

# 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: Croatia

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**Research Project Report**

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# 1. About the project

## 1.1. Overview of the Project

*The Media Pluralism Monitor (MPM) is a research tool designed to identify potential risks to media pluralism in the Member States of the European Union and in candidate countries. This narrative report has been produced on the basis of the implementation of the MPM carried out in 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 Croatia the CMPF partnered with Pasko Bilic (Institute for Development and International Relations), Monika Valecic and Toni Prug (Independent Researcher), who conducted the data collection, scored and commented on the variables in the questionnaire and interviewed experts. The report was reviewed by the CMPF staff. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly evaluative questions (see Annexe II for the list of experts). For a list of selected countries, the final country report was peer-reviewed by an independent country expert.*

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

<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/>.

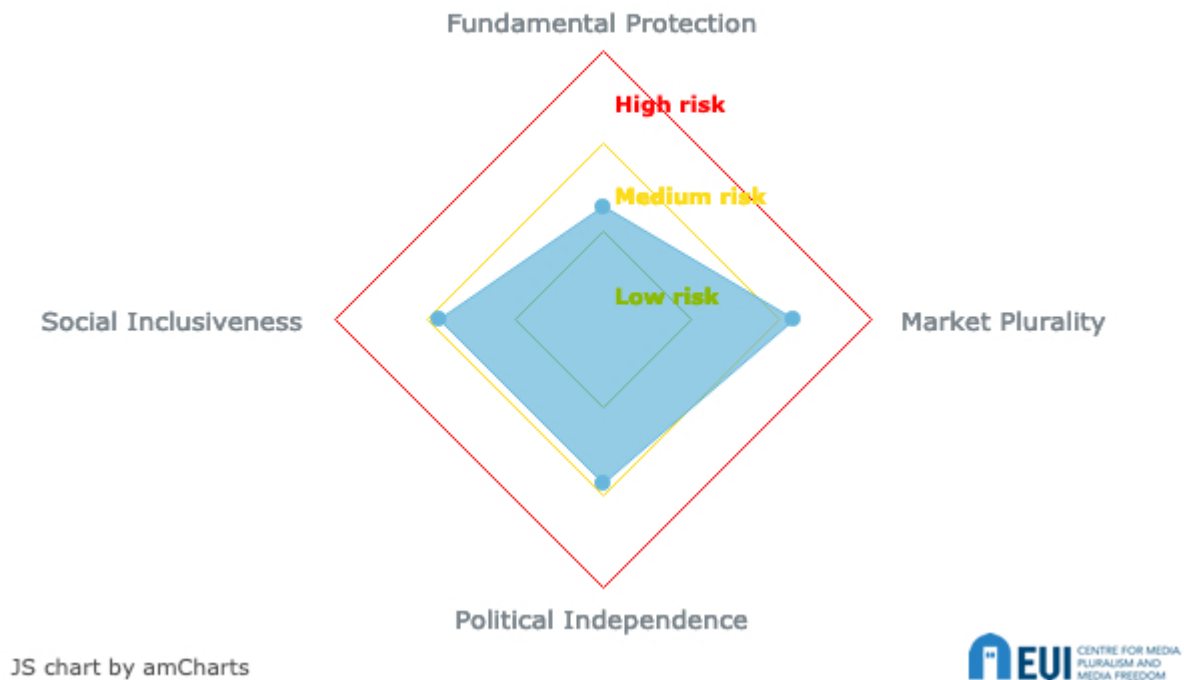
## 2. Introduction

- **Population:** Croatia is a country with an estimated population of 4.065 million inhabitants in 2019 (Croatian Bureau of Statistics, 2020). It is situated between Central Europe, the Mediterranean and Southeast Europe.
- **Languages:** The main spoken language is Croatian.
- **Minorities:** Croats make up more than 90 percent of the population. The country is multicultural, with 22 constitutionally recognized minorities. The main is Serbian (4.4%), followed by Bosnians (0.73%), Italians (0.42%), Albanians (0.41%), Roma (0.40%), and Hungarians (0.33%), according to the 2011 census data (Government of the Republic of Croatia, 2021).<sup>[1]</sup>
- **Economic situation:** Due to the coronavirus pandemic, the country experienced a sharp GDP decline in 2020. In real terms, it decreased by 8.4% in 2020, as compared to 2019 (Croatian Bureau of Statistics, 2021). The tourism industry, one of the main sectors of the Croatian economy, took a big hit.
- **Political situation:** The parliamentary elections were held in July 2020, with the Croatian Democratic Union (HDZ), a right-wing political party, winning the majority. The HDZ formed a centre-right coalition government with minority representatives, liberal democrats (HNS), and Reformists.
- **Media market:** The Croatian media market is concentrated across different media. The top 4 audio-visual media owners accounted for 96 percent of the market in 2019.<sup>[2]</sup> In 2020, the top 4 audio-visual media owners accounted for 56 percent of the audience share.<sup>[3]</sup> The top 4 radio owners held a 70 percent market share in 2019 and 39 percent of the audience share in 2020.<sup>[4]</sup> The top 4 newspaper owners held a 71 percent market share in 2019.<sup>[5]</sup> The top 4 newspapers took a 23 percent share of the Average Issue Readership among 60 major newspapers.<sup>[6]</sup> The market share of the top 4 online news media was 49 percent.<sup>[7]</sup> The average monthly (for the entire 2020) share (percentage of all visitors) of unique visitors for the top 4 online news media was 85 percent.<sup>[8]</sup>
- **Regulatory environment:** The media sector is within the purview of the Ministry of Culture and Media. The main regulatory body is the Council of the Agency for Electronic Media (AEM). There is no regulatory body for print media. The main professional association protecting the interests of journalists is the Croatian Journalists' Association (HND). In May 2020, the HND reported that there were 905 active lawsuits against journalists (HND, 2020a). A new Electronic Media Act OG 153/09, 84/11, 94/13 and 136/13 (hereinafter referred to as Electronic Media Act) is currently (March 2021) being read and enacted by the parliament. The main purpose is to transpose the AVMS directive and introduce some changes with regard to editorial responsibility for online news' comments sections to combat hate speech. However, the act selectively targets issues within the media sector, avoiding problems facing journalism and introducing changes without a strategic, long-term policy framework.
- **COVID-19:** The coronavirus pandemic had a strong effect on employment conditions. The president of the HND stated that, in the beginning of April 2020, 85 percent of all freelancers lost their contracts in commercial and public media (HND, 2020b). According to the Croatian Journalists' Trade Union (SNH), media employers take advantage of the pandemic as an excuse for reducing journalists' rights (SNH, 2020).



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

#### Croatia: Media Pluralism Risk Areas



- Croatia scores a medium risk in Fundamental Protection (41 percent), Social Inclusiveness (61 percent) and Political Independence (61 percent). However, it scores high risk in the Market Plurality area (71 percent).
- The Fundamental Protection area reflects poor performance in the following indicators: Journalistic profession, standards and protection, Protection of right to information, and Protection of freedom of expression. The legal framework for journalists' protection is insufficient, and journalists are often targets of strategic lawsuits against public participation (SLAPPs) and defamation charges. Too much power is left to the parliamentary majority for nominating and appointing members of the Council for Electronic Media.
- The Social Inclusiveness area includes two high-risk indicators: Access to media for women and Media literacy. The PSM does not have a comprehensive gender equality policy. Women are underrepresented at the executive level of the PSM and private TV companies and are often represented in a stereotypical way in news and current affairs programming. There is no comprehensive media literacy strategy at the national level. Existing measures in the field are fragmented.
- The Political Independence area contains high-risk indicators, such as Editorial autonomy and the Independence of PSM governance and funding. The high risk for the Editorial autonomy indicator reflects the ineffectiveness of self-regulatory measures, such as media statutes and ethics codes. PSM management appointment procedures are too dependent on the parliament.
- Finally, the Market Plurality area includes the following high-risk indicators: Online platforms concentration and competition enforcement, Commercial and owner influence over editorial content, Media viability, and News media concentration. Media transparency has improved, and most data is accessible. However, ultimate beneficial owners can still be hidden. There is a lack of legislation for regulating and monitoring the online advertising market. No taxation of digital services has been introduced yet.



- Due to the COVID-19 pandemic, total advertising investments declined by 15 percent between 2020 and 2019. The internet advertising market has seen a 4 percent decline in the same time period (HURA, 2021). The Croatian Association of Newspaper Publishers reported that their sales were down by 25 percent and advertising by 50 percent in March and April 2020 at the start of the lockdown (HUP, 2020). The president of the Croatian Journalists' Association (HND) stated that, at the beginning of April 2020, 85 percent of all freelancers lost their contracts in commercial and public media (HND, 2020b).

### 3.1. Fundamental Protection (42% - medium risk)

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

The **Protection of freedom of expression** scores a medium risk of 39 percent. It follows basic international standards. However, legal remedies against violations are not always effective due to slow court practice in civil lawsuits. There were several cases of freedom of expression violations brought before the European Court of Human Rights (2021). The state has not decriminalised defamation. In 2020, there were 905 active lawsuits against journalists. Out of the total number of recorded lawsuits, 861 relate to defamation charges raised by politicians, public figures, businessmen, local administration, companies, NGOs, professional associations, and even judges. (HND, 2020a).

The **Protection of right to information** scores a medium risk of 50 percent. It is recognised in the Constitution and in national laws. Restrictions on the grounds of privacy, state secrecy, public order and national security are defined in accordance with international standards. Appeal mechanisms for denial of access are in place, although they are ineffective. The Information Commissioner reports there is room for improvement. Some public bodies deliberately stall or delay access to information. Access to information is mostly exercised through appeal mechanisms and the direct involvement of the Information Commissioner. 'Management silence' remains the biggest issue, represented by more than half of all appeals.

The **Journalistic profession, standards and protection** indicator scores a medium risk of 62 percent. The Croatian Journalist's Association (HND) publicly and actively promotes professional values and issues warnings, breaches and severe breaches of ethical standards. Self-regulatory measures are not effective in guaranteeing editorial independence. The working conditions for journalists have consistently been deteriorating, exacerbated by the coronavirus pandemic. At the beginning of April 2020, 85 percent of all freelancers lost their contracts in commercial and public media (HND, 2020b). According to the Croatian Journalists' Trade Union (SNH), media employers take advantage of the pandemic as an excuse for reducing journalists' rights (SNH, 2020). Strategic lawsuits against public participation (SLAPPs) pose a serious threat to independent journalism in Croatia. Defamation, insult, and shaming are used to strategically target journalists. They remain criminal offences and are punishable with hefty fines. There is no legal framework to prevent SLAPPs, and there is no policy initiative to deal with the issue. With regard to data protection, the country has implemented general data protection in local legislation, as well as the EU Directive 2016/680. However, the country did not impose limits with regard to data retention that would prevent illegal monitoring of journalists by law enforcement authorities.

The **Independence and effectiveness of the media authority** (Council for Electronic Media) indicator scores a low risk of 25 percent<sup>[9]</sup>. Tasks and responsibilities, sanctioning power and appeal mechanisms of the authority are defined in law - Electronic Media Act 153/2009<sup>[10]</sup>. Appeal mechanisms seem to be effective and are not misused to delay the enforcement of remedies. The budgetary resources for the authority are transparent and allocated in accordance with the annual financial plan from a total of 0.5% of the total annual gross income from the previous year by media operators performing electronic media services. The authority regularly publishes information about its activities on its website. Council members can be re-elected an unlimited number of times which can have a negative effect on the independent decision-making process of the Council (INDIREG 2011). Expertise and qualifications necessary for the election to the Council of Electronic Media are very broad, open to multiple interpretations, and sometimes poorly implemented and ignored. Ultimately, the parliamentary majority has too much power in nominating and appointing Council members.

The **Universal reach of traditional media and access to the Internet** indicator scores a low risk of 33 percent. The universal coverage of the PSM is guaranteed by the contract between the PSM and the government. The majority of the population is covered by the signal of all public television and radio channels, as well as by broadband internet. The DVB-T2 transfer was completed in 2020. Regulatory safeguards for net neutrality are implemented in practice.

### 3.2. Market Plurality (71% - high 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*

The **Transparency of media ownership** indicator scores a medium risk of 50 percent. The law contains media specific provisions requiring the disclosure of ownership details to designated public bodies as well as regular updates of ownership changes. Print media report changes to the Croatian Chamber of commerce, while audio-visual, radio and digital media report to the Council for Electronic Media. The law provides some sanctions for non-reporting of ownership information. The issue of the ultimate beneficial owners or individuals who control, or own, the company however remains problematic as they can remain hidden and represented by other legal entities. The Minister of Culture and Media announced in the media in June 2021 new changes to the Electronic Media Act that will contribute to ownership transparency. However, the new version of the Act has still not entered the parliamentary procedure.

The **News media concentration** indicator scores a high risk of 68 percent. There are no limits set to horizontal concentration of digital news media or cross media concentration that would include digital media. Top 4 audio-visual media owners accounted for 96 percent of the market in 2019.<sup>[11]</sup> In 2020, the top 4 audio-visual media owners accounted for 56 percent of the audience share.<sup>[12]</sup> The Top 4 radio owners held a 70 percent market share in 2019, and 39 percent of the audience share in 2020.<sup>[13]</sup> The Top 4 newspaper

owners held a 71 percent market share in 2019.<sup>[14]</sup> The Top 4 newspapers took a 23 percent share of the Average Issue Readership among 60 major newspapers.<sup>[15]</sup> The market share of the top 4 online news media was 49 percent.<sup>[16]</sup> Average monthly (for the entire 2020) share (percentage of all visitors) of unique visitors for the top 4 online news media was 85 percent.<sup>[17]</sup>

The **Online platforms concentration and competition enforcement** indicator scores a high risk of 88 percent. Existing research shows that accessing news is mainly conducted through side-door services such as search engines, social media and news aggregators (Eurobarometer, 2016; Newman et al., 2021). The data for the online advertising market is unavailable and is not being monitored. The only existing data is for 2015 in which the top 4 online players captured 69 percent of the online advertising market. Google and Facebook captured 52 percent (Bilić an Primorac, 2018). There is no available data on the audience concentration of the top 4 online players (considering both news media and online platforms). In principle, competition law applies to all markets. However, there are no media specific laws that would apply to the advertising market. Media legislation is lagging behind and there is no administrative authority or judicial body overseeing compliance with competition rules in the advertising market.

The **Media viability** indicator scores a high risk of 73 percent. The results are provisional due to poor data precision and general lack of data. We received no data on the revenue trends for audio-visual media, radio, and digital news from the Agency for Electronic Media, key regulatory body designated with the task of monitoring these trends. The Croatian Association of Newspaper Publishers reported that their sales were down 25 percent and advertising 50 percent in March and April 2020 at the start of the lockdown (HUP, 2020). Total advertising investments declined by 15 percent between 2020 and 2019. The internet advertising market has seen a 4 percent decline in the same time period (HURA, 2021). In the beginning of April 2020, 85 percent of all freelancers lost their contracts in commercial and public media (HND, 2020b). According to the Croatian Journalists' Trade Union (SNH), media employers took advantage of the pandemic as an excuse for reducing journalists' rights (SNH, 2020).

The **Commercial and owner influence over editorial content** indicators scores a high risk of 75 percent. In cases of ownership or editorial line changes, the only mechanisms granting social protection to journalists are the inefficient selfregulatory media statutes. There are no regulatory safeguards seeking to ensure that decisions regarding appointments and dismissals of editors-in-chief are free from commercial interests. The Code of Ethics of the Croatian Journalists' Association provides some safeguards to prevent the commercial and advertising influence on journalists. However, there are often no practical repercussions for Code violations. HND's Council of Honor, the body adjudicating reported cases of potential code violations, has no institutional authority to sanction violations, especially for journalists who are not HND members. Therefore, the safeguards are not effective in preventing media owners and other commercial entities to systematically influence editorial content. There are no measures that apply to the protection of journalistic work in online news media.

### **3.3. Political Independence (61% - 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 **Political independence of media** indicator scores a medium risk of 61 percent. There are no explicit restrictions in media legislation that would include limits to party, partisan groups or politicians as owners in the definition. Conflict of interest rules apply indirectly but there are no legal limitations to direct and indirect control of media. In the first quarter of 2021, the authority of the Committee for Resolving Conflicts of Interest was downgraded when the court annulled some of its decisions. The increasing presence of political control over the media can be illustrated with a meeting with media editors, organized by the Prime Minister on March 17th, 2020. Only selected media outlets were invited to meet the COVID-19 crisis management body and, according to reports, they agree on a national approach of covering the crisis in the media. Representatives of the Croatian Journalists' Association (HND) or the Trade Union of Croatian Journalists (SNH) were not invited. Besides, broadcasters often dependent on regional and local politics while newspapers often support policies and viewpoints in line with the political leaning of ownership. Digital news media tend to be politically polarised.

The **Editorial autonomy** scores a high risk of 97 percent. There are systematic cases of interference in appointment and dismissals of editors-in-chief. Media legislation contains no safeguards to prevent interferences. The legal framework is set up for a practice conducive to editors-in-chief being chosen under political influence. The Director General of the HRT is appointed by the parliament through a simple majority; the Director General of the HRT appoints editors-in-chief. Selfregulatory measures have proven to be highly ineffective. A worrying trend have been numerous SLAPP suits, where HRT set an infamous precedent by suing their own employee and current President of the Croatian Journalists' Association.

The **Audio-visual media, online platforms and elections** indicator scores a low risk of 31 percent.<sup>[18]</sup> The political bias of the PSM is visible in their pro-Government reporting style as well as through different interest groups that try to influence the PSM editorial policies. At the same time, there have been no reports of unfair treatment and representation of political actors during recent elections. There are no safeguards that aim to ensure equal opportunities and transparency of online political advertising during electoral campaigns. The State Electoral Commission declared that social media do not qualify for the legal definition of media in accordance with the Media Act (Ministry of Finance, 2019). Political parties were asked only to report spending on online platforms with no limits on the amount spent.

The **State regulation of resources and support for the media sector** indicator scores a medium risk of 46 percent. The main mechanism for the distribution of direct government subsidies to media outlets is the Fund for the Promotion of Pluralism and Diversity. Direct subsidies from the local budgets are awarded haphazardly and without transparent criteria, often through executive decisions of local politicians. Since the disbanding of the Professional Committee for Non-Profit Media in 2016 there has been no coordinated support for non-profit and community media on behalf of the Ministry, and the often-promised comprehensive Media Strategy still has not been either finished or shared with the public. After the government instituted certain COVID-19-related economic measures for commercial entities in general, it has become apparent that those could be used by commercial media only, leaving freelancers and non-profit media without any COVID-19-related support. Other types of support, such as VAT reductions have proven ineffective in promoting quality journalism.

The **Independence of PSM governance and funding** indicator scores a high risk of 67 percent. PSM management appointment procedures are highly dependent on the Croatian Parliament which leaves room for systematic political interference. Four out of five members of the Supervisory Committee are appointed by the Croatian Parliament by a simple majority, as well as the Director General of the HRT. This does not

lead to political consensus since dismissals and appointments of editors regularly occur after each parliamentary election in line with the political orientation of the management.

### 3.4. Social Inclusiveness (61% - 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.*

The **Access to media for minorities** scores a medium risk of 58 percent.<sup>[21]</sup> The Croatian Radio-Television Act (OG 137/10 and 76/12)<sup>[20]</sup> guarantees access to airtime on PSM channels to the constitutionally recognized minorities (Section III, Art. 9). The PSM is obliged to have special format programmes. According to consulted experts on minority issues,<sup>[22]</sup> legislation is relatively well defined but media access in practice is reserved to ghetto-like broadcasts in the least popular programme slots poorly visible to the general public. According to consulted experts on access to media for people with disabilities,<sup>[23]</sup> the legal framework<sup>[24]</sup> has improved. However, problems remain regarding the implementation of the legal framework. For example, it is not clear if sign language is to be treated as a foreign language which would have different consequences on how it is implemented. There are also implementation issues on whether to stimulate sign language or lip reading.

The **Access to media for local/regional communities and for community media** scores a medium risk of 44 percent. Authorities support regional/local media with a limited number of policy measures or subsidies. The main type of state subsidies is the Fund for the Promotion of Pluralism and Diversity<sup>[25]</sup>. The community media have a specific status as nonprofit media (Art. 48, par. 1 of the Electronic Media Act<sup>[26]</sup>). They largely depend on the State budget and on international and European funds. Their position is poorly understood by the Ministry of Culture and Media. In the past five years, their funding has been cut. Some funding programmes were stalled, and they were not considered for support through COVID-19-related measures.

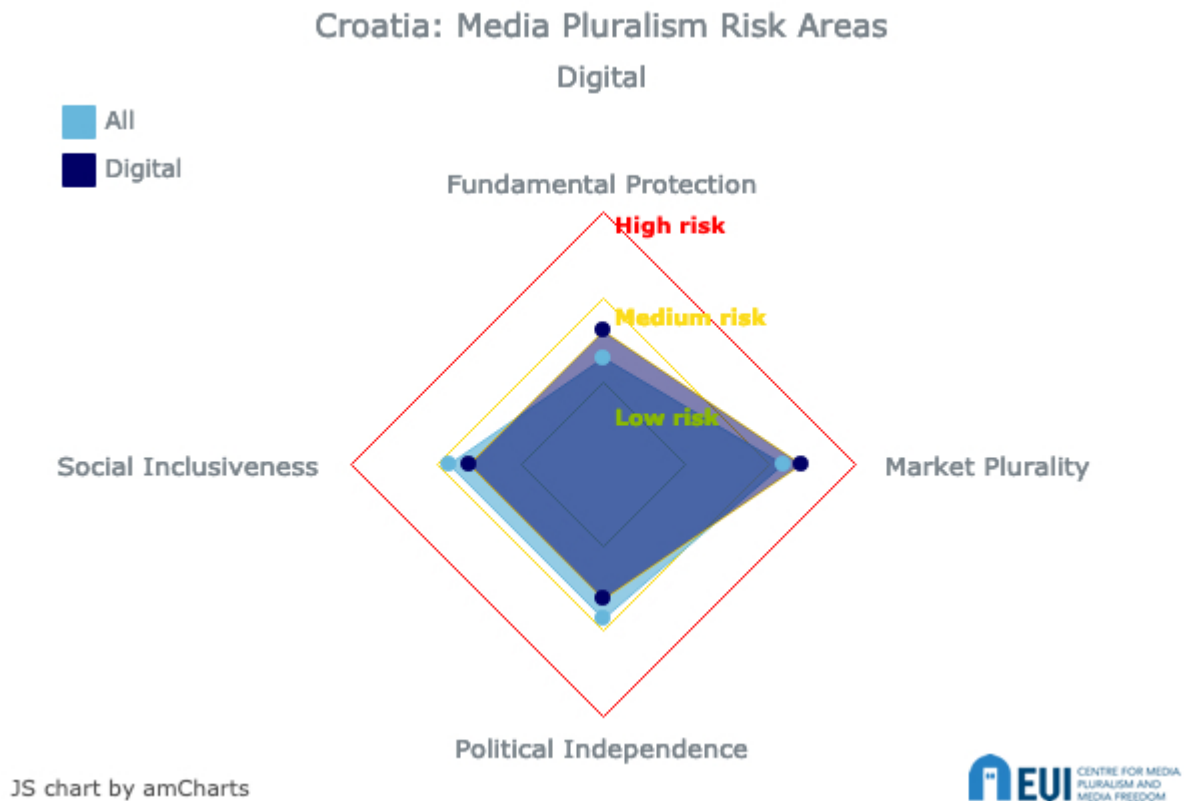
The **Access to media for women** indicator scores a high risk of 80 percent. The PSM does not have a comprehensive gender equality policy. There is no provision on gender equality promotion as a mission and value promoted in the programmes of the PSM in the Agreement between the Government and the Croatian Radio and Television (2018-2022). Women are underrepresented in the PSM Programme Council and executives. Women are represented in the management boards of private TV companies, but not at the executive level. Women are underrepresented or presented in a stereotypical way in news and current affairs broadcasting. According to a study conducted by the Ombudsperson for Gender Equality on the 2020 parliamentary elections,<sup>[27]</sup> women are usually invited to discuss stereotypical topics and themes of 'women's issues' and less to discuss internal and foreign policy, finance, defence, economy, energy, law and other areas.

The **Media literacy** indicator scores a high risk of 67 percent. There is no comprehensive national agenda that would qualify as a media policy with clear strategic goals, concrete commitments and timeline for the implementation of measures. The measures taken in the field are fragmented. Part of the curriculum in

elementary and high schools covers topics related to media literacy. However, according to consulted experts,<sup>[28]</sup> teachers often complain that they do not have sufficient knowledge to teach media literacy to pupils and that there is a an obvious need for changing the curriculum and providing long term education for teaching in that area. Media literacy initiatives are mostly promoted and managed by non-profit organizations and/or educational institutions that aim to increase media literacy.

The **Protection against illegal and harmful speech** scores a medium risk of 56 percent. The existing legal framework contains articles targeting false information and specifying reliable sources in cases of health emergencies.<sup>[30]</sup> According to a consulted expert on disinformation,<sup>[29]</sup> it is not widespread in mainstream media and is more reserved to 'edge media' that spread propaganda to influence readers' views directly. Hate speech is also limited through media and criminal legislation<sup>[31]</sup>. However, regulation is ineffective and there is no self-regulatory framework in place to tackle hate speech on social media.

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



The **Fundamental Protection** area in the online environment scores a medium risk of 53 percent. There is no explicit differentiation between freedom of expression online and offline in the Croatian legislation. Equal rules apply to all media. The currently discussed Electronic Media Act (March 2021) also introduces changes in terms of the editorial responsibility of online portals for article comments as a way to curb hate speech. Journalists are sometimes targets of smear campaigns, especially on social media, where they are also exposed to hate speech and threats. During the COVID-19 pandemic, the Council for Electronic Media called for all media to adhere to the existing legislation by publishing only truthful and accurate information from official sources. The First baseline reports – Fighting COVID-19 disinformation Monitoring Programme for the European Commission (2020) showed that by August 2020, Google had blocked 9884 ads attempting to profit from the coronavirus by selling false products to Croatian users. Immediately following the lockdown in March 2020, the Croatian government proposed amendments to the Electronic Communications Act, stating it was necessary to have a rapid and precise response for preventing the pandemic through complete surveillance of mobile phones of all Croatian citizens. The amendments were not proportional to the health crisis because they were not limited to infected citizens or their contacts, and there were no time limits to how long such surveillance would be legitimate and legally justified. After strong reactions from a number of civil society groups and the political opposition in the parliament, the amendments were abandoned. At the same time, there are no specific rules on preventing or limiting illegal monitoring of journalists by law enforcement authorities nor specific rules on data retention when it comes to the surveillance of journalists.

The **Market Plurality** area within the online environment scores a high risk of 78 percent. In terms of ownership transparency, the issue of unveiling the ultimate beneficial owners still remains a problem, including in the online environment. There are legislative gaps within horizontal, vertical and cross-media concentration rules with relation to digital news media. There is an over-complicated mechanism for monitoring cross-media ownership concentration that involves the Croatian Chamber of Economy (HGK), which keeps track of ownership structures for print and print distribution companies, and the Council for

Electronic Media (VEM), which monitors electronic media, including digital. In cases of cross-concentration, companies also have to report to the Agency for Market Competition Protection (AZTN). This creates problems for keeping track of the changes and an overlap in regulatory duties between the bodies. The market-share of the Top 4 online news media is 49 percent.<sup>[32]</sup> The audience share of the Top 4 online news media is 85 percent.<sup>[33]</sup> The majority of internet users also prefer side-door access to news via social media, search engines, news aggregators, etc. The online advertising market share of the Top 4 online players is not measured on a regular basis and there is no regulatory body in charge of monitoring these developments. According to academic studies (Bilić and Primorac, 2018), in 2015, the Top 4 captured 69 percent of the online advertising market. Google and Facebook alone captured 52 percent of the market. In principle, competition law applies to all markets. However, there are no media specific laws that would apply to the online advertising market. The Agency for Market Competition Protection conducts compliance with competition rules but there is no coordination with media regulation. There have been no reported cases of the competition authority enforcing rules in the advertising market. The country has not introduced or scheduled taxation of digital services. We received no data from the Agency for Electronic Media on revenue trends for digital news media in 2020, but the overall dynamic within the advertising market would suggest a drop, since internet advertising recorded a 4 percent decline between 2020 and 2019 (HURA, 2021). In terms of editorial independence, the online environment holds the same problems as traditional media which includes highly ineffective self-regulatory measures.

The **Political Independence** area in the online environment scores a medium risk of 53 percent. Digital audiences are segmented and the online environment is showing signs of political polarisation. Some of the issues with regard to political control over audio-visual media and newspapers naturally extends to their online editorial boards. Under pressure to secure advertising revenue while competing with global tech giants (Google, Facebook), commercial digital news media publish light news, short stories, and infotainment. The majority of self-regulatory documents within media organisation, or media statutes, are not made public. With regard to elections, the State Electoral Commission does not consider social media as media, in line with the way media are defined in the Media Act, and asks for social media costs to be reported separately from media advertising costs. Rules for political parties, candidates and lists competing in elections to report on campaign spending on online platforms should be more specific, yielding data that is more useful for analysis. There has been some civil society advocacy to increase the transparency of political advertising on online platforms during electoral campaigns. Many parties and candidates do not fill the forms correctly. For instance, they do not state each social network separately but instead merge them all together into a single sum. The Croatian Personal Data Protection Agency occasionally publishes relevant materials to educate stakeholders or to interpret relevant EU regulation. However, in practice, it only reacts upon active cases of complaints; there is no detectable active monitoring and acting upon detected violations of GDPR.

The **Social Inclusiveness** area in the online environment scores a medium risk of 53 percent. The percentage of the population that has basic or above basic overall digital skills is 53 percent.<sup>[34]</sup> The percentage of the population that has low overall digital skills is 26 percent.<sup>[35]</sup> The existing legal framework (i.e. Electronic Media Act) contains some articles targeting false information and specifying reliable sources in cases of health emergencies (Art. 15, 24 and 25). There is medium risk when it comes to the practice of fighting against disinformation. Disinformation in the mainstream media is not widespread and is mostly reserved to 'edge media', instant messengers and social media. It mostly includes information falsely claimed to be reported by the World Health Organisation, conspiracy theories on the origin of the virus, anti-vaccination campaigns, and other issues. At the beginning of the COVID-19 emergency, the Agency for Electronic Media (AEM) called for all media to use official state sources for reporting about the pandemic



and also to be truthful and accurate in all of their reports related to the pandemic. The only media organisation engaged in fact checking in Croatia is Faktograf.hr, a member of the International Fact Checking Network (IFCN) managed by a non-governmental organisation GONG. There are laws that aim at countering online hate speech, including the Electronic Media Act (Art. 12, par 2) and the Criminal Code (Art. 325). The AEM reacts towards these cases when citizens report complaints on specific media programming. In 2019, there were 50 complaints on hate speech. Two were not within the legal responsibility of the Agency (Google Maps, and Facebook photograph). Forty-seven were rejected and only one complaint resulted in a warning. The problem with the activity of the Agency is that it only acts in cases of complaints and is not sufficiently active in tackling hate speech nor is it able to fully tackle hate speech on social media. There have been no efforts to fight hate speech against people with disabilities or to remove hate speech towards women on social media.

## 5. Conclusions

Regulation of the media sector has been stagnant for years, which results in the deterioration of media pluralism. The country scores a medium risk in Fundamental Protection (41 percent), Social Inclusiveness (61 percent), and Political Independence (61 percent). It also scores a high risk in the Market Plurality area (71 percent), reflecting gaps in regulating the online environment. Ongoing legislative propositions (March, 2021) primarily aim to align the Electronic Media Act with the Audio-Visual Media Services Directive. At the same time, there is no overarching media strategy, nor initiative, to tackle specifically local issues such as poor protection of the journalistic profession and standards. The country has seen a surge of SLAPPs and defamation charges aimed at journalists. Political interference without considerations of public interests is seen in many appointment procedures: from the public service media (PSM) to the main media regulator. The country is lagging behind in inclusiveness areas, especially with regard to access to media for women and media literacy. PSM perform their activities without a gender-equality policy. Political Independence of the PSM is one of the major issues. Consistency of the problem points towards the need to change the existing Croatian Radio-television Act (OG 137/10, OG 76/12, and OG 78/16) and the mechanisms of appointing members for the key management positions. Amendments should aim to include more participation from professional journalistic associations, civil society, and academia. At the same time, editorial autonomy remains a widespread issue, a direct result of poor performance of self-regulatory measures. The Market Plurality sees high concentration in some areas. Even the traditionally expanding markets such as internet advertising have seen a drop in investments in 2020. There are very few or no rules to tackle the impact of online platforms in terms of their economic and cultural impact.

Policy recommendations include the creation of a long-term media strategy with full support of democratic development in dialogue with media experts, professional associations, trade unions, non-profit media, industry representatives, regulatory bodies and other relevant and interested actors. The issue of mounting SLAPPs and defamation charges should be tackled through decriminalisation of defamation and support of the EU initiative for the anti-SLAPP Directive. Finally, digital taxation should be considered and introduced through support for international solutions at the EU and OECD level, as well as through national solutions for distributing new tax income. Digital taxes should be used to develop projects and initiatives which strengthen media pluralism and social inclusiveness in the online environment.

## 6. Notes

- [1] New census will be conducted in 2021.
- [2] Data provided by the Agency for Electronic Media.
- [3] Data provided by Nielsen.
- [4] Data Provided by the Agency for Electronic Media and Ipsos.
- [5] Data provided by the Croatian Chamber of Commerce.
- [6] Data provided by Ipsos.
- [7] Data provided by the Agency for Electronic Media.
- [8] Data provided by Ipsos.
- [9] Although the situation regarding the independence and effectiveness of the media authority has not changed in practice since the latest assessment in the MPM2020 report, the risk shifted from medium to low due to the changes in methodology.
- [10] Electronic Media Act 153/2009, [https://narodne-novine.nn.hr/clanci/sluzbeni/2009\\_12\\_153\\_3740.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2009_12_153_3740.html)
- [11] Data provided by the Agency for Electronic Media.
- [12] Data provided by Nielsen.
- [13] Data provided by Ipsos.
- [14] Data provided by the Croatian Chamber of Commerce.
- [15] Data provided by Ipsos.
- [16] Data provided by the Agency for Electronic Media.
- [17] Data provided by Ipsos.
- [18] Although the situation regarding the Audiovisual media, online platforms and elections has not changed in practice since the latest assessment in the MPM2020 report, the risk shifted slightly from medium to low due to the changes in methodology and the composition of the indicator, which puts a greater weight on digital variables this year.
- [19] -Hate speech regulation includes: - Article 12, paragraph 2 of the Electronic Media Act which states that incitement or spreading of hate speech or discrimination based on racial or ethnic belonging, skin color, gender, language, religion, political or other beliefs, national or social origin, economic status, union membership, education, social status, marital or family status, age, health condition, disability, genetic heritage, gender identity, sexual orientation, antisemitism, xenophobia, ideas of fascist, nationalist communist and other totalitarian regimes are not allowed. - Hate speech is also regulated by the Criminal Code which in Article 325 regulates public incitement to violence and hatred based on racial, religious, national or ethnic identity, origin, color of skin, gender, sexual orientation, disability, etc.
- [20] [https://narodne-novine.nn.hr/clanci/sluzbeni/2010\\_12\\_137\\_3515.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2010_12_137_3515.html)
- [21] The results for 2021 are not comparable to 2020 because of the modification of the indicator and different scoring for individual variables provided by consulted minority experts. With regard to other indicators within this domain there were no methodological changes and the scores remain comparable.
- [22] An email interview was conducted with Professor Gordana Vilović, lecturer on Media and Diversity at the Study of Journalism, Faculty of Political Science, at the University of Zagreb.
- [23] A telephone interview was conducted with Dr Tihomir Žiljak from the Faculty of Political Science, University of Zagreb.
- [24]

See Art. 9, par. and par. 2 of the Act on Croatian Radio-Television (OG 137/10, 76/12) [https://narodne-novine.nn.hr/clanci/sluzbeni/2010\\_12\\_137\\_3515.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2010_12_137_3515.html) Art 9, par. 1 specifies that the public service of Croatian Radio-television includes the obligation of the institution to produce programs fulfilling the democratic, social and cultural needs of the Croatian society, guaranteeing pluralism, including cultural and linguistic diversity. Art 9, par. 2 specifically lists the obligation to adapt, produce, co-produce and publish/broadcast programs for persons with disabilities and children with disabilities and encourage the translation to the Croatian Sign Language.

- [25] The Fund for Promotion of Pluralism and Diversity of Electronic Media, managed by the Electronic Media Agency, stimulate the production and broadcasting of audiovisual and radio programmes of television and/or radio broadcaster at the local and regional levels which are of public interest and audiovisual and radio programmes of nonprofit television and/or radio broadcaster (Article 64 Para. 1 of the Act on Electronic Media).
- [26] [https://narodne-novine.nn.hr/clanci/sluzbeni/2009\\_12\\_153\\_3740.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2009_12_153_3740.html)
- [27] Available at <https://www.prs.hr/cms/post/77>
- [28] An email interview was conducted with Dr Lana Ciboci, Assistant Professor, Department of Communications and Public Relations, Edward Bernays University College in Zagreb.
- [29] A telephone interview was conducted with Petar Vidov, main editor of the fact-checking portal Faktograf, member of the International Fact Checking Network and Facebook's Third Party Checking Program.
- [30] The Electronic Media Act contains two articles targeting false information and specifying reliable sources in cases of health emergencies - Article 15, paragraph 1 states that all media service providers are obligated to broadcast, without charge, official information from relevant state bodies when it comes to issues concerning lives and health of the population, national security, public order and peace. - Articles 24 and 25 state that all broadcasts are to provide accurate and checked information and that the events are to be truthfully and correctly represented by facts and events, while opinions and commentaries must be easily recognisable as an opinion or a commentary. See: [https://narodne-novine.nn.hr/clanci/sluzbeni/2009\\_12\\_153\\_3740.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2009_12_153_3740.html)
- [31] Hate speech regulation includes: - Article 12, paragraph 2 of the Electronic Media Act which states that incitement or spreading of hate speech or discrimination based on racial or ethnic belonging, skin color, gender, language, religion, political or other beliefs, national or social origin, economic status, union membership, education, social status, marital or family status, age, health condition, disability, genetic heritage, gender identity, sexual orientation, antisemitism, xenophobia, ideas of fascist, nationalist communist and other totalitarian regimes are not allowed. - Hate speech is also regulated by the Criminal Code which in Article 325 regulates public incitement to violence and hatred based on racial, religious, national or ethnic identity, origin, color of skin, gender, sexual orientation, disability, etc.
- [32] Data provided by the Agency for Electronic Media.
- [33] Data provided by Ipsos.
- [34] Eurostat. Available at <https://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do>
- [35] Eurostat. Available at <https://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do>

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## Annexe I. Country Team

First name	Last name	Position	Institution	MPM2021 CT Leader
<i>Pasko</i>	<i>Bilic</i>		<i>Institute for Development and International Relations</i>	X
<i>Monika</i>	<i>Valecic</i>	<i>Responsible for the Political Independence area</i>	<i>Independent Researcher</i>	
<i>Toni</i>	<i>Prug</i>	<i>Responsible for the Market Plurality area</i>	<i>Independent Researcher</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>Hrvoje</i>	<i>Zovko</i>	<i>President</i>	<i>Croatian Journalists' Association</i>
<i>Josip</i>	<i>Popovac</i>	<i>President</i>	<i>Council for Electronic Media</i>
<i>Viktorija</i>	<i>Car</i>	<i>Associate professor</i>	<i>Faculty of Political Science, University of Zagreb</i>

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