropriate and fair, because the main beneficiaries of these special subsidies were (again) high-circulation tabloids and free newspapers (e.g., Buschow, 2020). So far, job security measures have prevented major waves of lay-offs, but, despite the creation of a “hardship fund”, it must be assumed that the economic conditions of freelance journalists have worsened. Another problem associated with the pandemic is online disinformation.

Although the government, civil society organizations (e.g., [www.mimikama.at](http://www.mimikama.at)) and some media outlets have started initiatives to combat online disinformation, no well-developed policy framework exists – even more than a year after the start of the crisis.

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

Austria: Media Pluralism Risk Areas



The implementation of the MPM 2021 indicates (like MPM 2020) that media pluralism in Austria is at medium risk in all but one of the areas of investigation (**Market Plurality, Political Independence, Social Inclusiveness**). Only the area of **Fundamental Protection** shows a low risk. Four out of twenty indicators represent a high risk, twelve a medium risk, and only four a low risk.

It has to be emphasized that the foundations of the democratic media system are intact and strong: freedom of expression is well protected; journalism is protected in many ways and is legally recognized not as a product, but primarily as a service; media authorities work independently; and people can choose between a variety of different media outlets, including public service, commercial and non-profit community media. During election campaigns, the public service broadcaster ORF does a fairly good job of representing the parliamentary parties. The public service broadcaster also feels 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.

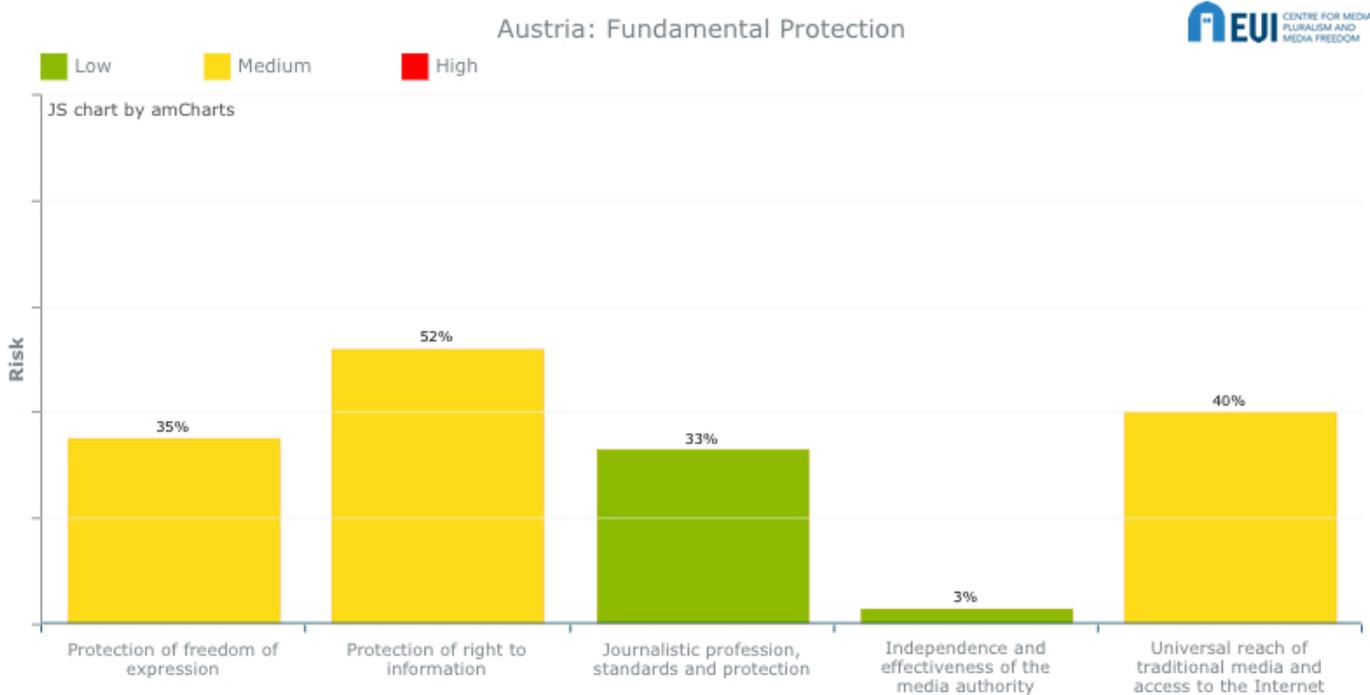
Risks to media pluralism in Austria are primarily due to horizontal and cross-media concentration, a lack of sufficient reflection on the changes in the media landscape in the competition law, threats to the independence of PSM governance and funding, endangered editorial autonomy, some shortcomings in the provisions on transparency of media ownership, limited access to media for women and minorities, a missing policy (and missing resources) for promoting media literacy, and a system of state subsidies that is in urgent need of reform. Unfortunately, an amendment of the KommAustria Law that aims to support the digital transformation of the media sector (by using the revenues of the 2020 Digital Tax Act) but has not yet been passed, largely follows the traditional funding logic and is likely to exclude online-only media from funding. Of particular concern, however, is the extraordinarily high and increasing amount of state advertising spending (which is about five times the amount of regular media subsidies), the incomplete data situation, and the lack of transparency in the allocation criteria.

Since the beginning of 2021, a bundle of new and amended legal provisions that aim at combating hate speech on the Internet are in force, and in February 2021, the Austrian government has agreed on a freedom of information law which has been the subject of wrangling for decades. It remains to be seen how effective these two new and promising legal frameworks will be.

In times of crisis, it is difficult to assess the viability of markets, particularly because definitive data on annual revenues for 2020 are not yet available in most cases. It seems that, in general, revenue losses will be in line with the overall economic trend, perhaps somewhat below the 6.6 % decline in GDP. By and large, the government's measures are likely to have mitigated the effects of the crisis.

### 3.1. Fundamental Protection (33% - low risk)

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



Freedom of expression is generally well-protected. It has been enshrined in the Austrian Constitution since 1867 (Federal Constitutional Law, 1930/2020, Art. 149, referring to Staatsgrundgesetz, 1867, Art. 13). Austria ratified the European Convention on Human Rights (which has been granted constitutional status) and the International Covenant on Civil and Political Rights (ICCPR) in 1958 and 1978 respectively. In the past, the European Court of Human Rights (ECtHR) overturned a considerable number of decisions by national courts (Voorhoof et al., 2017); today, however, the legal remedies against violations of freedom of expression can be considered largely effective.

There are two facts, in particular, which give Austria a 35% risk score in the indicator **Protection of freedom of expression**. First, while no legal restrictions upon freedom of expression have been introduced

in response to the COVID-19 crisis, there have been times since the outbreak of the crisis when journalists have only had restricted access to the government's press conferences. The only journalists not affected by these restrictions have been those from the Austrian Broadcasting Corporation and the Austrian Press Agency (European Union Agency for Fundamental Rights, 2020; Siebenhaar, 2020). Second, Section 111 of the Criminal Code (Bundesgesetz vom 23. Jänner 1974 über die mit gerichtlicher Strafe bedrohten Handlungen, 1974/2020) allows for an increased prison sentence for defamation when it has been made accessible to a wider public by means of the mass media. Section 116 explicitly extends the provisions of Sections 111 and 115 (regarding insults) to national and regional parliamentary bodies, army and government offices, while Section 248 makes it a crime to insult the Republic of Austria, Austria's flag, or the federal states. Fortunately, Section 29 of the Federal Act on the Press and other Publication Media (1981/2020) takes into account basic journalistic duties, and considers the nature of potentially libellous statements (opinion vs. facts) and public interest in the given information. Furthermore, the Austrian Supreme Court generally applies ECtHR case law.

**Protection of the right to information**, the necessary counterpart of freedom of expression, is at medium risk (52%). Although Article 20, Paragraph 4, of the Federal Constitution (1930/2020) guarantees the right to information, Article 20, Paragraph 3, clearly states that the obligation of administrative authorities (at a national, regional and local level) to maintain secrecy takes precedence over the obligation to disclose information. Information is only disclosed upon request, and such requests are difficult to file. Not surprisingly, Austria ranks last in global monitoring of the right to information conducted by Access Info Europe and the Centre for Law and Democracy (2020). On 22 February 2021, the Austrian government agreed on a freedom of information law which has been the subject of wrangling for decades. It remains to be seen when and with what wording the bill will be passed (Republik Österreich – Parlament, 2021a).

Austria still lacks a specific whistle-blower protection law, but existing laws include partial provisions and procedures for whistle-blowers in the public and private sectors. The legislative process to implement the Whistleblower Directive adopted by the European Parliament and the Council (2019) in October 2019 is still pending in Austria (Hebenstreit, 2020; Hempel, 2020; Transparency International Austria, 2020).

The indicator **Journalistic profession, standards and protection** is ranked as being at low risk (33%) but on the verge of medium risk. On the one hand, access to the profession is free and open, and professional associations play a vital role in advocating editorial independence and respect for professional standards. Section 31 of the Media Act provides strong protection to the confidentiality of journalists' sources (Federal Act on the Press and other Publication Media, 1981/2020).

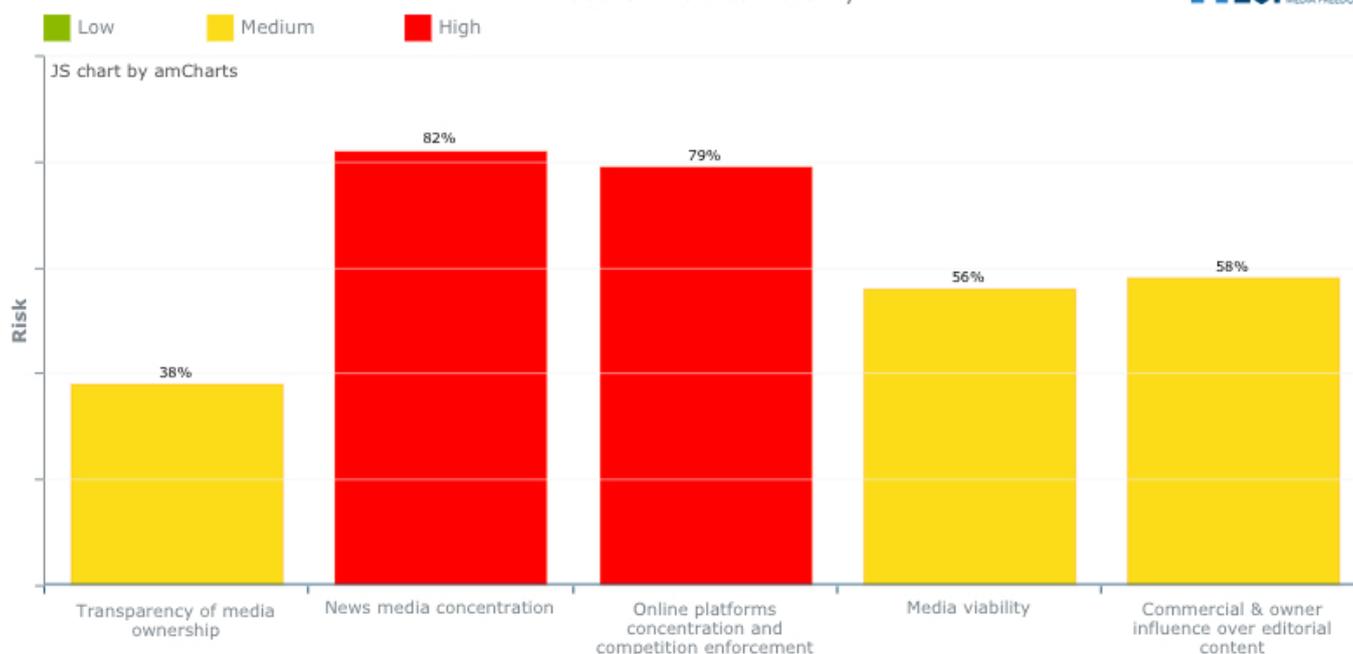
On the other hand, however, the safety of journalists is increasingly threatened. Despite sporadic physical attacks on journalists, most recently by 'COVID-sceptic' protesters (see, for example, APA, 2020b; Mapping Media Freedom, 2020), the main threat comes from online harassment and intimidation. The abuse occurs on all platforms, both publicly and via private messages. In the public sphere, the Facebook pages of the right-wing Austrian Freedom Party (FPÖ) play a special role, with numerous offensive and threatening user comments appearing below posts by FPÖ politicians criticizing journalists (ECRI, 2020; Seethaler, 2021). In May 2021, the Press Club Concordia, together with the NGO Zara (which advocates civil courage and carries out anti-racism work), set up an [online tool for reporting any form of violence against journalists](#). While the Austrian government has welcomed an EU initiative to protect journalists from strategic lawsuits against public participation (SLAPP) (Bundeskanzleramt, 2020), Austria has not yet introduced any specific anti-SLAPP legislation.

The indicator **Independence and effectiveness of the media authority** is ranked as being at (very) low risk (3%). The Austrian Communications Authority (KommAustria), established in 2001 by the KommAustria Act, is legally distinct and functionally and effectively independent from the government and any other public or private body; no governmental individual or body has the power to issue instructions to the media authority (Federal Act on the Establishment of an Austrian Communications Authority, 2001/2021, Section 6). Its competencies, powers and accountability are clearly defined in law. Its powers of sanction include warnings, monetary fines (for advertising violations and violations of programming principles such as the protection of minors), the publication of decisions (typically for infringements of the regulations on product placement or sponsoring), and the revocation of licences or the prohibition of further broadcasting activities in serious cases of infringement by private broadcasters. KommAustria is operationally supported by the Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR), a non-profit state-owned company, which was also set up under the KommAustria Act.

The indicator **Universal reach of traditional media and access to the internet** shows a medium risk (40%). Public TV and radio signals reach almost the entire population, but only 84% of the population is covered by next generation broadband (2019). With an average internet connection speed of 27.74 Mbps (2020), Austria ranks only 58th globally.

### **3.2. Market Plurality (63% - medium risk)**

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



**Market Plurality** is under threat. Although a risk of 63% still falls within the middle range, it is close to high risk. In particular, there is a high degree of horizontal and cross-media concentration in Austria: the indicator **News media concentration** shows a high risk of 82%. All concentration measurements for ownership and audience concentration in the audiovisual, radio and newspaper markets are between 71 and 91% (data from 2019: own calculations based on data provided by [Österreichische Auflagenkontrolle](#), [RMS Austria](#), and [AGTT](#)), and therefore far too high to be acceptable from a democratic point of view. According to data on the eighteen largest media companies that are tax-registered in Austria (Fidler, 2020), the market share of the top 4 news media owners across different media markets is 61%. The first problem here is that only legislation for the audiovisual and radio sectors contains specific restrictions regarding areas of distribution and market shares, aimed at preventing horizontal and cross-media concentration; such restrictions do not exist for other media sectors. The second problem is that even these restraints are not very tight (Seethaler & Beaufort, 2019). 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 (Seethaler & Beaufort, 2019). 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 (79%; see chapter 4.2).

The other three media plurality indicators show a medium risk. Although media law (Federal Act on the Press and other Publication Media, 1981/2020, Section 25) contains provisions to ensure 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 law (the German word *Inhaber* can be interpreted as ‘100% owner’). Moreover, foreign media are only covered by the aforementioned provisions when they are “completely or almost exclusively” distributed in Austria (Federal Act on the Press and other Publication Media, 1981/2020, Section 50). Similar exclusions also apply to foreign state publications and publications of Austrian public authorities. For these reasons, the indicator on **Transparency of media ownership** shows a medium risk of 38%.

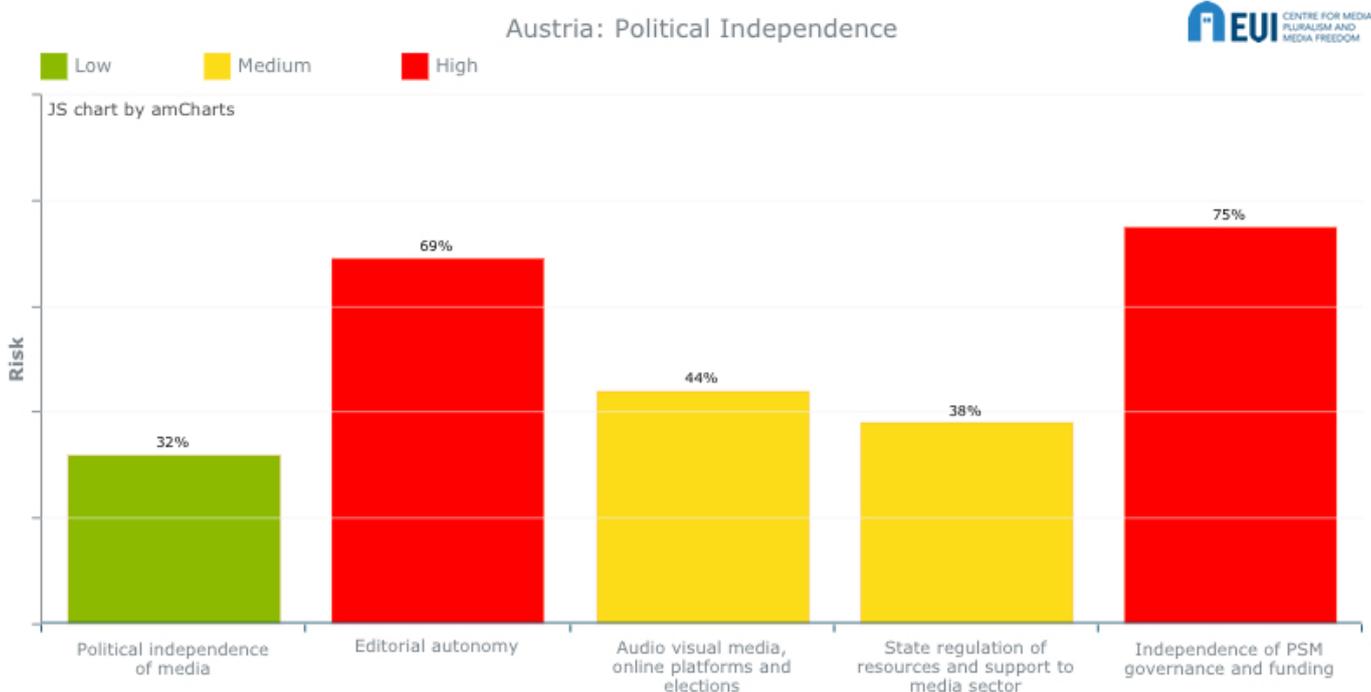
The indicator on **Media viability** points to a risk of 56%, but it is difficult to assess the viability of markets in times of crisis, particularly because definitive data on annual revenues for 2020 are not yet available in most cases. In general, the revenue losses in the audiovisual and print sectors are likely to be in line with the overall economic trend, perhaps even somewhat below the 6.6% decline in GDP. This is suggested by preliminary data on the revenues of the two biggest audiovisual media companies (ORF, 2021a; ProSiebenSat.1 Media SE, 2021a) and the biggest newspaper company Mediaprint (Der Standard, 2021a), as well as by a forecast from the auditing firm PwC Österreich (2021) for the print sector as a whole. It has to be noted that the public service broadcaster not only increased its gross advertising revenue by 3.3% during the crisis, but also expanded its market share in the audiovisual sector, from 31.8% in 2019 to 33.2% in 2020. As well as consolidating its position as market leader (Der Standard, 2021b) in the audiovisual sector, it maintained its exceptionally high market share of 74% in the radio sector (ORF, 2021b). In the private sector, it is worth noting that all important newspaper companies operate radio stations and/or run successful online news sites. Thus their profits in the radio sector (plus 9.1%) or in the online sector (plus 7.6%) may have compensated to a certain extent for their loss of advertising revenues in the newspaper sector (minus 6.5% in 2020). In general, gross advertising volume decreased by 4.5% – a decline that is below that of the economy as a whole (FOCUS, 2021). An encouraging trend has also become apparent in user behaviour. According to the Austrian *Digital News Report 2020* (Gadringer et al., 2020), the number of people willing to pay for online news is rising steadily – and especially among the younger age groups of 18-to 24-year-olds and 25-to 35-year-olds (see chapter 4.2). Finally, it must be mentioned that the extraordinary media subsidies granted by the government in 2020 amounted to about 35 million euros and were widely considered as effective compensation for the decrease in revenues due to the COVID-19 pandemic (Murschetz, 2020) – not to mention the record 223 million euros spent by the state on advertising (Pramer, 2021). In addition, several other measures have been put in place to support businesses and to avoid lay-offs and salary cuts during the COVID-19 emergency. These measures include regulations for short-time work, subsidies for fixed costs, loan guarantees, deferral of taxes, and a ‘hardship fund’ available for self-employed persons and freelancers. Nonetheless, it can be assumed that the economic conditions of freelance journalists have worsened. In general, Austria has a well-established system of state subsidies, covering all traditional media sectors (D’Haenens, Sousa & Trappel, 2018), but the system is in need of reform (see chapter 3.3).

Regarding **Commercial and owner influence over editorial content** (which indicates a 58% risk), 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 (Federal Act on the Austrian Broadcasting Corporation, 1984/2021, Sections 13(3), 14(10) and 16(5); Federal Act on Audio-visual Media Services, 2001/2020, Sections 32(2) and 37(1); Federal Act Enacting Provisions for Private Radio Broadcasting, 2001/2020, Sections 19(4c) and (5b)). Legal mechanisms dating back to 1920 grant social protection to journalists in case of changes of ownership or editorial line (Gesetz über die Rechtsverhältnisse der Journalisten, 1920/2007), and a short clause in the [Journalistic Code of Ethics](#), Art. 4.4, 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% of Austrian journalists perceive an increase in economic pressure on editorial content, and more than 70% say the same of advertising pressure (Hanitzsch et al., 2019). Furthermore, little is known about relatively new phenomena such as content marketing, brand journalism, corporate publishing and native advertising. For example, the Austrian energy drink company Red Bull owns and operates a TV station, online platforms, magazines, a film and

video production company and a record company. Some researchers argue that such editorial content is intentionally influenced by economic interests (Kaltenbrunner et al., 2020).

### 3.3. Political Independence (52% - 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 is concerned 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.



The ambivalence of the relationship between media and politics, which is typical of Austria (Hallin & Mancini, 2004; Seethaler & Melischek, 2006), is reflected in the MPM scores assessing the risks in the area of **Political Independence**. On the positive side, there are regulatory safeguards in place in the audiovisual and radio sector that preclude government officials and political parties from media ownership (Federal Act Enacting Provisions for Private Radio Broadcasting, 2001/2020, Section 8(1) and (2); Federal Act on Audio-visual Media Services, 2001/2020, Section 10(2)). Moreover, the mandate of the public service broadcaster (Federal Act on the Austrian Broadcasting Corporation, 1984/2021, Section 4(6)) stipulates that, for journalistic and programming staff, independence from government, political parties and political lobbies is not only a right but also an obligation. Even though there is no similar legal provision in place in the print sector, there is generally no overlap in personnel with the political realm. It should also be noted that the only big news agency in Austria, the [Austrian Press Agency \(APA\)](#), which is owned by twelve Austrian newspapers and the ORF, is largely independent of political groupings.

Though their scope is far from comprehensive, the existing regulatory safeguards clearly aim to counteract control of the media by government and politicians. These safeguards keep the risk to the **Political independence of media** in the low category, though other factors push it to the higher end of this category:

at 32%, is it close to the medium risk threshold. This is mainly because of the ‘politics-in-broadcasting’ system established by the ORF Act (Federal Act on the Austrian Broadcasting Corporation, 1984/2021), which opens up opportunities for government and parties to exert influence. But even in the private broadcasting sector, the spirit of the law and reality do not always match up. In this context, it is worth mentioning that Mediaset España, which is controlled by the family of the former head of the Italian government Silvio Berlusconi, has (again) increased its stake in the German private television group ProSieben.Sat.1 in January 2021. Mediaset España and the Italian TV group Mediaset now control 24.16% of voting rights attached to shares and other instruments (ProSiebenSat.1 Media SE, 2021b). ProSiebenSat.1 owns PULS 4 and ATV, the two most important private TV channels in Austria (in terms of audience share).

Another side of the relationship between media and politics is a high risk for **Editorial autonomy** (69%), because the framework of regulatory and self-regulatory measures that guarantee freedom from interference in editorial decisions and content is underdeveloped. There are no regulatory safeguards in place to prevent political influence over the appointment and dismissal of editors-in-chief. While the editorial statute of the public service broadcaster stipulates that the editorial committee must at least be informed and heard during appointment procedures (ORF, 2002), even this minimum requirement does not exist anywhere else. Moreover, only TV and radio stations are obliged to have editorial statutes at all; all other media are allowed to establish such statutes, but not required to do so. Thus it comes as no surprise that the two largest newspapers (*Kronen Zeitung* and *Heute*), which are among the main beneficiaries of state advertising spending, initially refrained from any self-regulatory measures. The *Kronen Zeitung* is still refraining, while *Heute* joined the Austrian Press Council in May 2021. Unfortunately, the [Press Council](#) (which was re-established in 2010) is only open to print media and their online platforms, as well as news agencies, and no self-regulatory organizations have been established in the broadcasting and online sector. Moreover, the council has to rely on ‘soft’ sanctions such as naming, shaming and blaming, and lacks the power to impose penalties and compensation measures.

The indicator on **Audiovisual media, online platforms and elections** is at medium risk (44%). Public service media in Austria are obliged by law to cover political matters in an unbiased and impartial manner (Federal Act on the Austrian Broadcasting Corporation, 1984/2021, Section 1(3)), and KommAustria is responsible for their legal supervision. However, there are no legal provisions specifically relating to election campaigns. In practice, all parties with parliamentary representation have the right to participate in unbiased debates. This can “be seen as an obstacle to new parties”, as the Bertelsmann Stiftung (2021) states in its evaluation of the electoral process in Austria. Nevertheless, for at least the last two decades, the ORF has to a considerable extent offered a fair representation of the various parliamentary parties during election campaigns. The same cannot necessarily be said of commercial channels and newspapers (Seethaler & Melischek, 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 Article 7 of the Federal Constitution (1930/2020), which refers to the principle of equal opportunities for all political parties. However, no specific measures guaranteeing equal conditions and rates of payment have been implemented in media law. Again, it can be argued that this “gives established parties, parties with better access to funding and especially government coalition parties an advantage” (Bertelsmann Stiftung, 2021). This unsatisfactory situation is also perpetuated in the online sector: apart from the online platform of the public service broadcaster, no self-regulation is in place to ensure fairness and transparency of online political advertising

during electoral campaigns. In 2017, only three small parties reported on their campaign spending in a fairly transparent way. This included disclosing the costs for their Internet activities in general, but not specifically for their social media campaigns. So far, no information is available for the most recent national election in 2019.

The indicator on **State regulation of resources and support to the media sector** shows a medium risk (38%). Again, an ambivalent situation can be observed. The practice of spectrum allocation in Austria is codified in Section 54 of the Federal Act Enacting the Telecommunications Act (2003/2020) 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. The same applies to the extraordinary public support schemes implemented in 2020 to mitigate the economic impact of the COVID-19 crisis. For years experts have criticized the system for failing to ensure media pluralism, and have demanded a reform that supports democratic qualities (Beaufort, 2020; Seethaler & Beaufort, 2017) rather than high circulation (see, among others, Murschetz, 2020; Seethaler, 2020). A bill is currently under consultation that is intended to govern the use of revenues from the Digital Tax Act (Digitalsteuergesetz, 2020) to promote digital transformation. However, online-only media would not be eligible to apply for this (Republik Österreich – Parlament, 2021b).

Since 2012, the Media Transparency Act (Federal Act on Transparency in Media Cooperation, 2011/2018) forces the government, public bodies and state-owned corporations to disclose their media collaborations if the total amount of payments exceeds 5,000 euros per quarter. The Court of Audit estimates that at least one third (!) of public advertising contracts are not published due to this threshold (Pramer, 2021). Moreover, there are no rules that aim to ensure a fair distribution of state advertisements among media outlets. A recent study criticizes the lack of transparency in the allocation criteria and the incomplete data situation (Kaltenbrunner, 2020). In 2020, regular state subsidies for the media amounted to approx. 49 million euros (including 13.5 million in funding for creation and exploitation of television films as well as 2.5 million in funding from the City of Vienna), and extraordinary subsidies due to the COVID-19 pandemic amounted to about 35 million euros. In contrast, 223 million euros were spent on state advertisements (Pramer, 2021). As Reporters Without Borders (2021) has pointed out, the November 2020 terrorist attack in Vienna “highlighted the consequences of a questionable media policy when some tabloids funded by government advertising printed photos of people who had been shot dead”.

**Independence of PSM governance and funding** is at high risk (75%). This is mainly due to the appointment procedures of the *Stiftungsrat* (Foundation Council) of the ORF (Federal Act on the Austrian Broadcasting Corporation, 1984/2021, Section 20(1)), which appoints all high officials, approves the budget and monitors financial conduct. Fifteen of its thirty-five members are appointed by the federal government, six of them in consideration of the proportionate strength of the political parties represented in parliament. Moreover, each of the nine Austrian federal states nominates a representative. As a result, attempts by political parties, particularly governmental parties, to influence appointment and dismissal procedures for management and board positions at the ORF occur frequently (Fidler, 2021). This ‘politics-in-broadcasting system’ is the basis for the entanglements between PSM and political actors, and is highly questionable from a democratic perspective.

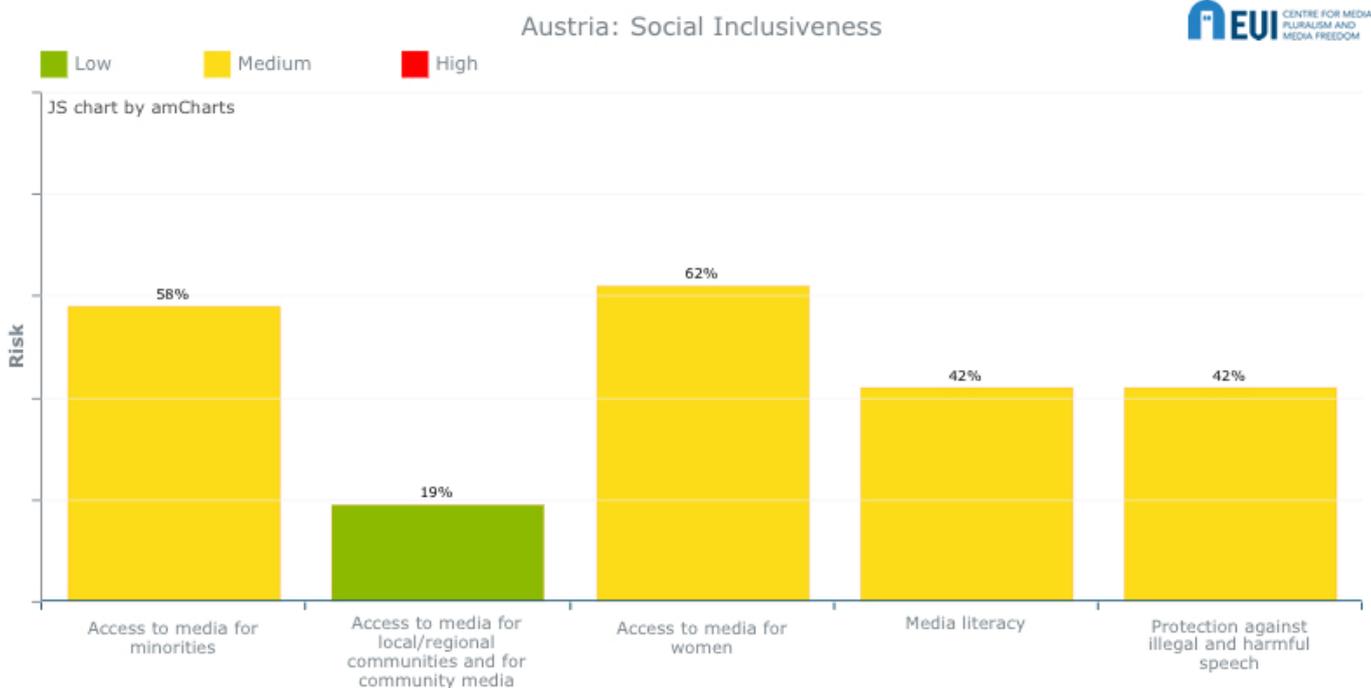
The procedures for determining the level of TV licence fees (for a period of five years), together with the control mechanisms, are set out in detail in Section 31 of the Federal Act on the Austrian Broadcasting

Corporation (1984/2021), but it is becoming more and more questionable whether an increase in fees can compensate for the numbers of people who no longer pay licence fees because they do not own a television or radio anymore and only use streaming services. In any case, time and again there are public discussions fuelled by the right-wing Austrian Freedom Party (FPÖ) and the tabloid press, who want to abolish licence fees and force the ORF to turn to parliament for funding every year – which would further increase political pressure on ORF.

Given all these factors, Austria has been ranked only 17th in the 2021 World Press Freedom Index. In 2019 it had already lost its long-term status as one of the countries where press freedom is best protected (Reporters Without Borders, 2021).

### 3.4. Social Inclusiveness (45% - medium risk)

The Social Inclusiveness area focuses on the access to media by specific groups in society: minorities, local and regional communities, women and people with disabilities. It also examines the country’s media literacy environment, including the digital skills of the overall population. In addition, for the 2021 edition of the MPM, a new indicator has been added to the Social Inclusiveness area in order to assess new challenges raising from the uses of digital technologies: Protection against illegal and harmful speech. Due to this modification of the indicators, comparison with previous editions of the MPM should be handled with extreme care.



In the area of **Social Inclusiveness**, the indicator on **Access to media for minorities** is ranked as being at medium risk (58%). PSM law guarantees the representation of the six legally recognized minority groups by requiring an ‘appropriate’ share of airtime (Federal Act on the Austrian Broadcasting Corporation, 1984/2021, Sections 5(1) and 4(1)). However, it does not provide any framework for the assessment of ‘appropriateness’. TV and radio news programmes (some of which are broadcast weekly, others less frequently) are only available in the languages of the six legally acknowledged minority groups, which are not actually among the largest minority groups in Austria. Private commercial television and radio stations

do not provide any airtime to minorities, while non-profit community broadcasters dedicate significant airtime to minorities (for example, the TV channel OKTO and Radio Orange in Vienna, the Carinthian Radio AGORA and Radio OP in Burgenland). 30.5% of all community programme producers are from a migrant background (Verband Freier Radios Österreich, 2019). Considering that non-Austrian citizens make up 17.1% of the total population, and 24.4% of the population has an immigration background, more should be done to safeguard proportionate access to media for minorities.

The policy framework on access to media for people with disabilities also has room for improvement. Both, public service broadcasters (Federal Act on the Austrian Broadcasting Corporation, 1984/2021, Section 5(2)) and private broadcasters (Federal Act on Audio-visual Media Services, 2001/2020, Section 30(3)) are required by law to provide access to media content, but only the public service broadcaster has continuously improved the accessibility of media content for visually and hearing impaired people – though there is an imbalance between the extent of media access for hearing impaired people (fairly well developed) and for visually impaired people (rather poorly developed). Non-profit community broadcasters work towards including people with special needs by making studios and equipment accessible.

For a long time, the legal provisions were written in vague and hardly measurable terms, and they did not stipulate specific requirements and actions to achieve the goal of providing access to media content for people with disabilities. The Global Initiative for Inclusive Information and Communication Technologies (G3ict) therefore rated the level of implementation of ICT accessibility policies and measures in TV and multimedia as 3 on a 5-point scale. The general Digital Accessibility Rights Evaluation (DARE) Index, which measures each country's commitments (legal, regulatory, policies and programmes), its capacity to implement (organization, processes, resources) and the actual digital accessibility outcomes for persons with disabilities in ten areas of products and services, gives Austria a score of 67.5 (out of 100) points (G3ict, 2020). Fortunately, amendments to the Federal Act on the Austrian Broadcasting Corporation (1984/2021) and the Audio-visual Media Services Act (2001/2020) passed by parliament in December 2020 aim to improve the accessibility of TV and video content (Bundesgesetz, mit dem das Audiovisuelle Mediendienste-Gesetz, das KommAustria-Gesetz, das ORF-Gesetz und das Privatradiogesetz geändert werden, 2020). They cover all AV media content (broadcast, on-demand services, video sharing platforms) and provide for a gradual but continuous increase in accessibility (sign language, written or spoken subtitles, audio description). The new provisions require all but small operators to draw up phased plans for the implementation of accessibility measures (Bundesgesetz, mit dem das Audiovisuelle Mediendienste-Gesetz, das KommAustria-Gesetz, das ORF-Gesetz und das Privatradiogesetz geändert werden, 2020).

The indicator on **Access to media for local/regional communities and for community media** represents a low risk (19%). There are four reasons for this:

- (1) The law grants regional media access to media platforms, and access to radio and TV frequencies is regulated via public tendering (Federal Act Enacting the Telecommunications Act, 2003/2020, Sections 30(1) and 54(1b)).
- (2) Subsidies for private radio and television companies are explicitly contingent upon the provision of local/regional programmes (Seethaler & Beaufort, 2017) – though funding sometimes fails to achieve its goal: for example, in 2019, 'Radio Austria' became the second nationwide private radio station to be licensed, and the owner – the 'Mediengruppe Österreich' – had incorporated its numerous regional radio licences into this national licence;
- (3) The public broadcaster (operates regional broadcasting studios in all nine federal states, which provide nine regionally broadcast radio programmes and TV newscasts (Federal Act on the Austrian Broadcasting Corporation, 1984/2021, Section 3(2)).

(4) Austria has a comparatively well-developed system of community media, currently consisting of fourteen radio stations and three TV stations.

Broadcasting laws, however, still lack consistent legal recognition of community media as a third broadcasting sector in terms of function, mode of operation and financing – even though they perform a wide range of valuable public functions, are strongly anchored in their respective local environment, and operate without political interference (Peissl & Seethaler, 2020). Unfortunately, the Telecommunications Act (2003/2020, Section 54) does not provide sufficient details about licensing processes and criteria for community media, and the political guidelines for awarding subsidies are neither appropriate nor fair. While subsidies for private commercial broadcasting increased by 33% in 2019 (from 15 to 20 million euros), subsidies for non-profit broadcasting have remained very low (3 million euros) for many years – despite the fact that the funding conditions place higher demands on non-profit broadcasting than on commercial broadcasting in terms of democratic functions (Seethaler & Beaufort, 2017).

The indicator on **Access to media for women** is ranked as being at medium risk, but near the threshold to high risk (62%). In terms of programming content, gender equality is not particularly advanced. Even the Austrian PSM law (Federal Act on the Austrian Broadcasting Corporation, 1984/2021, Section 4(1)) only provides a rather vague policy regarding equal rights for several groups such as women, disabled persons, acknowledged religious groups etc. In the area of self regulation, the general director of the ORF introduced the so-called ‘50:50 challenge’ in 2020, which aims to encourage programme-makers to voluntarily measure the share of women and men in their programmes, with equal representation as a goal (ORF, 2020). According to a study based on a representative sample of news stories in news and current affairs programmes on three PSB channels in 2018 (ORF 1, ORF 2, Ö3), women accounted for only 13.5% of all people who appeared in news stories as main subjects (Beaufort, 2020). In 2020, the speaking time of female politicians in the main ORF TV news broadcasts reached an all-time high (!) of 27%, according to a study of APA-DeFacto (Mark et al., 2021). Little is known about the role of female experts in TV news programmes; in newspapers, women account for only 35% of all experts presented in photos (Pernegger, 2020).

With regard to personnel issues, the Austrian PSM law (Federal Act on the Austrian Broadcasting Corporation, 1984/2021, Section 30a, et seq.) provides a framework for actively ensuring gender equality. This framework requires the implementation of a gender mainstreaming plan and stipulates that the ORF has to assess the status quo of gender equality in the organization every other year. In 2019, ORF reached the set target of 45% of its total staff made up of women. However, the representation of women in leading positions, at 33.4%, is still far too low (data from 2020). The gender pay gap is 13.5% (ORF, 2020). If one considers the main broadcasting companies, the share of women among executives and management boards usually does not exceed 40% (with the exception of PULS 4). The same applies to the editors-in-chief of the eight most relevant media across all four sectors (audiovisual, radio, newspapers, digital native).

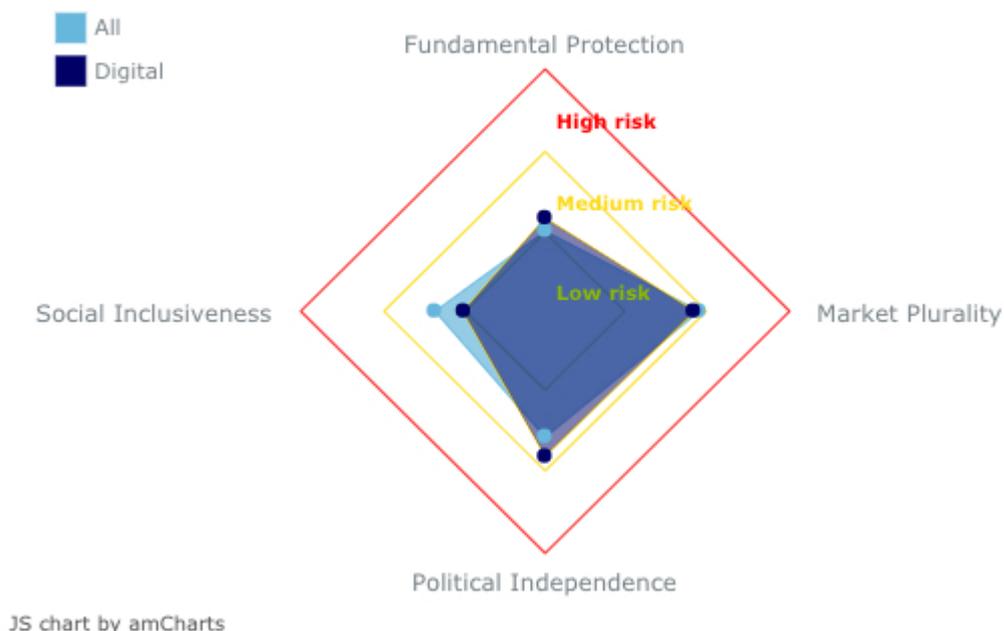
The indicator on **Media literacy** shows a medium risk (42%). The Austrian Ministry of Education, Science and Research (besides other institutions) has established various programmes and structures to promote media literacy among young Austrians. One first important step was the *Grundsatzterlass Medienerziehung* [Basic Decree on Media Education] which was developed to cope with contemporary requirements of media in the educational context. Although interest in media literacy has increased in recent years among both teachers and young people (as can be seen, for example, in the increasing number of participants in the ‘Media Literacy Award’ for the best and most innovative educational media projects in schools), experts criticize the fact that the budget for media education has been cut annually since 2015. Consequently,

numerous projects, particularly in the formal education sector, have been discontinued. Fortunately, there are many corporate and civil society initiatives in the non-formal sector, and there is a strong commitment to media literacy in community media, through the development of critical and creative thinking and active participation in media content production. However, the absence of a comprehensive policy strategy (as recommended by the Directive 2010/13/EU of the European Parliament and of the Council (2010) and an adequate budget means that media literacy activities in Austria leave much room for improvement. In 2020, the Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR) began to publish the most important legal provisions and selected online offerings on media literacy on its [homepage](#).

**Protection against illegal and harmful speech** is at medium risk (42%). This is partly because it is not yet clear how effective a new legal framework, the so-called *Hass-im-Netz-Bekämpfungsgesetz*, will be in protecting users on online platforms and combating online hate speech (Bundesgesetz, mit dem Maßnahmen zur Bekämpfung von Hass im Netz getroffen werden, 2020). It also reflects a worrying degree of disinformation and misinformation in the population, which has become apparent in the course of the COVID-19 crisis (Eberl et al., 2020). This has made it obvious how difficult it is to combat the dissemination of disinformation in a liberal democratic social order without endangering fundamental rights (see chapter 4.4).

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

Austria: Media Pluralism Risk Areas - Digital 



### 4.1 Fundamental Protection – Digital (38% – Medium Risk)

All constitutional guarantees concerning **Protection of freedom of expression** also apply to freedom of expression online. In recent years (including the time since the beginning of the COVID-19 crisis), there have been no arbitrary violations of freedom of expression online in Austria. Websites are not blocked or filtered in Austria due to official decrees (except in the field of intellectual property rights, which is in line with EU law); in accordance with the TSM Regulation of the European Union, RTR monitors net neutrality (RTR, 2020); and individuals have access to effective legal remedies to address violations of rights by state or non-state actors in the online environment (Berka & Trappel, 2016).

Nevertheless, compared to the overall situation, the online environment is in need of better protection. This is mainly because of the results of the indicator on **Journalistic profession, standards and protection**. On the one hand, regarding the digital safety of journalists, the Austrian legislator has formulated Section 9 in the Data Protection Amendment Act 2018 (Bundesgesetz, mit dem das Datenschutzgesetz 2000 geändert wird, 2018) to comply with Directive (EU) 2016/680 of the European Parliament and of the Council (2016), which aims to prevent the illegal monitoring of journalists by law enforcement authorities. On the other hand, however, this section only refers to journalistic activities within the framework of a media company. Even more worrying is the fact that offensive and threatening speech against journalists is on the rise and fuelled by right-wing politicians. Unfortunately, there has yet to be a comprehensive study on the extent of digital violence, particularly against female journalists (Seethaler, 2021).

Regarding net neutrality, it has to be noted that the top 4 Internet service providers constitute 95.5% of the market (APA, 2020a) – which can be characterized as highly concentrated.

### 4.2 Market Plurality – Digital (61% – Medium Risk)

The risk to **Market Plurality** for online media largely corresponds to the risk for media in general.

**Transparency of media ownership** is largely provided. Ownership details have to be publicly available and easily accessible (Federal Act on the Press and other Publication Media, 1981/2020, Sections 24 and 25) – with the limitations mentioned in chapter 2.3. A limited disclosure obligation applies to small websites that serve exclusively to present the personal sphere of life.

A more worrisome picture is shown by the results of the indicator on **News media concentration**. This is partly because the audience share of the top 4 online competitors is a considerable 72% and that of the top 4 online news media owners is 55% (each percentage is based on the ten largest companies; unique users, data from 2019, [www.republika.com](http://www.republika.com)). Moreover, as indicated by the results of the indicator on **Online platforms concentration and competition enforcement**, changes in the media landscape have not yet been incorporated into media law. For example, legislation for the audiovisual and radio sectors does contain some provisions to prevent cross-media and horizontal concentration, but these provisions do not apply to the digital market (only the public service broadcaster is subject to regulations that substantially restrict its internet presence and social network pages). The only existing media-specific merger control provisions are found in cartel law (Bundesgesetz gegen Kartelle und andere Wettbewerbsbeschränkungen, 2005/2019, Section 13). A recent academic report on the role of antitrust authorities in the digital economy addresses the ways in which the Austrian legislator, the Austrian (Supreme) Cartel Court and the Austrian Federal Competition Authority (Bundeswettbewerbsbehörde [BWB]) have dealt with digital markets in the recent past. The report states that “so far, the BWB has not initiated sector inquiries concerning online advertising. In general, traditional media undertakings (publishing houses, free tv channels), but also traditional advertising undertakings claim that online advertising more and more suppresses traditional advertising in print titles or in free tv. Following such comments, the previous approach which defines separate product markets, e.g., for advertisement in newspapers, magazines, classified ads or in free tv would be arguably too narrow.” (Gesley, 2019)

The Digital Tax Act, introduced in 2020 (Digitalsteuergesetz, 2020), which levies a 5% digital tax on the turnover from domestic online advertising services rendered by providers in Austria, has so far generated revenues of 34 million euros. This amount, plus 15 million euros annually thereafter, will be used to support the digital transformation of Austrian media (Fidler, 2021b). However, online media are not covered by this (Republik Österreich – Parlament, 2021b) or any other state support scheme, except for an initiative launched by the City of Vienna in 2019, which aims to support the journalistic quality of legacy and digital media (Wirtschaftsagentur Wien, 2021). Keeping all this mind, it must be considered that about 70% of people access news online through side-door channels (Gadringer et al., 2020).

With regard to **Media viability**, online advertising expenditure has increased by 7.6% in 2020 compared to 2019. This number does not include social media and search engines, but does include online media in general, not only news media. In contrast, total advertising expenditure (ATL, online and offline) decreased by 4.5% (FOCUS, 2021), but even this decline is below the decline in GDP.

There is only a limited, albeit growing, number of initiatives aimed at developing alternative sources of revenue. Examples are apps for tablets and smartphones, various paywall models, combined subscriptions for print and digital editions, and crowdfunding. According to the Austrian *Digital News Report 2020*, 10.6% of respondents spent money on online news in 2020 (compared to 9% in 2019), and the trend is rising: 17.7% of 18- to 24-year-olds and 14.9% of 25- to 35-year-olds are already paying for news content (compared to 14.4 and 12.6% respectively in the previous year). If users decide to pay, a classic subscription for online news is the most popular option for most (34.7% paid for online news only, while 33.1% purchased a combined print and online subscription). Only 15.6% made one-off payments for an

article or issue, while 11.6% contributed via donations. From a global perspective, Austria is in the lower midfield for the use of paid online content (Gadringer et al., 2020).

Concerning the indicator on **Commercial & owner influence over editorial content**, the provisions in legacy media laws stipulating 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 (Federal Act on the Austrian Broadcasting Corporation, 1984/2021, Sections 13(3), 14(10) and 16(5); Federal Act on Audio-visual Media Services, 2001/2020, Sections 32(2) and 37(1); Federal Act Enacting Provisions for Private Radio Broadcasting, 2001/2020, Sections 19(4c) and (5b)). Contrary, provisions on the separation and labelling of advertising and journalistic contributions also apply to native advertising and influencer marketing (Berka et al., 2019). Even for tweets and posts, there are guidelines for labelling advertising, which the PR Ethics Council describes in its online code of conduct (PR Ethik Rat, 2018).

#### 4.3 Political Independence – Digital (60% – Medium Risk)

In the area of **Political Independence**, risk is somewhat higher for online media than for the media in general. This can in part be attributed to a lack of data, as there is still a dearth of studies on political control over digital native media. Moreover, the indicator on **Political independence of media** shows that recently more and more new media offerings have been emerging on the Internet that have one thing in common: a certain more or less transparent closeness to politics (#doublecheck, 2021). It seems that the ‘media-party parallelism’ which is typical of democratic-corporatist countries like Austria (Hallin & Mancini, 2004; Seethaler & Melischek, 2006) is experiencing a revival.

Concerning the indicator on **Independence of PSM governance and funding**, the Federal Act on the Austrian Broadcasting Corporation (1984/2021) provides detailed and very strict provisions about the online activities of the public service broadcaster, so as not to distort competition with private media actors. The Internet presence of the public service broadcaster is therefore subject to extensive restrictions (e.g., Federal Act on the Austrian Broadcasting Corporation, 1984/2021, Sections 4e and 4f). For example, most formats may not be online for longer than one week, and posting content on the ORF’s own YouTube channel or Instagram account is not possible for legal reasons. In this context it has to be noted that, regarding **Editorial autonomy**, it is only the public service broadcaster that has guidelines for the use of social media by journalists (ORF, 2019). Furthermore, self-regulatory measures that provide equal advertising opportunities for all parties during electoral campaigns are only in place for the ORF, not for other online media platforms (ORF Enterprise, 2019). Referring to the indicator on **Online platforms and elections** thus addressed, the 2012 Federal Act on the Financing of Political Parties (2012/2021) restricts campaign expenses and makes it mandatory for parties to disclose their income (including sources of income) as well as their expenditure. While campaign spending on social media and other online platforms is not explicitly mentioned in the law (and parties rarely provide information on this), Facebook has been publishing the amounts spent on 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 national parliament.

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

#### 4.4 Social Inclusiveness – Digital (33.5% – Medium Risk)

The digital risk in the **Social Inclusiveness** area as measured by the MPM indicator on **Media literacy** is at

the edge of low and medium risk.

Digital competencies are quite good. 66% of the Austrian population has basic or above basic overall digital skills, and only 21% has low overall digital skills. Austria ranks 13th out of all EU Member States in the European Commission's 2020 Digital Economy and Society Index (DESI), thus remaining slightly above the EU average (European Commission, 2020). Nevertheless, digital literacy – as the Austrian Federal Ministry for Digital and Economic Affairs (Bundesministerium für Digitalisierung und Wirtschaftsstandort, 2018) has pointed out – not only refers to technical skills, but also to cognitive and emotional skills such as being able to use digital media in a reflective manner, becoming conscious of misconduct against others, and developing an awareness of implicit effects (Beaufort, 2019), which are becoming more prevalent in today's media environment.

With regard to protection against illegal and harmful speech, a new law to combat hate speech on the Internet – or rather, a bundle of new and amended legal provisions (among them the Act on Measures to Protect Users on Communications Platforms, 2020) – has been in force since January 1, 2021 (Bundesgesetz, mit dem Maßnahmen zur Bekämpfung von Hass im Netz getroffen werden, 2020). It forces platforms to delete, within 24 hours, any content containing hate speech, upskirting, cyberbullying and incitement against individuals, particularly if they belong to a certain religious community or ethnicity or have a disability. (This does not affect videos or the comment sections of traditional media.) In unclear cases, platforms are given one week to decide whether or not to delete the content. Unlike the German NetzDG law, platforms must disclose not only what illegal posts they have deleted – or not deleted – but also those that were deleted due to 'community guidelines'. These reports must be made four times a year. A new provision in the Federal Act on the Press and other Publication Media (1981/2020, Section 36b) stipulates that, in proceedings related to the act, courts may directly order hosting service providers (not just media owners!) to remove content from a platform, or to publish a verdict on such a website, if the media owner is based in another country or cannot be prosecuted for any other reason.

Several NGOs, such as ARTICLE 19 (2020) and Reporters Without Borders (2020a), are concerned that the *Hass-im-Netz-Bekämpfungsgesetz* may have a much more powerful impact on small European competitors than on the big companies. They also fear that it interferes with the right to freedom of expression, mainly because it delegates censorship powers to private companies (which, moreover, may engage in overblocking to avoid paying fines). Fortunately, unlike the German NetzDG law, platforms must disclose not only what illegal posts they have deleted – or not deleted – but also those that were deleted due to 'community guidelines', and these reports must be made four times a year. Other concerns relate to the fact that Directive 2000/31/EC of the European Parliament and of the Council (2000) regulating e-commerce states that companies are subject to the law of the country in which they are headquartered. Other countries may not impose stricter legal requirements than that country. Nevertheless, the new law represents the first comprehensive effort to remove hate speech from online platforms. Such an effort is urgently needed, as the limited data available indicates an increase in hate speech and hate-motivated digital violence in private and public discourse (ECRI, 2020). In 2019, the anti-racism NGO Zara dealt with a total of 1,950 racist incidents, of which 1,070 (=55%) took place on the Internet. And in a 2017 survey sponsored by the Austrian Federal Chancellery as part of its project on 'combating gender-based cyber-violence', about one third of all women and girls surveyed (32.4%, n=1,005) said they had experienced at least one form of violence on the Internet in the preceding year (Forschungszentrum Menschenrechte der Universität Wien & Weisser Ring Verbrechensofferhilfe, 2018).

During the COVID-19 crisis, several surveys by [Gallup](#) and the [Vienna Center for Electoral Research](#) at the

University of Vienna revealed a worrying degree of disinformation and misinformation in the population (e.g., Eberl et al., 2020). Civil society organizations (e.g. [www.mimikama.at](http://www.mimikama.at)) and Internet platforms have intensified measures against disinformation, and the government has also launched [initiatives](#). The effectiveness of these measures, however, is hard to assess because the dissemination of correct(ed) information proceeds at a much slower pace than the dissemination of disinformation. In this context, public debate has emerged about restrictions on the freedom of expression, the power of private platforms, the definition of standards, and the application of such standards in the fight against disinformation.

## 5. Conclusions

The MPM 2021 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 **Fundamental Protection** area,

- all political and societal organizations are called upon not only to refrain from, but to publicly condemn physical violence, threatening speech and smear campaigns against journalists.
- These organizations are also urged to support the demands made by numerous NGOs (Reporters Without Borders, 2020b) for EU rules to protect journalists and public watchdogs from abusive lawsuits (SLAPPs).

In the **Market Plurality** area,

- lawmakers should incorporate the changes in the media landscape into media and competition law, with a particular focus on preventing 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 perspective.
- Moreover, the shortcomings in the provisions on transparency of media ownership (concerning the disclosure of the ultimate ownership structures and some currently existing exceptions to the rules) should be rectified.
- A plural media system must be built on three pillars: public service media, private commercial media and non-profit community media. Ensuring the financial sustainability of community media 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 of the Committee of Ministers to Member States on media pluralism and transparency of media ownership (Council of Europe, 2018).

Concerning the **Political Independence** area,

- political actors should refrain from any intervention in or any attempt to influence management policies and editorial decisions of media outlets, in particular of the public service broadcaster.
- All media outlets in every sector should be legally obliged to implement self-regulatory measures that establish and foster editorial autonomy and independence from political and commercial influences. The Press Council should be granted the power to impose sanctions, and similar instruments of self-regulation should be established in the audiovisual, radio and online sectors – or, perhaps, one overarching Media Council for all sectors.
- The current system of media subsidies should be financially upgraded and revised to support democratic functions of all types of media (including digital native media), ranging from informing the public and acting as a watchdog to providing a forum for public debate and empowering civic engagement and community building.
- When it comes to state advertising, there needs to be significantly more transparency in allocation criteria and data management.

To promote **Social Inclusiveness**

- and to increase the representation of women, the granting of state subsidies should be related to the

existence of safeguards (e.g. corporate policies and editorial statutes) which ensure mandatory quotas for women among executives and in management boards. Safeguards should also provide for broad participation of editorial staff in appointment and dismissal procedures for leading editorial positions, thus ensuring the autonomy of these procedures.

- The ongoing changes in the media environment underline the need for comprehensive political efforts to establish media literacy as an integral part of the mandatory school curriculum. However, in accordance with the Directive (EU) 2018/1808 of the European Parliament and of the Council (2018), additional measures are needed to promote the reflective, creative and self-determined use of media throughout life.

## 6. References

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## Annexe I. Country Team

First name	Last name	Position	Institution	MPM2021 CT Leader
<i>Josef</i>	<i>Seethaler</i>	<i>Deputy Director</i>	<i>Austrian Academy of Sciences, Institute for Comparative Media &amp; Communication Studies</i>	X
<i>Maren</i>	<i>Beaufort</i>	<i>Postdoc researcher</i>	<i>Austrian Academy of Sciences, Institute for Comparative Media and Communication Studies (CMC)</i>	

## Annexe II. Group of Experts

The Group of Experts is composed of specialists with a substantial knowledge and recognized experience in the field of media. The role of the Group of Experts was to review the answers of the country team to 16 variables out of the 200 composing the MPM2021. Consulting the point of view of recognized experts aimed at maximizing the objectivity of the replies given to variables whose evaluation could be considered as subjective, and therefore to ensure the accuracy of the final results of the MPM. However, it is important to highlight that the final country report does not necessarily reflect the individual views of the experts who participated. It only represents the views of the national country team that carried out the data collection and authored the report.

First name	Last name	Position	Institution
<i>Walter</i>	<i>Berka</i>	<i>Professor for Public Law, International and European Law</i>	<i>University of Salzburg</i>
<i>Alfred</i>	<i>Grinschgl</i>	<i>Former Managing Director</i>	<i>Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR)</i>
<i>Helga</i>	<i>Schwarzwald</i>	<i>Management</i>	<i>Association of Austrian Community Broadcasters</i>
<i>Daniela</i>	<i>Kraus</i>	<i>General Secretary</i>	<i>Press Club Concordia</i>
<i>Daniela</i>	<i>Zimmer</i>	<i>Legal expert in the Consumer Policy Department at the AK Vienna</i>	<i>Chamber for Workers and Employees, AK Vienna/Viewers' and Listeners' Council ORF</i>

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