

# 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: Estonia

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**Research Project Report**

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# TABLE OF CONTENTS

<b>1. About the project</b>	<b>4</b>
1.1. Overview of the project	4
1.2. Methodological note	4
<b>2. Introduction</b>	<b>6</b>
<b>3. Results from the data collection: assessment of the risks to media pluralism</b>	<b>8</b>
3.1. Fundamental protection (25% - low risk)	8
3.2. Market plurality (64% - medium risk)	10
3.3. Political independence (26% - low risk)	12
3.4. Social inclusiveness (45% - medium risk)	14
<b>4. Pluralism in the online environment: assessment of the risks</b>	<b>17</b>
<b>5. Conclusions</b>	<b>21</b>
<b>6. Notes</b>	<b>22</b>
<b>7. References</b>	<b>25</b>
<b>Annexe I. Country Team</b>	
<b>Annexe II. Group of Experts</b>	

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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 Estonia the CMPF partnered with Andres Kõnno (University of Tallinn), 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.

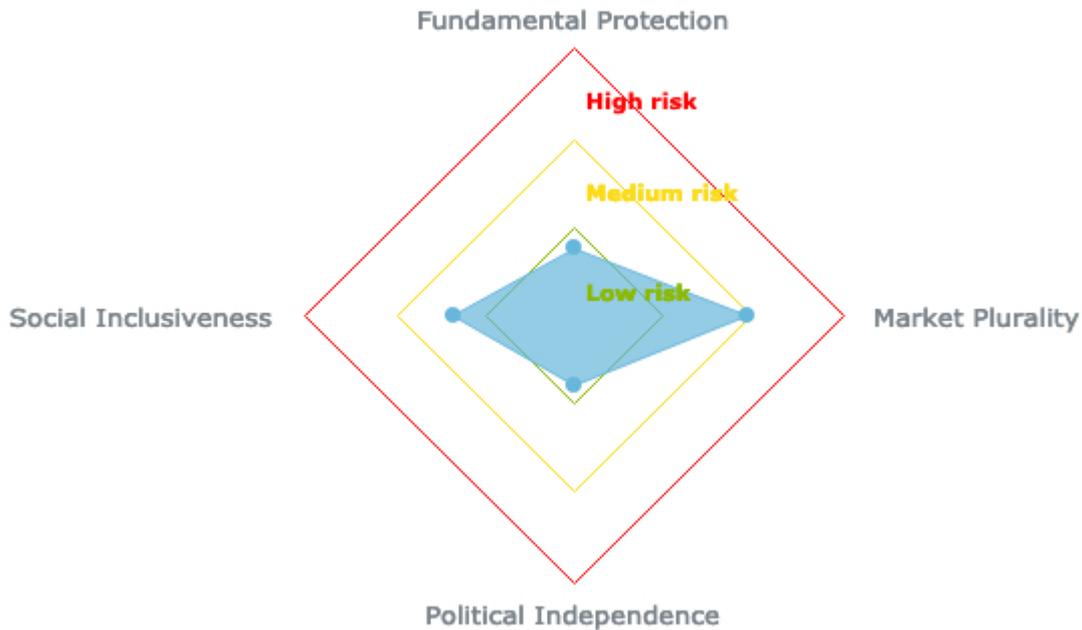
**Disclaimer:** The content of the report does not necessarily reflect the views of the CMPF, nor the position of the members composing the Group of Experts. It represents the views of the national country team that carried out the data collection and authored the report. Due to updates and refinements 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:** According to Statistics Estonia <sup>[1]</sup>, the estimate of the population of Estonia, as of 1 January 2021, was 1,329,460 persons, which is 480 persons more than at the same time a year ago.
- **Minorities:** According to the Estonian census of 2011, representatives of 192 different nations currently live in the country. 68,7 % of the inhabitants are Estonians, 31,3% of the population defines itself as standing for some other national group. The numerous minorities in Estonia are Russians (about 25% of the population), Ukrainians (~2% of the population), Belarussians (~1% of the population) and Finns (~0,6% of the population).
- **Economic situation:** In 2018, the gross domestic product (GDP) of Estonia was €26 billion; GDP per capita was €19,695, which was €1,647 more than a year earlier<sup>[2]</sup>. In the fourth quarter of 2020, GDP decreased by 1.2% year on year, and the GDP at current prices was €7.3 billion. In 2020 as a whole, the Estonian economy shrank by 2.9% <sup>[3]</sup>. Most of the economic activities experienced an economic downturn due to the emergency situation. The only activities, which continued to show significant growth were construction (by 12%) and information and communication (by 8%) <sup>[4]</sup>. In the fourth quarter of 2020, the labour force participation rate was 72.4%, the employment rate was 67%, and the unemployment rate was 7.4%. There were 47,900 unemployed persons, which is 16,600 more than in 2019. Most of the unemployed persons had been unemployed for less than half a year. The unemployment rate among Estonians was 5.8% and among Russians 9.4% <sup>[5]</sup>.
- **Political situation:** The polarization of the political landscape in Estonia has been notable. The conservative coalition consisting of Keskerakond (moderates), Isamaa (known as the Christian-democrats in the rest of Europe) and Estonian Conservative Nationalist Party (EKRE) ended on 14 January 2021 <sup>[6]</sup>. The new coalition is formed by the Reform Party (liberals) and Keskerakond, headed by prime minister Kaja Kallas (Reform) <sup>[7]</sup>.
- **Media market and regulatory environment:** In relation to the media market, the most important measure dates back to 1 May 2020, when a 9% reduction in VAT on e-publications was introduced as a measure to develop digital culture. In the view of media houses, this means that the publication of print media is taxed at a higher rate than the production of online media <sup>[8]</sup>. The biggest goal of the Estonian Association of Media Companies today is to promote digital journalism. If five years ago the members of the union had about 7,000 digital subscribers, today this number is ca 20 times higher - 142,225 digital subscribers (February 2021)<sup>[9]</sup>. The media association expects that in five years, there will be 300,000 digital subscribers to various press publications in Estonia. In the future, the role of the press based on the advertising model is projected to decrease, the share of revenues from paper publications to decrease further, and the share of digital subscribers to increase - In order for editorial offices to be able to sustain themselves only from digital subscription revenues, about three times as many digital subscribers would be needed. One can name three basic concerns in relation to today's Estonian media market: 1) the growing horizontal and 2) vertical concentration of media ownership, 3) the biasedness of local media (especially municipal media, but not only; this is a problem with no easy solutions, partly for the reason that there is no tradition of having a media ombudsman - or any other type of media regulator) that could be compared to various analogous institutions in other European countries).
- **COVID-19:** According to a recent study by Norstat Estonia and digital media agency Dentsu, the media

consumption during the pandemic has grown rapidly, especially among the younger audience. That applies to radio, television and printed newspapers. Also, the entrepreneurs in all sectors are expected to have more social responsibility, especially in relation to the fight with coronavirus (i.e. promoting socially responsible behavior in public places, in work areas, via enabling distance work, being more flexible with the workers with families, etc.). [\[10\]](#).

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



JS chart by amCharts

Amongst the four areas, there is a major concern with the area of **Market Plurality**, which represents a medium risk on average (but close to the threshold of high risk), and high risk in what concerns News media concentration and Media viability. In the area of market plurality, the rest of the indicators stand for the medium risk that is rather close to the high risk.

Constantly (compared to previous periods) high risk to media pluralism is also present in the area of **Social Inclusiveness**, in relation to the Access to media for local/regional communities and for community media. For an independent regional newspaper, it is very hard to maintain itself by producing local news in a market where the audience of traditional media is shrinking. As a principle, the state does not provide subsidies for private media channels.

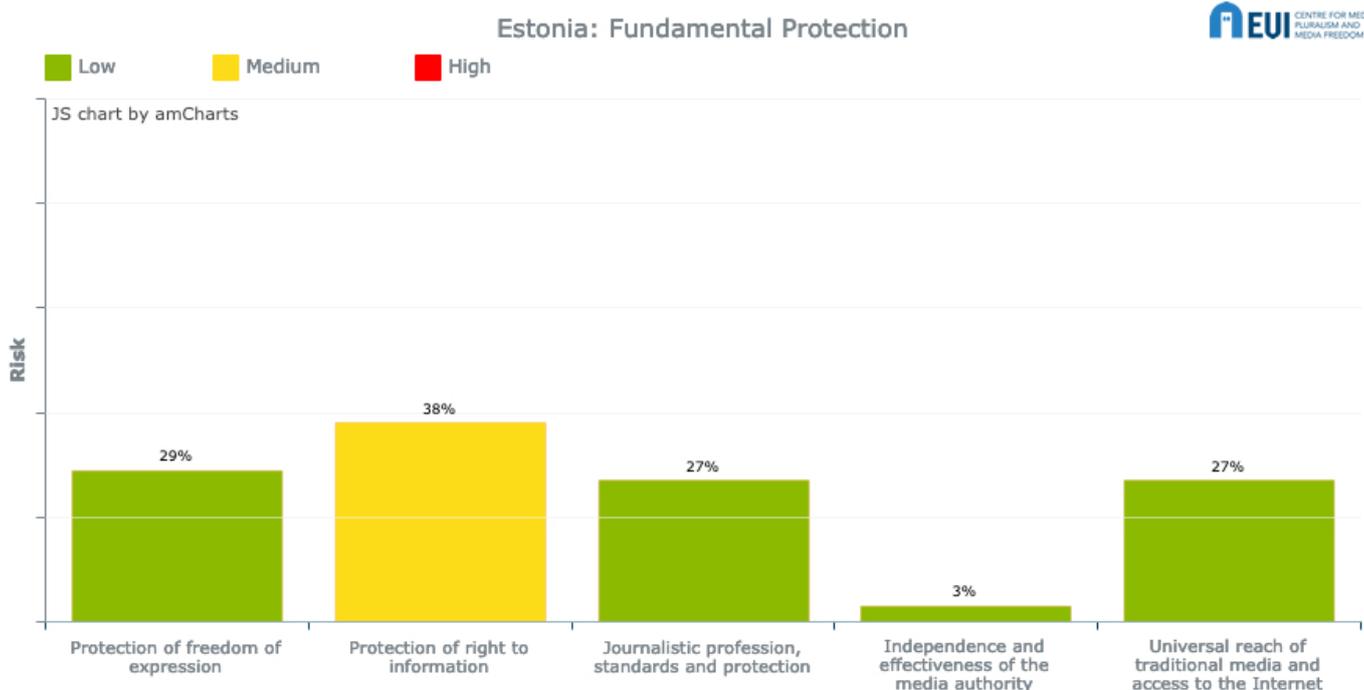
There are three aspects that need to be stressed: a) during recent years, the horizontal and vertical concentration of media ownership has been growing, especially in what concerns regional media; b) the tradition of municipality media is strong, especially in smaller cities and c) the municipality media as a rule of thumb also sells advertising, and this tends to create market distortions.

In what concerns the aspects of **Fundamental Protection** and **Political Independence**, the situation is less worrisome. However, the political attempts to gain control over the council of public service media have increased, especially during the coalition that ended 14 January 2021 (moderates + conservatives).

All the complaints related to the media content are managed either by the Press Council at the Estonian Media Alliance (that includes both printed press and online media) or by the media ombudsman working for the Estonian Public Broadcasting. However, the aforementioned ombudsman operates solely in the framework of public broadcasting. The decisions he makes do not apply to private media.

### 3.1. Fundamental Protection (25% - 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.



There is one indicator in this figure that demonstrates medium risk: the indicator that describes the **Protection of the right to information** (38%). Although the right to information is explicitly recognised in the Constitution<sup>[11]</sup>, in the Public Information Act<sup>[12]</sup> and in the Personal Data Protection Act<sup>[13]</sup>, there is no Information Ombudsman who would oversee how this right is protected in practice. Access to information practice is based on the norms and values that are established inside media organisations and, of course, in the utmost cases, courts decisions. In some cases, public institutions tend to misuse the procedures in order to deny the stakeholders access to public information. The regulatory framework for the protection of whistleblowers is a work in progress. By the end of 2021, Estonia must transpose the EU's Directive on the Protection of Whistleblowers into the national law<sup>[14]</sup>. At the moment, in relation to whistleblowing, one can only refer to the Anti-Corruption Act that covers the reporting of corruption by public officials and other types of wrongdoings).

The indicator on **Protection of freedom of expression** shows a rather low level of risk (29%). Since the early 1990s, freedom of expression is considered a constitutional right. Also, the state has ratified the International Covenant on Civil and Political Rights and the European Convention of Human Rights with no significant exemptions for freedom of expression. The risk that MPM points to is related to the fact that defamation is not decriminalised; defaming or insulting a person carries a fine or prison term of a maximum of two years.

The indicator on **Journalistic profession, standards and protection** (27%) offers another perspective on the area of freedom of expression, and this analysis presents a low risk. There are no attacks on journalists; also, there have been no public smear campaigns against journalists. The journalists' professional

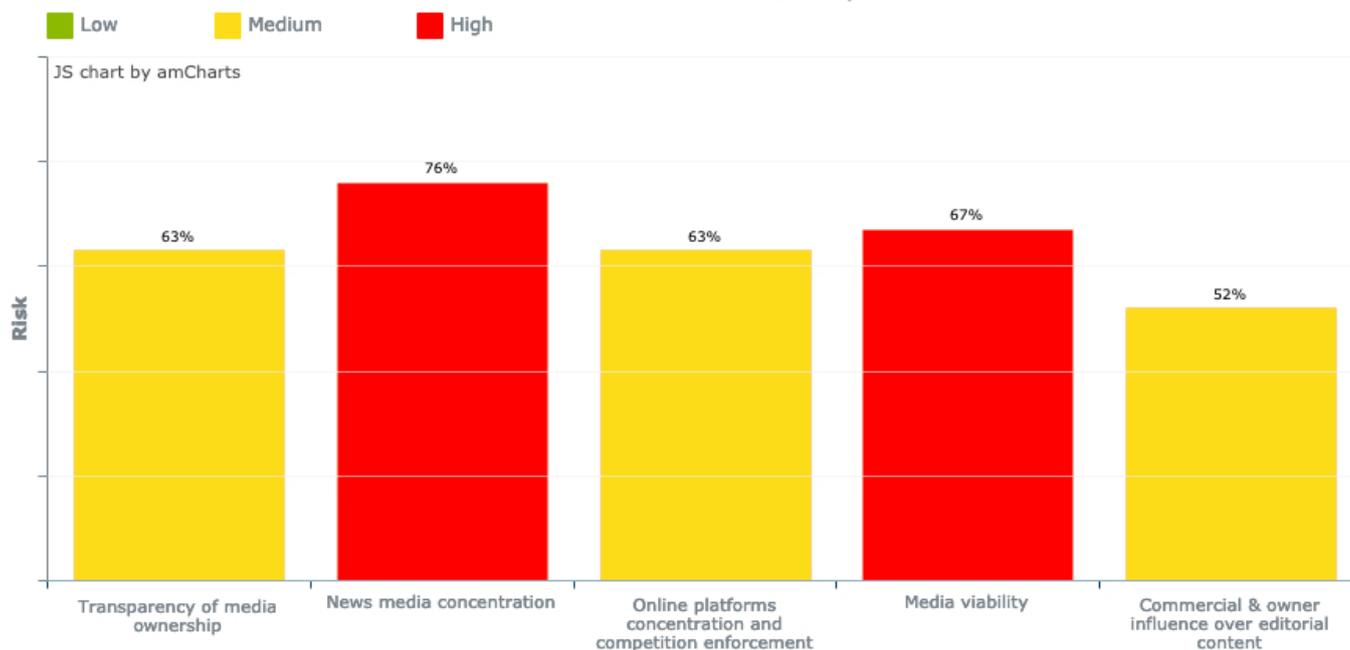
associations in Estonia are not that popular among journalists in comparison to the rest of Europe. This is because the reputation of a union as an ideological institution that was established back in Soviet times hasn't entirely disappeared. The profession is very much vulnerable to economic changes and to the will of the employers. Although there are few strategic lawsuits against public participation (SLAPPs), there is no legal framework to prevent them.

In relation to the indicator on **Independence and effectiveness of the media authority**, it must be noted that in Estonia, there is no media authority as such. In order to comply with the MPM methodology, we took into account the body that is dealing with media and is part of the European Platform of Regulatory Authorities (EPRA). The Consumer Protection and Technical Regulatory Authority that is responsible for media regulation has no competencies to supervise media content <sup>[15]</sup>.

The indicator that describes the **Universal reach of traditional media and access to the Internet** scores 27% risk. These results relate to the relatively small media market that is limited by the size of Estonia's population, which is 1,3 million. There are only three major Internet service providers (ISPs) in the Estonian market; the broadband coverage (and speed in some cases) is not that good (especially in the countryside). Also, the safeguards regarding net neutrality are only a recent development in Estonian Internet culture.

### **3.2. Market Plurality (64% - 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*



**The indicator on Transparency of media ownership** scores a medium risk (63%). There is no media-specific law on media ownership transparency in Estonia. The general law on entrepreneurship applies. The issue of transparency of media ownership has become relevant in Estonia only during recent decade. Although the law does not contain any media-specific provisions requiring the disclosure of ownership details, the owners of all major channels are known to the public. All information that relates to the entrepreneurship in Estonia is electronically available. The access to the company registers is free (including the information about fiscal behavior, profits and annual reports of the companies and NGOs). Nonetheless, information on the ultimate ownership is not always publicly available.

Amongst the five market plurality indicators, **the highest risk (76%) stands for the News media concentration**. The legislation in Estonia does not specify the concept or 'horizontal concentration'. The risks of media concentration have been brought in the spotlight just in the last few years especially in relation to the growth of the market share of Postimees Group (formerly known also as Eesti Meedia). The Media Services Act<sup>[16]</sup> has a narrow regulation in relation to the radio and TV services, also it lacks references to newspaper publishing.

Even if the complaints related to the market regulation regarding journalism and media are sometimes solved by the Estonian Competition Authority, particularly in the case of vertical concentration of ownership, the law does not oblige the Competition Authority to deal with the media-related complaints when they are related to the horizontal concentration of ownership, neither to the cross-media concentration. There is no department in the Competition Authority to focus primarily on media related issues<sup>[17]</sup>. The market shares of Top4 owners are particularly high for radio (74%) and newspapers (68%). The Top4 index for cross-media concentration is 92%.

**The indicator on Online platforms concentration and competition enforcement** scores medium risk (63%), very close to the high-risk threshold. This is because of the predominance of direct access to the news online, that in some way counterbalances the higher scores coming from the concentration of market and audience. Risks in relation to this indicator come from the dominance of few operators in the online advertising market. Also in this case, the market concentration is to be related to the lack of media specific regulation, to the limits of the Competition Authority's competencies (see above). In Estonia, competition enforcement has not been reformed nor updated to take into account the role of the digital platforms in the

new media environment. The value of the internet advertising market in 2019 was only somewhat lesser than the value of the TV-advertising market (correspondingly 22,4 and 26,4 millions euros)<sup>[18]</sup>. It is dominated by the Postimees Group and Ekspress Meedia, but the share of Google and Facebook grows approximately 10% a year<sup>[19]</sup>.

**The indicator on Media viability** is at high risk (67%). The risk is measured mostly in terms of the advertising revenues of different media sectors. Although the advertising market was in decline during 2020 due to the COVID-19 pandemic, the situation has worsened mostly because of the lack of regulation in the sector of digital advertising. Meaning, platforms gather majority of online advertising due to lack of regulation. And this in turn has a negative impact especially on the local media, as their dependence on advertising is relatively bigger than for the bigger news organizations. Notably, there has been no state subsidies for media in relation to COVID-19 emergency. According to the statistics that the Estonian Media Alliance gathers, the print numbers in general have decreased to some extent, but not much<sup>[20]</sup>, however - this is an indirect measure, as the economic results are not available.

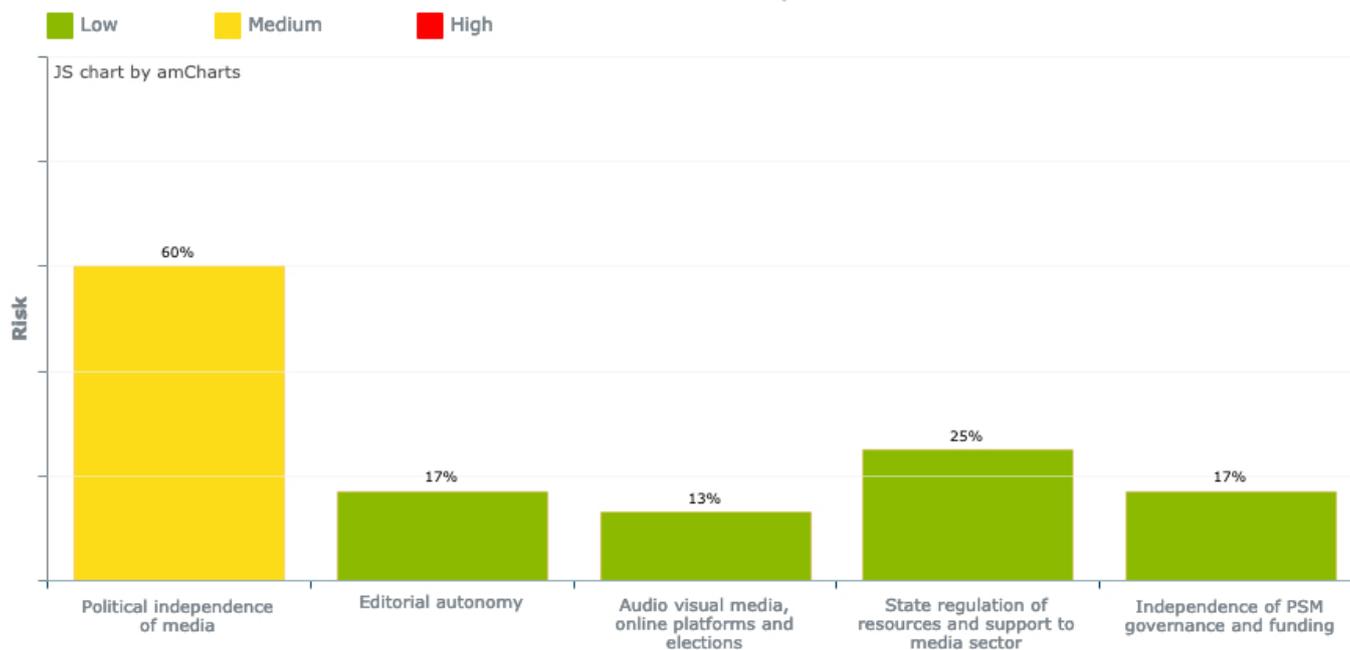
**Commercial and owner influence over editorial content scores** is at medium risk (52%). There is not a specific law to guarantee safeguards for journalists regarding appointments and dismissals in the case of change of ownership and/or editorial line. The general law on workers' protection applies.

However, the Code of Ethics of the Estonian Association of Journalists (EAJ) and the Statute at the Estonian Press Council at the Estonian Newspapers Association should be of help when journalists' autonomy is at stake. But mechanisms that grant the social protection of journalists in the case of changes in the ownership or in the editorial line are not implemented in practice.

The Estonian Association of Journalists should play a role in supporting journalists' autonomy. However, the membership of EAJ is not widespread, because the protective measures it could possibly take are believed to be not effective. According to the report published in 2019, the volume of journalists participating in the professional organizations has been stable since 2016 (this applies also for the AV sector)<sup>[21]</sup>.

### **3.3. Political Independence (26% - low 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 medium risk score for the risks related to the Political independence of media (60%)** is due to the lack of a law regulating the conflict of interests between owners of media and the ruling parties/politicians. The area is covered by the Public Broadcasting Act<sup>[22]</sup> and Media Services Act<sup>[23]</sup> in general and there is no separate law to regulate the issue. The lack of such rules is evident especially on the regional, local and municipal levels.

**The low risk that stands for the Editorial autonomy (17%)** reflects the fact that there are no common regulatory safeguards to guarantee the autonomy when appointing and dismissing editors-in-chief. Also, the Estonian Press Council has a code of conduct for media ethics, that includes the necessity of editorial independence of the media. As the editorial independence and freedom of the press have been taken for granted quite a long time, it is not articulated in the clearest possible manner. There are no known cases of political interference in this respect.

**The indicator on audio visual media, online platforms and elections** scores low risk (13%). The Media Services Act prescribes political balance for PSM channels, especially during the election campaigns. In what relates to online platforms and also other types of private channels, the Media Services Act does not guarantee access for all political actors to all channels. Online political advertising is subject to the Advertising Act,<sup>[24]</sup> however, it does not pay special attention to political parties.

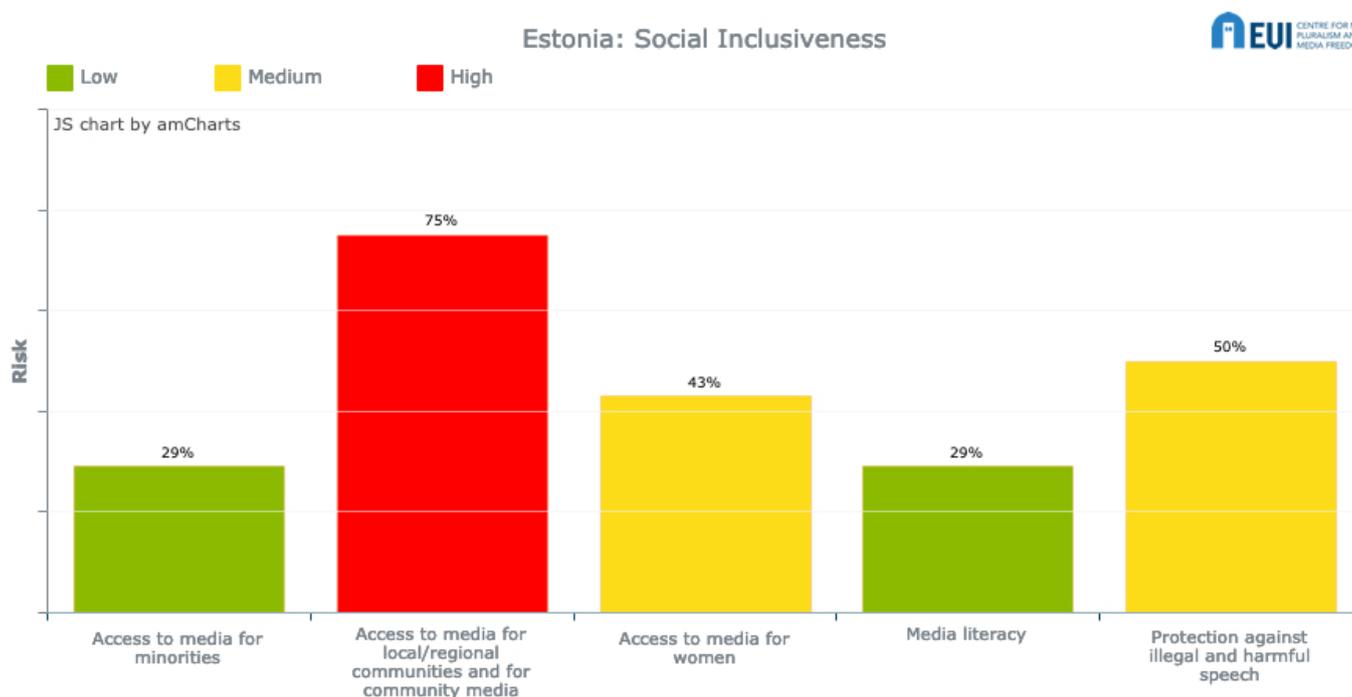
**The State regulation of resources and support to media sector indicator** scores a 25% risk. It is still low risk, but on the higher end of the spectrum. The state does not provide direct or indirect subsidies to media outlets. The problem in this relation is state advertising, especially on municipality level, together with the fact that advertising income is crucial for the privately owned newspapers in smaller markets. While the Public Procurement Act has made the control over the spending of public money more effective, there is no register that would reflect specifically on the allocation of state advertising resources. A common practice is that a public relations company wins the bids for communication campaigns and advertising. How they decide on buying advertising in media is not fully clear.

**The Independence of PSM governance and funding** (scores low risk, 17%) is regulated by the Estonian Public Broadcasting Act. The process of the appointments of the board and the council of the Estonian

Public Broadcasting agency has always attracted public attention, during the past decades. According to the law, the council consists of the representatives of all political parties represented in the parliament, plus four well-known experts. The council in turn names the board of the PSM. The appointment procedure for the Director General of the PSM consists of two separate procedures. First, there is a public competition that is announced in all major newspapers. Secondly, the top candidates are introduced publicly and have to present also their vision of the PSM strategies for the coming years. Then, after the interviews by the council of the PSM, the top two candidates remain. A few weeks later, the choice is made via secret vote. The only legal safeguard at this point is the Public Broadcasting Act that guarantees the political diversity of the Council of Estonian Public Broadcasting. The political content and the neutrality of PSM has been closely monitored by all political counterparts and its neutrality in most cases is beyond question. In this respect, the Public Broadcasting Act has served its purpose well. Theoretically, the law prescribes transparent and fair procedures in order to ensure that the funding of PSM is adequate. The PSM, however, signals that it is in a constant lack of resources.

### 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 2021, Estonia maintains a medium risk in the Social Inclusiveness area with 45%, compared to 41% in the 2020 edition of the MPM. Importantly, all basic variables remain approximately the same, except for the score for Media literacy that has improved and switched from a medium to a low risk (29%). For the first time, this area includes an indicator for the Protection against illegal and harmful speech (that is to a great extent a subject to self-regulation), which scores a medium risk (50%). It is also important to notice that, compared to last year, the measurement of the Access to media for people with disabilities has been included as a subindicator within the indicator Access to media for minorities. However, this change did not

affect the level of risk for Access to media for minorities as it remained low (29%).

**Access to media for minorities scores low risk (29%).** Although the law does not guarantee the access to airtime on PSM to legally recognized minorities, the Public Broadcasting Act RT I 2007, 10,46<sup>[25]</sup> states that PSM has to meet the information needs of all sections of the population, including minorities (Par. 5 and 6). Basically, all minorities either recognized by the law or not, have access to the airtime as the inhabitants or citizens of Estonia. The issue has not really been on the public agenda, as there is no record of violations in this respect. There are separate channels (Raadio 4, ETV+ and a PSM owned online site in Russian) that publish news in Russian on a daily basis. There is no record of deliberate discrimination of minorities in private channels.

**The high risk in relation to the access to media for local/regional communities and for community media (75%)** reflects the fact that radio and TV frequencies are available on the free market. If there is a vacancy, any interested counterpart may apply. Besides, there is no legal obligation for PSM to keep its local/regional correspondents. The state does not support neither local media nor community media (nor any media) with subsidies. Community media has no separate legal status in Estonia, i.e., it may be independent, but may also be a member of a larger media organization (such as TRE Radio). However, the support to community media is often given through a) economic support from local governments, b) EU funded projects (the list of supportive measures that the communities may apply is rather long) and c) the state measures that promote social integration – something that also can be interpreted as the community related communication (i.e. several supportive measures by the Enterprise Estonia).

**Access to media for women scores medium risk (43%).** Gender policies have not been under the radar of policy makers since the 1990s. As we look at the PSM's strategy paper for the coming 2021-2024, there is no reference to gender equality whatsoever<sup>[26]</sup>. Neither there is reference to the gender issues in the collective agreement in between the management of ERR and journalists. The Gender Equality Act RT I 2004, 27,181<sup>[27]</sup> was passed in the parliament already in 2004. The subject may be acknowledged, but it is still proceeding in slow motion. According to Statistics Estonia data from 2020, the difference in between men's and women's average salary in the field of information and communication is 15.2%<sup>[28]</sup>. However, one can say that women are proportionately represented in news and current affairs broadcasting and free from stereotypes. Among the executives and the boards of PSM and private media, women are represented almost equally with men, i.e., the share of women is 60% in both cases.

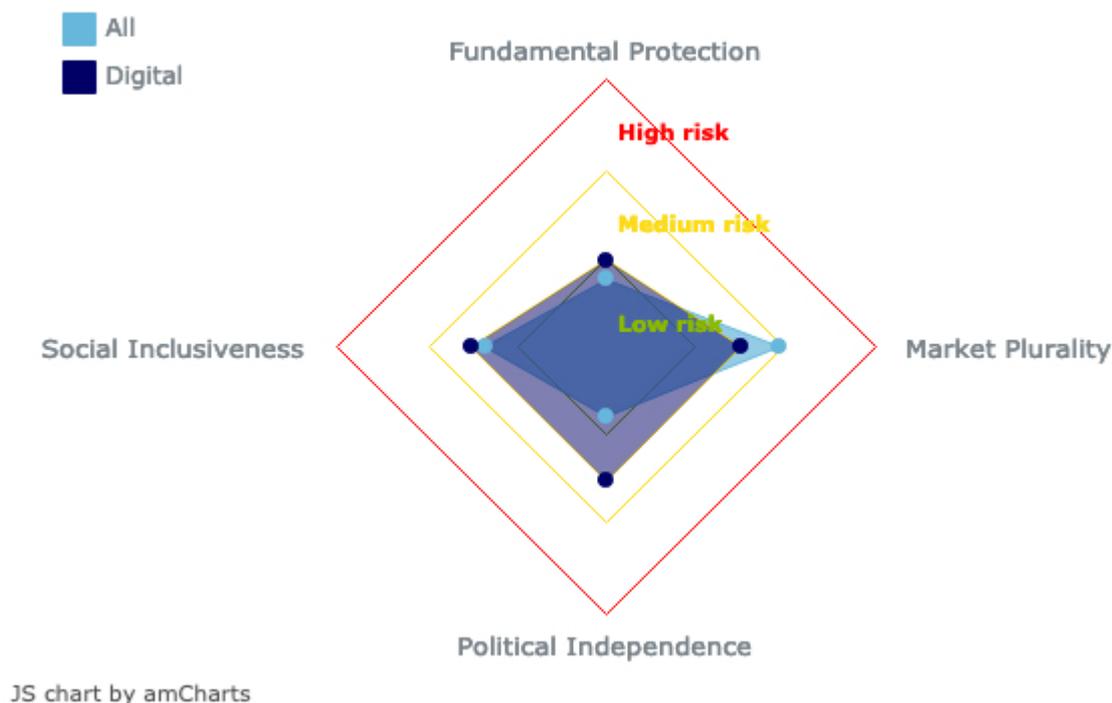
**Media literacy scores for Estonia moved from medium (50%) to low risk (29%) between 2020 and 2021.** Media literacy has been in the agenda of the Ministry of Education for at least a decade and Estonia has now a quite developed set of policies, including the *Estonian Lifelong Learning Strategy 2020*<sup>[29]</sup>, which proposes concrete targets and measures that are coherent and up-to-date with the latest societal changes). The Media literacy issue has become more important in relation to the digitalization and the spread of touch-screen mobile technology. Teaching media literacy at school has been on the agenda of the Ministry of Education since the beginning of 2000's. Notably, the programmes that promote media literacy address this issue to children younger than 7 years old. However, despite the relatively low risk, a look at the real situation in schools shows that there is still room for improvement. For example, there is a lack of teachers to work in this field, as there is no specific training in media literacy and digital skills for teachers at different levels of education. In addition, the problems of media literacy in Estonia have mainly been addressed as the issue of digital skills. Talking about digital skills in Estonia means promoting the understanding of how society works in a post-print period and explaining the nature and role of communication in society of the digital age<sup>[30]</sup>. In the European context, the situation of media literacy looks

rather good. According to the Media Literacy Index 2019, Estonia ranks on the 9th position together with Finland, Sweden, Denmark and Netherlands<sup>[31]</sup>.

The indicator **Protection against illegal and harmful speech** scores medium risk (50%). In general, all major online portals in Estonia have editors that constantly keep monitoring and editing online commentaries. Also there is a position of web-constables, who keep monitoring the sites for young people. Should there be a complaint about an harassment and/or insults and threats, the responsible person(s) are tracked and sent to the court. Normally, the guilty pay a sum of money or they have to volunteer to do some public work with no pay.

However, Estonia scores a medium risk, because hate speech hasn't been criminalized yet. During recent years (2020, also spring 2021), the Estonian public has witnessed a vivid discussion over the different functionalities of hate speech bill, that was proposed by the Reform Party in 2020<sup>[32]</sup>. However, there is a general distrust against this regulation, as there are not enough guarantees that it will not serve as a medium to control freedom of speech in general. Incidentally, the topic of hate speech bill entered the agenda simultaneously with the COVID-19 pandemic. As a result, the hate speech bill has been framed by its opponents (among other arguments) as an attack to the freedom of speech in order to stop spreading the "truth about coronavirus". In this sense the situation in Estonia is similar to other European countries that face the need to fight the COVID-19-related disinformation campaigns.

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



### Fundamental Protection

Protection of freedom of expression online was widely acknowledged on 16 June 2015, when the Grand Chamber of the European Court of Human Rights delivered the final judgment in the case of *Delfi AS vs Estonia*, deciding on the liability of an online news portal for the offensive comments posted by its readers below one of its online news articles<sup>[33]</sup>.

The provisions on rights and freedoms set out in the European Convention on Human Rights apply equally online and offline in the case of Estonia. Basically, this is the only regulatory safeguard: the content provider makes the decisions. The role of the state in this process is minimal, the state neither filters nor removes any of the content that is published online unless the audience gives an indication of inappropriate use of the platform or the court makes the decision that is based on some of the accusations that originate from the audience. All cases are solved case by case according to the prescriptions of the Estonian Press Council or in a mutual agreement between interested stakeholders. To a large extent, the practise of journalism is regulated by "self-regulatory" instruments.

There is no licensing or registration of journalists. However, the work of journalists is protected by various acts. Just to name the most important: 1) since 31 December 2010, there is a separate section on the protection of journalistic sources in the law that applies to the Public Broadcasting<sup>[34]</sup>, 2) in the code of criminal procedure there is a section § 72, that regulates the refusal to give testimony due to professional or other activities<sup>[35]</sup>, 3) since 2018 the Estonian Government has established the rules for the protection of journalistic sources to be applied in the process of criminal investigation (until 2018 the source protection was regulated only by the law of public broadcasting)<sup>[36]</sup>, 4) the Public Information Act (passed 15 November 2000) gives a very clear definition to all imaginable cases, including electronic data storage and related obligations to ETO's and ISP's<sup>[37]</sup>, 5) the Personal Data Protection Act is in force since 15 January 2019, also prescribes the rules for processing personal data in journalism (§ 4)<sup>[38]</sup>.

The ISPs in Estonia are not engaged in monitoring and editing the content they provide. Until today (2020), every removal of the online content in Estonian practice has happened due to private claims against online providers. There is no evidence that any of these contents have been removed without the court's or ombudsman's decision. In some cases, the online providers do correct their content for the single notice that the audience makes.

The broadband connection reaches 82.9% of the population (European Commission's data from 2015)<sup>[39]</sup>. The ownership concentration of the Internet Service Providers is rather high; there are three major providers with 93% of market share. In spring 2019, Elisa (the second largest telecom company) bought Starman (20% of the ISP market). The rest of the ISP market belongs to STV (19,6%) and Telia (54%)<sup>[40]</sup>.

## Market Plurality

**The indicator on Online platforms concentration and competition enforcement** scores medium risk (63%), very close to the high-risk threshold. This is because of the predominance of direct access to the news on line, that in some way counterbalances the higher scores coming from the concentration of market and audience. Risks in relation to this indicator come from the dominance of few operators in the online advertising market.

In what concerns the ownership of digital news media, there is no specific law that would require the disclosure of ownership details. Basically, all information related to entrepreneurship in Estonia is electronically available. The use of the registers is free. Nonetheless, in case of digital media one can point to the cross border activities with the news outlets such as Russia Today, Sputnik, PBK and the like; and this rises the risk for media pluralism.

The media related legislation in Estonia does not even mention the concept of 'horizontal concentration'. Now it has been just a few years when the horizontal concentration of ownership seems to be a problem from the point of view of the quality media. The market share of the Top4 online news media outlets is approximately 60%. This is likely to be overlapping with the market share of Top4 major newspapers, as the majority of their work reflects on the online sites. The concentration of Top4 players in the online advertising market is even bigger, around 90% (i.e. Postimees Group, Ekspress Meedia, Google and Facebook). The audience concentration of the Top4 online competitors is approximately 80%<sup>[41]</sup>. Importantly, there is no legislation that could prevent the high degree of horizontal concentration of media ownership. There are no separate statistics on the digital native news media, but the fact is that it is gaining popularity and is also partially state supported (by Eesti Kultuurkapital / Cultural Endowment of Estonia<sup>[42]</sup> - a state financed foundation, that gives money for culture). These channels also sell advertising and it seems that this part of the mediascape is doing rather well. For mainstream politics digital native media in general is out of radar. In Estonia, it exists purely as a cultural phenomena. Also, there is no generally recognized self-regulation of journalists with regard to social media use for work purposes.

As of 1 April 2020, the tasks of the Consumer Protection and Technical Regulatory Authority joined into the institution of Consumer Protection and Technical Regulatory Authority. It may intervene when it concerns the vertical concentration of ownership. In most cases that endanger the freedom of the press in Estonia we talk about the horizontal concentration of media groups.

The owner's influence over editorial content hasn't really been an issue for the past year. The biggest goal of the Estonian Association of Media Companies today is to promote digital journalism. The most important

change in recent developments is the reduction of value-added tax on e-publications to 9%, entered into force on 1 May 2020; i.e., the Estonian digital media has lower taxation than the print media. If five years ago the members of the union had about 7,000 digital subscribers, today this number is 17-times higher - 120,000 digital subscribers (November 2020). The media association expects that in five years there will be 300K digital subscribers to various press publications in Estonia.

In the future, the role of the media that is based on the advertising model is projected to decrease, the share of revenues from paper publications to decrease further and the share of digital subscribers to increase. In order for editorial offices to be able to manage only from digital subscription revenues, about three times as many digital subscribers would be needed. From the point of view of the Estonian Association of Media Companies, the media regulation in force in Estonia is outdated and needs to be modernized, because private media living mainly from the sale of digital subscriptions and no longer from advertising money cannot compete with ERR's free content on digital platforms<sup>[43]</sup>.

According to the ERR research centre, the spring state of emergency showed confidence in the digital channels of Estonian Public Broadcasting, which was reflected in the increased audience numbers as well as in the assessments given by the people. The number of visitors to the err.ee portal increased by an average of 48% during the emergency compared to the pre-emergency period, and by up to 90% in the first weeks of the emergency. The number of visitors to ERR's Russian-language news portal rus.err.ee increased by 88% during the emergency. ERR's news portals were also the most reliable web channels among both Estonian and non-Estonian-speaking people, although, in terms of the total number of visitors, commercial portals exceed ERR portals<sup>[44]</sup>.

In Estonia, ETV+ now reaches more viewers than PBK. ETV+, the Russian-language channel of Estonian pubcaster ERR, has achieved what seemed impossible in the past. According to the official data, since the beginning of the crisis last spring, the number of ETV+ viewers watching for at least 15 minutes has grown to 215,000 per week. For comparison, in February 2021, PBK Estonia dropped below 200,000 viewers per week. The number of daily TV viewers of ETV+ has increased by 44% compared to February last year. Year over year, the viewing time on ETV+ has increased by 36%. At the same time, PBK's viewing time has decreased by 28%, while RTR Planeta kept the same levels of viewing<sup>[45]</sup>.

### **Political Independence**

The PSM funding with regard to the online public services is not specified in the Public Broadcasting Act. The PSM doesn't have any revenues from advertising, therefore it doesn't compete financially with private media. Importantly, the Act doesn't prescribe the online mission of PSM as any different of its radio and tv functions for society. Online political advertising is a subject to the Advertising Act, it applies also to online content. The monitoring of this law is subjected to the Consumer Protection and Technical Regulatory Authority. In relation to social media, the Advertising Act pays special attention to children, alcohol, online gambling and gambling. The Ad Library (publicly accessible libraries of political advertising provided by online platforms) works in Estonia well and there have been no complaints about it. Also, online political advertising can be regarded as subject to the Media Services Act that presumes the political balance during active election campaigning. In practice, the law as it is does not guarantee access for all political actors to all channels.

There exists also a Political Party Funding Supervision Committee at the Parliament, that has proved itself highly effective in such matters (including online expenses). Political Party Funding Supervision Committee<sup>[46]</sup> is subject to the Political Parties Act. It has proved itself to be rather effective in finding and

investigating hidden expenses<sup>[47]</sup>. The GDPR has been a hot topic during recent years and the Data Protection Inspectorate has taken precautions to avoid misuse of individuals' data and violations of the GDPR<sup>[48]</sup>.

### **Social Inclusiveness**

According to Eurostat data (2019), approximately 62% of the population has the basic or above basic overall digital skills. Around 29% of the population has a ranking of 'low digital skill'<sup>[49]</sup>.

The main regulation and reference against hate-speech originates from the Estonian Constitution, Chapter II: Fundamental Rights, Freedoms and Duties<sup>[50]</sup>. On the everyday level, all major online portals have editors that constantly keep monitoring and editing online commentaries. The legal framework for hate speech has been proven in the court - therefore, one could say it is effective. The general audience is aware that misbehavior (especially threats to life, racism and fraud) online may result with real punishment that in some cases may be criminal (such as threatening someone's life). During recent years (2020, also spring 2021) the Estonian public has witnessed a vivid discussion over the different functionalities of hate speech bill, that was proposed by the Reform Party in 2020.

However, there is a general distrust against this regulation as there are not enough guarantees that it will not serve as a medium to control freedom of speech in general. In addition, there is a position of web-constables, who keep monitoring the sites used by younger people. Web-constables are police officers working on the internet, they respond to notifications and letters submitted by people via the internet and train children as well as adults on issues of internet security. If there is a complaint about harassment and/or insults and threats, then the responsible persons are tracked and sent to the court. It seems to have little effect on the audience's understanding that online texting is as real as any other face-to-face situation.

There are various initiatives that aim countering disinformation in Estonia. Just to name few: The Tallinn-based NATO Cooperative Cyber Defence Centre of Excellence is a NATO-accredited knowledge hub, think-tank and training facility, also the Estonian Defence League has its volunteers mapping the Russian propaganda on the daily basis, its affiliate is a monitoring robot Propamon that looks for news related to Estonia in the Russian media. Also Ekspress Meedia has its fact-checking team, that works on the daily basis at news portal Delfi.ee.

## 5. Conclusions

As we look at the results of MPM 2021 Estonia, there are two major areas of risk: 1) market plurality and 2) social inclusiveness.

The area of **Market Plurality** represents a high risk in news media concentration and media viability + a medium risk in the other indicators. There are three aspects that need to be stressed: a) during recent years the horizontal and vertical concentration of media ownership has been growing, especially in what concerns regional media ; b) the tradition of municipality media is strong all over the country, as it offers the ruling parties the opportunity to spread their messages by using public money and c) due to the situation with covid-pandemic, the market is witnessing changes related to the decrease of advertising revenues.

It is important to note also, that the printed press has maintained its social status as a reliable source of information, although its importance as an advertising channel has become minimal. The positive tendency that was recently pointed by the Estonian Media Alliance is the rapid growth of digital sales. In relation to media market, the most important measure dates back to the 1st of May 2020 when a 9% reduction in VAT on e-publications was introduced as a measure to develop digital culture. In the view of media houses, this means that the publication of print media is taxed at a higher rate than the production of online media. Importantly, the Estonian Association of Media Enterprises (EML) has submitted a complaint to the European Commission over what it calls unfair competition from public broadcaster ERR, primarily with regard to its online news. As it stands now (April 2021), the complaint hasn't been addressed by the European Commission.

In the area of **Social Inclusiveness** the high risk stands basically for the access to media for local and regional communities (75%). State does not support community media with subsidies in general, also community media has no separate legal status in Estonia, that in turn leaves it either open for buyouts from the larger national enterprises (i.e. Postimees Grupp) or they simply face closing.

Although the monitor shows relatively high risk (60%) for the **Political Independence** of media, it should be taken as a good illustration of the lack of regulation that easily might lead to a politically controlled media system. Since the beginning of the 1990s, one of the media-related dogmas in Estonia has been the understanding that the media system has to be as liberal as possible. It hasn't changed much until the 2020's. Today's media business still is one of the less regulated areas of Estonian life.

There are three major aspects that should be pointed out, in addition to the risks that are outlined earlier in this report: 1) The taxation of large multinational digital companies remains problematic in the coming years because the pan-European cooperation that will create the juridical framework is still in the making. That, in turn, leaves Estonia's own national media companies under pressure caused by the uneven market conditions. 2) The covid-19 situation has pointed once more to the dangers related to the disinformation campaigns that are directed at the Russian audience in Estonia, especially in relation to the desire for Sputnik-vaccine in some segments of the Russian-speaking audience in Estonia. 3) During recent years (2020, also spring 2021), the Estonian public has witnessed a vivid discussion over the different functionalities of the hate speech bill that was proposed by the Reform Party in 2020. However, there is a general distrust against this regulation, as there aren't sufficient guarantees that it will not serve as a means to control the freedom of speech in general.

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## Annexe I. Country Team

First name	Last name	Position	Institution	MPM2021 CT Leader
<i>Andres</i>	<i>Kõnno</i>	<i>Visiting Lecturer</i>	<i>University of Tallinn</i>	X

## 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>Helle</i>	<i>Tiikmaa</i>	<i>member of the board</i>	<i>Estonian Journalist Association</i>
<i>Tarmu</i>	<i>Tammerk</i>	<i>ethical advisor</i>	<i>Estonian Public Broadcasting</i>
<i>Peeter</i>	<i>Sookruus</i>	<i>adviser at the department of communication and media</i>	<i>Consumer Protection and Technical Regulatory Authority</i>
<i>Andres</i>	<i>Jõesaar</i>	<i>associate professor</i>	<i>University of Tallinn</i>
<i>Andres</i>	<i>Tarto</i>	<i>Estonian Internet Foundation, media services expert</i>	<a href="https://www.internet.ee/en">https://www.internet.ee/en</a>

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