

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: Romania

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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 Romania the CMPF partnered with Marina Popescu, Roxana Bodea and Raluca Toma (MRC - Median Research Centre, Bucharest), 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).

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

Table 1: Areas and Indicators of the Media Pluralism Monitor

The digital dimension

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

The calculation of risk

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

Scores between 0 and 33%: low risk

Scores between 34 to 66%: medium risk

Scores between 67 and 100%: high risk

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

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

2. Introduction

Country overview

- Romania has a population of 19.3 million (INS 2020) and a surface area of 238.4 thousand square kilometers (World Bank), which makes it the sixth most populous and eighth largest European Union Member States.
- Ethnic Hungarians are the most numerous minority (6%), while Roma account for 3% of the population, although some consider this figure an underestimate (INS 2011, Kearney 2017). Other ethnic minority groups are much smaller: Ukrainians probably are 0.3%, Germans 0.2%, and the Turkish, Russian and Tatar minorities 0.1% each. Eighteen ethnic minority groups have parliamentary representation based on special electoral provisions.
- However, political and social tolerance are not fully entrenched as the norm (Median Research Centre 2017). An ethnic essentialist nationalism was strongly promoted under the authoritarian Ceausescu communist regime and was not fully abandoned post-1989.

Economic situation

- After a contraction of the economy in the second quarter of 2020, GDP growth recovered in the rest of the year. Ultimately, GDP dropped by an estimated 3.9% percent in 2020 (INS 2021a), while in 2019 it had grown by 4%. Romania remains one of the poorest and most unequal countries in Europe (Eurostat 2021a). The education system produces some of the lowest PISA scores in Europe (Zay 2019). There are high rates of early school-leaving (Eurostat 2021b), as well as major problems with healthcare service delivery (Björnberg and Phang 2019). These problems are not tackled aggressively, as evidenced by the fact that Romania spends less on its education and healthcare system, as a share of GDP, than most European countries (Eurostat 2020, Eurostat 2019).

Political situation

- Throughout the post-communist period, Romanian politics has been polarized on symbolic issues and dominated by parties' inconsistent positions on substantive policy issues (Chiru 2015, Borbath 2019).
- State capacity and quality of government have generally been low (Coppedge et al. 2019, Kaufmann and Kraay 2018, Rothstein 2021). Governance problems travel to the media sector, as seen for instance regarding public service media, the legal and practical implementation of GDPR, the dearth of parliamentary initiatives that would address the challenges facing journalism in an evidence-based way, as well as politicians' attacks on uncomfortable oppositional journalism (IREX 2019, Activewatch 2019).
- After attempts to trigger early elections in early 2020 failed in part due to the need to prioritize the pandemic, Romania held parliamentary elections in November 2020. The election campaign was particularly negative, polarized and weak in issue discussion. A new anti-establishment party (AUR) entered Parliament with 9 percent of the vote.

Media market

- Most Romanians get their news from television. According to Standard Eurobarometer 92, 82% of Romanian respondents name television as their primary or secondary source of news (European

Commission 2021). This is level of consumption and dependence on television is quite exceptional, as is the limited interest in news and the limited audience of the public broadcaster (TVR).

- High trust in mass media (probably partly due to self-selection into partisan media camps) is accompanied by the lowest overall level of news exposure/consumption though any medium within the EU. Estimates for the size of the online news audience vary, though according to a 2016 report it was around 3.8 million, rather small for a country this size (Gemius 2016).
- The small, poor and advertisement-dependent (news and public affairs) media market had limited resources even before the collapse of the business model of legacy media. In 2020, the lion's share of advertising revenue (70%) went to television. For newspapers, digital revenues could not offset the 80% drop in revenue that registered since the economic downturn of 2008-2009 (Bodea and Popescu 2018) even if their audience increased a lot.
- Journalists face continued professional and financial uncertainty, even precariousness. This, in turn, limits the opening for innovation, professional development or activism in favor of professional and labor protections. Shared journalistic norms remain elusive (Fengler et al. 2015), just like their communication to those 'formerly called the audience' and across social and political divides, given the few forays into transparency and accountability by journalists and newsrooms.

Regulatory environment

- Discussions on regulation in Romania are hardly in tune with those in other EU member states either in terms of salience or content. In 2020, there were no major changes in the relevant legislative framework, except for temporary - though unprecedented and controversial - measures during the pandemic (Decree 195/2020, Decree 240/2020). During the State of Emergency in March-May 2020, the Ministry of the Interior ordered the take-down of online content that officials deemed to promote false information or to sow fear among the public, a measure that affected 13 websites, expiring at the end of the State of Emergency.

Pandemic impact

- In response to the pandemic, the country locked down relatively early in March-May 2020, but subsequently the authorities prioritized keeping the economy going, even as cases soared far beyond the levels of Spring 2020. GDP growth overall recovered but some sectors were affected more than others despite the state's somewhat laissez faire approach to pandemic management (Hale et al., 2021). Among the sectors hit the hardest in terms of gross value added were manufacturing, industry, retail and hospitality (Eurostat 2021d). Enterprises in the entertainment and leisure, hospitality and industry sectors lost the greatest shares of employees between February 2020 and February 2021 (INS 2021b).
- Lack of data makes it challenging to assess the impact of the pandemic on the media industry. In the "information and communication" sector of the economy (a broad NACE category that also in addition to, say, newspaper publishing or broadcasting, also includes telecommunications, IT services or cinema production), GDP and employment both went up slightly in 2020 compared to 2019, according to the latest data (Eurostat 2021d; INS 2021a; INS 2021b).
- In terms of ad revenue in the media sector, across print, online and audiovisual media, ad expenditure decreased slightly (by about 1%) in 2020 compared to 2019, based on the latest data available (Initiative Media 2021). Some sectors suffered significantly (print and radio), while ad spending on

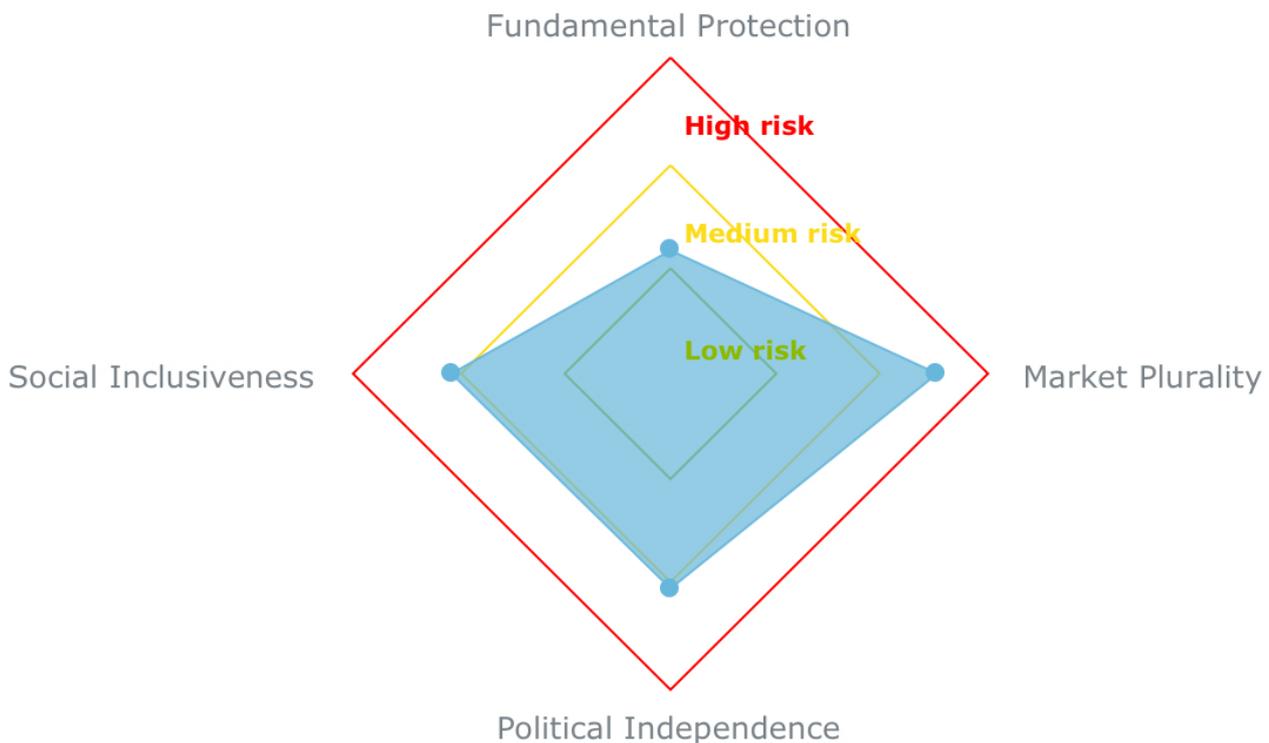
digital went up and TV ad spending stayed stationary.

- Layoffs occurred in several media organizations according to media reports. The scope of the phenomenon is hard to assess, though, because we do not know exactly how many journalists we had in Romania in 2019 or 2020. The pandemic appeared to lead to furloughs as well as cuts. This was in part in relation to the closure of print publications or the reduction of print days, and in part due to revenue losses, albeit unspecified.

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

The MPM2021 assessment results in a high risk score in three out of four areas: Political Independence, Market plurality and Social Inclusiveness. The area of Fundamental Protection has a medium risk score. This in line with the findings of the previous edition, and it reflects the fact that the fundamental issues posing a risk to media pluralism and the media's ability to perform its mission are the same. Many problems can be traced back to the lack of institutions and mechanisms – either from the state or from within the media industry – to encourage and safeguard the production of journalism that is free of interference, public interest-oriented and in line with professional standards in the field.

Romania: Media Pluralism Risk Areas



JS chart by amCharts



Under the **Fundamental Protection** area (39% risk in 2020, compared to 41% in 2019), three out of five indicators register medium risk. Key findings:

- Freedom of expression is normally a low risk area, but during the Spring 2020 State of Emergency, the state took unprecedented measures, taking down or blocking online content deemed to misinform or sow fear, through an ad-hoc procedure that lacked transparency and was open to arbitrary decision-making and abuse.
- Inconsistent compliance with FOIA requests and invocation of false legal pretenses (by authorities to deny requests is an ongoing problem that worsened during the pandemic.
- Journalists face poor working conditions and precarious employment situations. This and the lack of industry-level organizations and self-regulation mechanisms to protect both employees and professional norms have massive ripple effects, undermining access to the profession and the quality of journalistic output.

- The National Audiovisual Council (CNA) fares well on sub-indicators related to transparency, the regulatory framework and non-interference from government. Risks come mostly from the interpretation of the role of regulation and the regulator by its members (and elites more broadly). Consensus and consistency in decision-making are hard to reach. Limited funding and expertise also constrain CNA's performance.

Market Plurality has the highest risk level (84%, compared to 76% in 2019), and all indicators register high risk levels. Key findings:

- Transparency of media ownership is limited, due to both the presence of loopholes and the lack of media-specific regulations for all media other than audio-visual media.
- With the exception of broadcasting, the regulations on news media concentration are not adapted to the media sector, and there is no cross-media concentration regulation.
- A challenge with scoring risks to media viability is the lack of data, which is a risk factor in itself. In 2020, ad revenue increased or was stationary in some areas (digital, TV) and shrank in others (radio and print). In the early stages of the pandemic the media reported layoffs and closures, but the size of the phenomenon is hard to gauge due to lack of data.
- There are very high risks from commercial and owner influence over content. The lack of legal or self-regulatory safeguards for editors-in-chief and mechanisms to lay down and enforce basic professional standards are major risk factors.

Political Independence is also subject to high risks (68% in 2020, 74% in 2019), where three out of five indicators also register high risk levels. Key findings:

- The lack of regulation and self-regulation and lack of professionalization of the industry are major contributing factors to the high risks to political independence and editorial autonomy. The lack of effective self-regulation extends to the online environment.
- Very few of the new "independent" online media reach a wide audience, and some digital natives with a lot of reach are no bastions of political independence or resistance to commercial or owner influence.
- A flawed institutional and regulatory framework disincentives performance among public service media and allows for arbitrary dismissals and appointments of the boards and allocation of resources, undermining the performance and independence of PSM.
- The state gave out no direct subsidies to the media sector, even during the pandemic. There is a reduced VAT for print, but its impact on the media landscape is minimal due to very low print readership.
- Audiovisual media, online platforms and elections is a medium risk area. During campaigns, competitors are guaranteed equal airtime on both public and private television channels. But there are issues with coverage and with advertisement transparency both on television and online.

The **Social inclusiveness** area registers a high risk (69% in 2020, 70% in 2019). Two indicators register high risk and the others medium risk. Key findings:

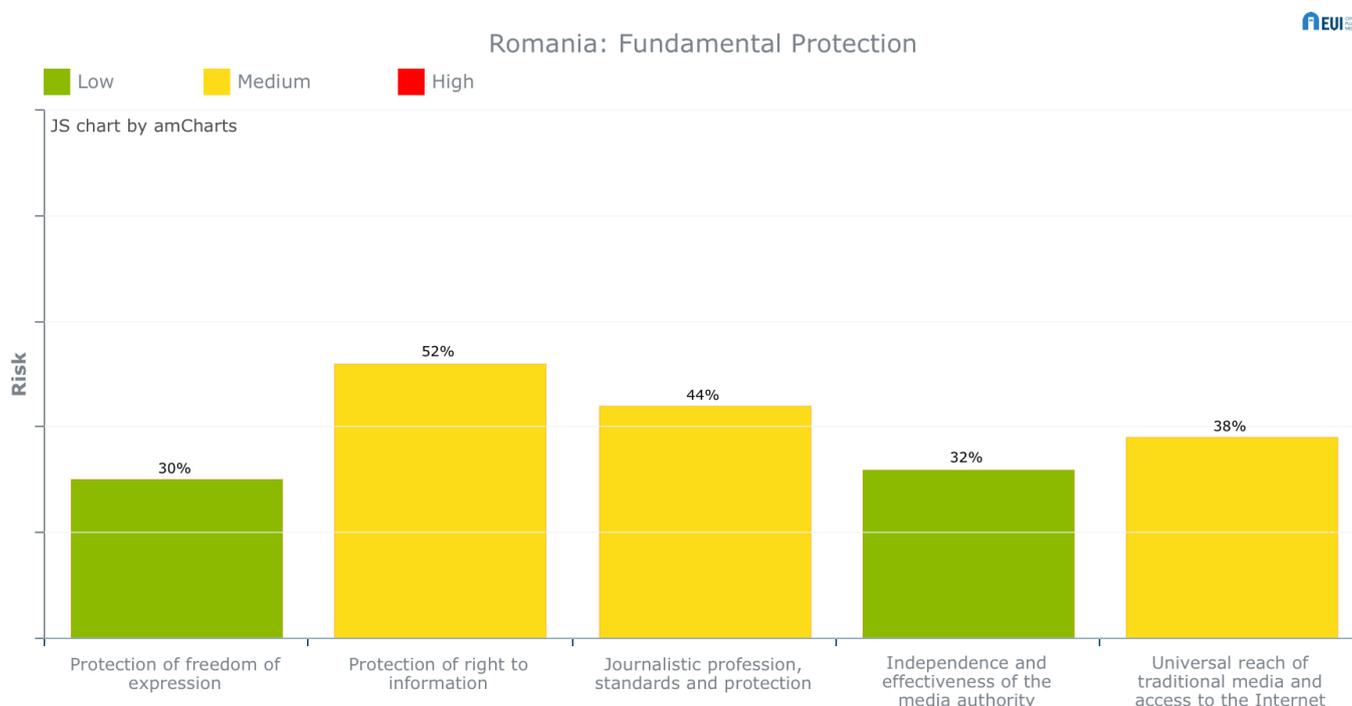
- The lack of state policies systematically designed and implemented to foster digital and media literacy is a major contributing factor to very high risks in the area of media literacy. Most efforts come from

NGOs, but they are insufficient and cannot be systematic. The same goes for initiatives to reduce or prevent intolerance and hate speech.

- Access to media for local/regional communities and community media also has a high risk score. There are only two community media, and the only facility for local/regional media is a regulation that obligates cable providers to carry some local/regional media.
- Regulations cover hate speech and incitement to discrimination quite comprehensively. But we do not have a good picture of the scope of the problem or of the enforcement of the law, beyond the handling of high-profile cases by the National Council on Combatting Discrimination (CNCD).
- Online mis- and disinformation were popular topics for the media, civil society and the government in 2020, but the spread and impact of these phenomena is hard to gauge due to a lack of high quality research. On some television stations, figures giving out potentially misleading or confusing information that is not necessarily unlawful but could have a deleterious effect on public health were given ample airtime, and TV is the main source of news for most people. Our preliminary research suggests that the so-called infodemic also took hold in Romania, with some outlets putting out articles at a frenetic pace during the pandemic.

3.1. Fundamental Protection (39% - 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.



Of the four areas covered by indicators in the MPM, Fundamental Protection has the lowest risk level, as was the case in previous years too. At 39%, this area still has medium risk overall. Three out of five indicators under this area score a medium risk – the same ones that emerged as most problematic in last year’s edition. However, this time, out of these three indicators, the one that emerges as presenting the

greatest risk is the Protection of the right to information. This is in part due to extreme, if temporary, measures taken during the spring 2020 State of Emergency adopted in response to the pandemic.

Protection of the freedom of expression is a low risk area (30%), where risks tend to come mainly from enforcement of an otherwise apparently sound legal framework^[1]. This year the risk level rose due to the authorities temporarily putting in place an extraordinary, extreme and highly opaque mechanism to block or take down online content during the March-May 2020 State of Emergency declared in response to the pandemic (more details in the section on media pluralism online). By order of the Ministry of the Interior – following the recommendation of a secretive ad hoc group of communication officers from several Ministries and Institutions – 13 sites deemed to promote false information or to sow fear among the public were taken down (by the web hosting company) or blocked in Romania (by all Romanian ISPs).

Relevant to the same indicator, there are question marks about the consistency and proportionality of judgments on civil cases involving journalists alleged to have damaged the dignity or reputation of certain figures. As discussed in the previous MPM report, some high-profile cases from recent years suggest that there are inconsistencies in the penalties levied against journalists judged to have crossed the line and damaged people's dignity or reputation (Activewatch 2019; Popescu, Bodea and Toma, 2020). To get a sense of the true size of the problem, conducting a thorough and comprehensive review of court cases in recent years would provide conclusive evidence, but this was outside the scope of this project.

The risk level with regard to **Protection of the right to information** is at 52%. An ongoing risk factor in this area is that the level of responsiveness of authorities to freedom of information (FOI) requests is inconsistent and obtaining recourse in case of arbitrary refusals is a somewhat onerous process for regular citizens or small organizations. As with other issues, the evidence on how authorities respond to FOI requests comes not from systematic analysis that would be needed to ascertain the true scope of the phenomenon, but rather from reports from the work of NGOs and journalists. As explained in the previous MPM report (Popescu, Bodea and Toma, 2020), there have been cases where institutions as high as the Constitutional Court initially refused to give out information but were ultimately compelled to do so by the Court of Appeals. In 2020, anecdotal reports indicated that some institutions do not respond at all to requests or do so in an incomplete manner.

Access to information was further hindered during the State of Emergency, when authorities doubled the maximum (legal) amount of time authorities have to respond (from 30 to 60 days) and authorities invoked low staff or other challenges to avoid responding in due time (APADOR-CH 2020; Stoicescu 2020). Authorities also continue to make false claims that certain information cannot be shared due to GDPR. This excuse was invoked for more than a year to hide names of members of the ad-hoc Strategic Communication Group that issues press releases and other updates on the state of the pandemic to be published – members that are all civil servants in ministries and other institutions (Șercan 2021). Another risk factor is the lack of protections for whistleblowers in the private sector, as well as low awareness of whistleblower protections in general (Syene 2020).

Under the indicator for **Journalistic profession, standards and protection**, which has a medium risk level (44%), a major ongoing problem is the precarity and poor working conditions of journalists. These are even worse for freelancers, who lack some of the protections and benefits those who have labor contracts are entitled to. Systemic issues include: relatively low pay; wide use of contracts that do not offer healthcare coverage and social security by default (nicknamed “copyright contracts”, short for “Copyright ceding contract”); a routine practice and expectation of working longer hours than labor contract stipulates (even

double what is in the contract); long unpaid internships to get one's foot in the door (Popescu et al., 2019, pp. 66; Paylab.ro; Ionescu, 2019; Lupsa, 2020; Surugiu 2013). Freelancers and self-employed journalists are virtually not covered by any welfare provisions unless they actively pay additional contributions irrespectively of situations of underemployment and low income, like anybody in the respective employment situation.

The lack of industry-level organizations and self-regulation mechanisms to protect both employees and professional norms is also a major risk factor. Both these aspects have massive ramifications in terms of who gets to access and survive in this profession and the quality of the work they put out. There are no attacks against journalists documented, though there have been some threats in recent years. In one high-profile case from 2019 (involving threats against journalist Emilia Sercan), authorities quickly moved to prosecution and then to trial and sentencing, in another case from the same period (involving threats against journalist Diana Oncioiu) they did not move with the same alacrity, and no suspect has been charged yet. There is no legal framework to prevent SLAPP (strategic lawsuit against public participation), and there are occasional cases that could be considered examples of this phenomenon. It is hard to assess but plausible that more cases of direct or indirect intimidation exist where visibility and thus public awareness are likely to remain low for instance in local media.

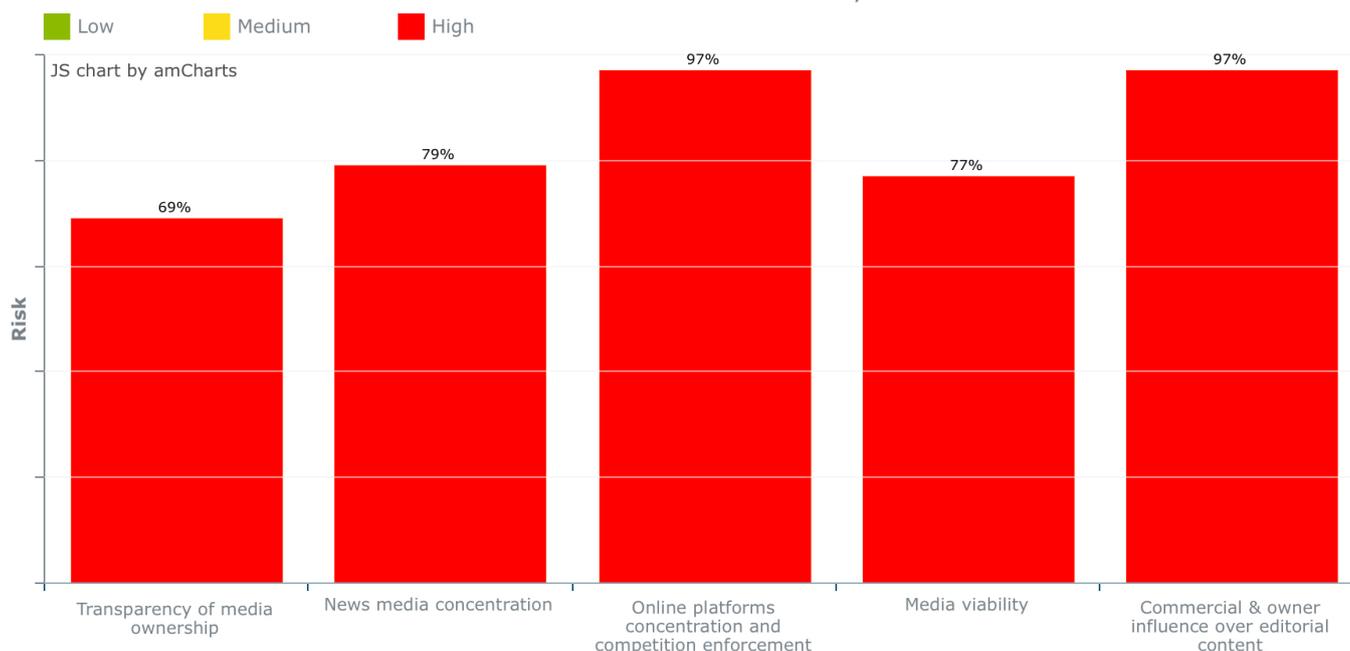
The **Independence and effectiveness of the media authority** has low risk (32%). The National Audiovisual Council (CNA) fares well on sub-indicators related to transparency, the regulatory framework and non-interference from government. Risks come mostly from the interpretation of the role of regulation and the regulator by its members and more generally among Romanian elites. As noted in previous reports, CNA has limited funding and expertise, commensurate with a very bare-bones idea of what a media authority can do and of low expectations regarding the kind of monitoring and analysis it should perform. As the OSCE-ODIHR report on the 2020 elections pointed out, its core function of monitoring could be performed better if resources were allocated to expand its monitoring work, as noted by the OSCE report on the parliamentary elections (OSCE ODIHR 2020, p. 16). Some members of the GoE feel that things have improved somewhat but all agree that there are problems with the consistency of CNA decision-making leading to dissimilar resolutions on similar cases. Contributing factors include the prevalence of political affinities over evidence and principled evaluation of information quality and thus of the legally enshrined mission of the regulator. As a result, consensus and consistency are hard to achieve – and this is probably not helped by the lack of consensus on norms in this field in general, in Romania.

On **Universal reach of the traditional media and access to the Internet**, the risk level this year is medium (38%), lower than last year owing in part to updated information on certain sub-indicators, discussed in the section on media pluralism online.

3.2. Market Plurality (84% - 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

Romania: Market Plurality



Market Plurality is the area with the highest risk level (84%), and all indicators under this area register high risk. This is all the more concerning given the importance of market and economic factors in shaping the opportunity structure for Romanian media to perform its democratic mission. Just like last year, there are two indicators that reach a very high risk (97%): Online platform concentration and competition enforcement and Commercial and owner influence over editorial content. A recurrent problem – that represents a risk factor in itself – is the lack of data for some of the sub-indicators.

Transparency of media ownership is limited, and this is reflected in the score (69% risk). Transparency requirements are most strict for audio-visual media,^[2] whereas for print media and digital media there are no media-specific regulations – just the ones that apply to any other company -, and there are loopholes (e.g. a digital media company can be owned by another company that is in turn owned by an entity abroad with undisclosed owners).

The **News media concentration** indicator registers a high risk level (79%). The print news market is very small – in both readership and print titles– something that is reflected in the virtually 100% concentration of the top four titles. The top non-tabloid newspaper in print audience size in July-September 2020 was Libertatea, and it only sold around 21,000 copies (daily average); runner-up Adevarul sold 4,500. The digital news market is highly fragmented (37% concentration), while concentration is more moderate in television and radio, where the top four owners command 65% and 59% of the audience, respectively. The regulatory framework covers only broadcast media and no other types of media. Provisions on concentration are not tailored to this business, which can be a plus in terms of limiting negative interference opportunities. But this regulatory framework has limitations in providing any incentives specific to the media market that would facilitate the production of a particular type of common good.

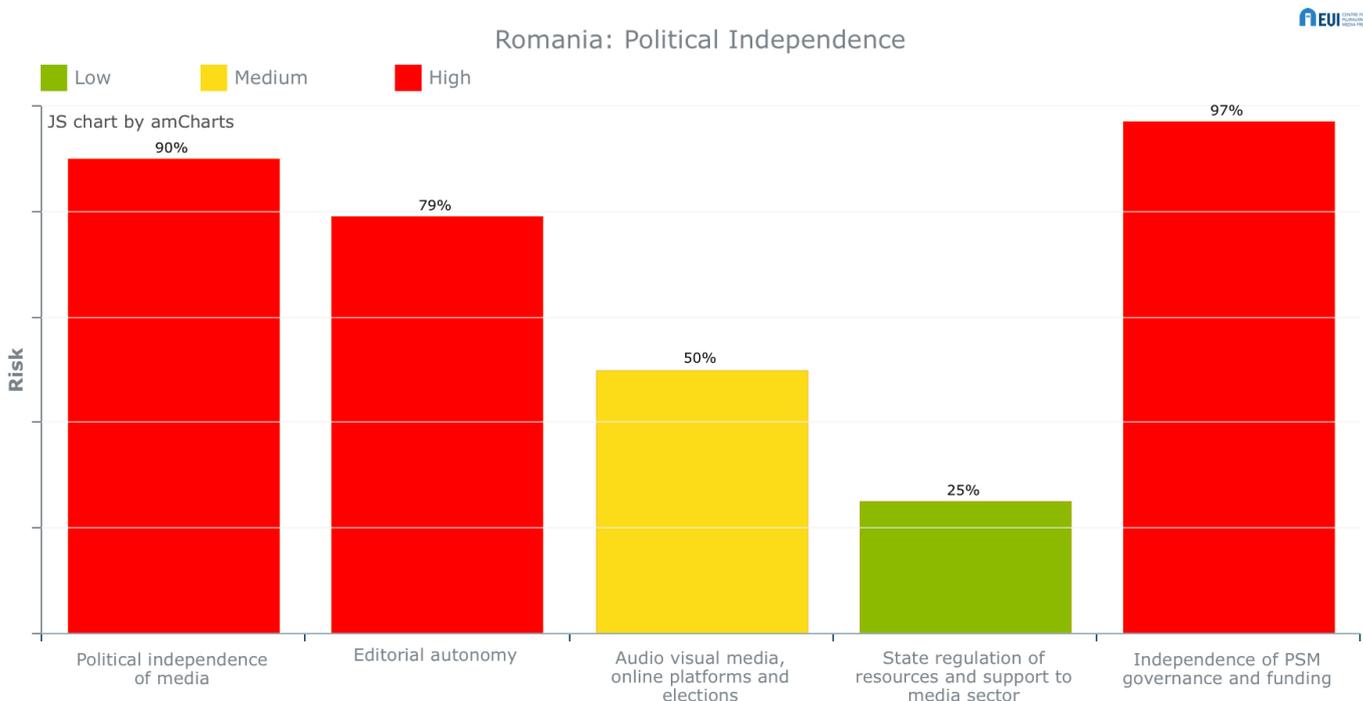
A challenge with scoring risks to **Media viability** is the lack of data on one third of the sub-indicators – such as those on media revenue the number of outlets and journalists – which is a problem in itself, not least because it is difficult to formulate policy when one lacks information. This year the MPM takes into account lack of data as a risk. The overall risk level is high (77%) and its increase from the previous report is due to

considering missing data as a risk in itself. In a particularly challenging year, ad revenue increased or was stationary in some areas (digital, TV) and shrank in others (radio and print). It is unclear how much this is due to the artificial boost due to pandemic related government advertisement. In the early stages of the pandemic the media reported layoffs and closures, but the size of the phenomenon is hard to gauge in the absence of no (even quasi systematic) information at later stages.

Commercial and owner influence over editorial content is a very high risk area (97%). There are no legal or self-regulatory safeguards to protect editors-in-chief and newsrooms in cases of changes in ownership/editorial line, to prevent arbitrary appointments or dismissals or undue commercial pressure. Nor are there laws or sector-wide codes to establish and enforce basic norms and standards (as regards for instance the dividing lines between advertising and journalistic content). Some editors-in-chief and media organizations put in place certain rules in their labour contracts or ethical codes, but these are exceptions rather than the norm and there are examples of the published code to bear little relation to actual work routines and employment practices.

3.3. Political Independence (68% - high risk)

The Political Independence indicators assess the existence and effectiveness of regulatory and self-regulatory safeguards against political bias and political influences over news production, distribution and access. More specifically, the area seeks to evaluate the influence of the State and, more generally, of political power over the functioning of the media market and the independence of public service media. Furthermore, the area 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.



Overall, the situation with regard to **Political independence** poses high risk (68%), with the biggest problem areas being the **Political independence** and **Editorial autonomy** of the media and the independence of **Public Service Media governance and funding**.

The major challenges to **Political independence of media** (high risk with 90%) and **Editorial**

autonomy (79%), which we have discussed in previous editions and also touched upon in the sections related to Market Plurality and Fundamental Protection, are fundamentally rooted in the lack of regulation and self-regulation and lack of professionalization of the industry. There is no legislation or self-regulation that would apply across multiple outlets or at the level of the industry to safeguard against conflicts of interest and direct or indirect political pressure or help prevent abuses in appointments/dismissals of editors-in-chief. The industry is characterized by a high degree of informality, and there are few institutionalized professional standards at the level of outlets or publishers. While the top two or three outlets in each market segment typically have some kind of ethical code, most TV, radio, online or print outlets do not, and abuses have been documented in places that do have codes of ethics too.

The **Independence of PSM governance and funding** remains at a very high risk (97%), owing to a flawed institutional and regulatory framework that provides perverse incentives for all parties involved.^[3] The PSM executive board members (and their presidents) can be dismissed by a simple parliamentary vote, and the rejection by Parliament of the yearly reports triggers the automatic dismissal of the board. Performance targets are not included at any point in the process including in respect to the approval or rejection of reports, parliamentary oversight and (government) funding allocations. In both 2019 and 2020, the report was not even discussed in the Committee and thus did not reach a plenary debate and vote. PSM leadership allocation is almost universally and explicitly seen as a political decision. Arguments regarding PSM are hardly congruent with the usual discussions on the matter in policy, media and academic circles, while parliamentary interest is limited.

In terms of **Audiovisual media, online platforms and elections** (medium risk with 50%), one positive feature of the existing regulatory framework is guaranteed equal airtime on both public and private television channels for parties during electoral campaigns. But there are issues with coverage and with advertisement transparency both on television and online.

Previously existing negative trends in terms of the tone and substance (or lack thereof) of electoral campaigns in Romania were exacerbated in the campaign that preceded the parliamentary elections of 6 December 2020. Coverage of the issues and the electoral offer by the main competitors was lacking, but the party in power had a ready pulpit thanks to its office (and little critical coverage, outside of highly partisan media on the other side). As the OSCE/ODIHR reports (2020) noted, broadcast authority CNA only has the resources to monitor some coverage and the lack of more expansive monitoring “weakened its capacity to enforce legal requirements for an equitable electoral coverage”.

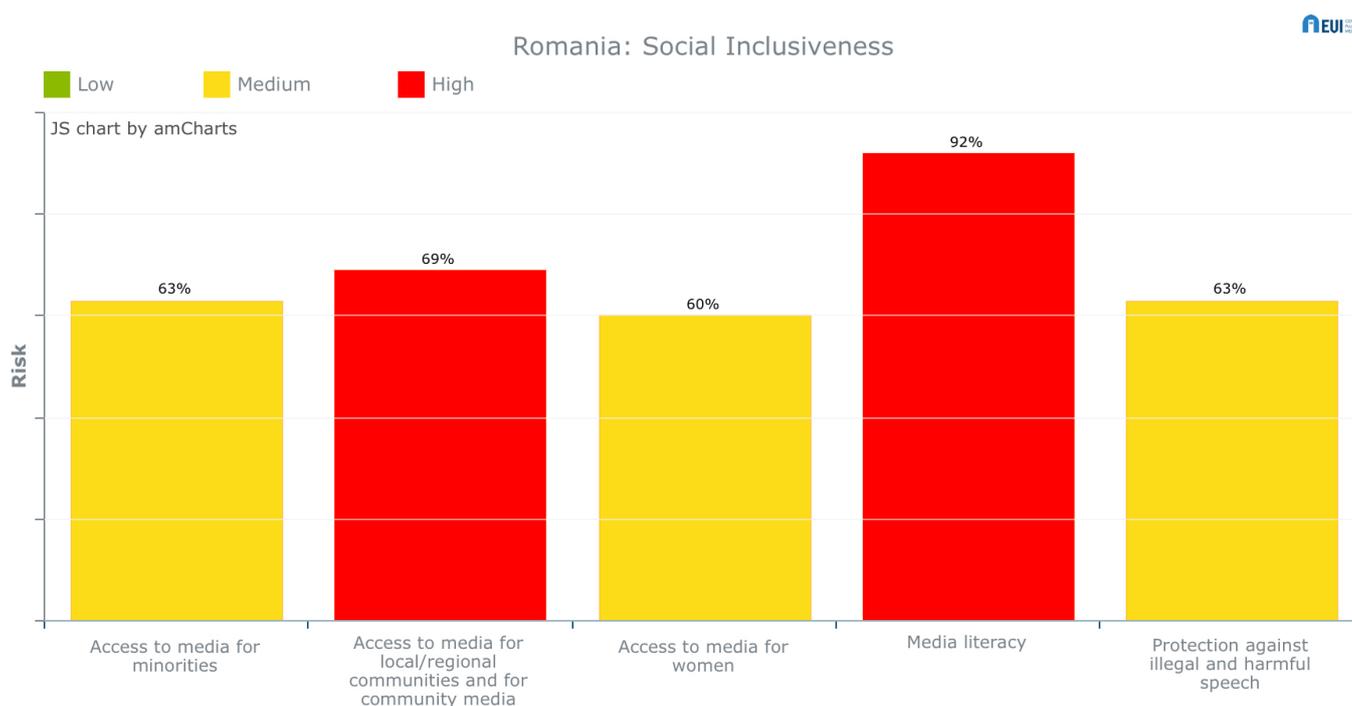
As for transparency, private channels did not do enough to inform the audience about the distinction between different types of content, especially between their own editorial content and airtime bought by the parties, and to signal who is paying for the content. Furthermore, because the law does not demand it, at the end of the campaign, there is not much transparency about how much various parties paid to which outlets and for what content. Law 334/2006 (art. 36(6)) simply requires parties to disclose how much they spent on various types of advertising and how many items they purchased. Existing legislation also does not require proper labelling of electoral ads online, on platforms like Facebook or on other websites, something we also touch upon in the section related to the online environment.

State regulation of resources and support for the media comes out as low risk (25%) in part because giving no support is not included in the scoring as either good or bad and, in part, because of the existence of reduced VAT for print. Although the rules are fair and transparent for the reduced VAT, their actual role in the media landscape is likely to be marginal at this point given low print readership. No direct subsidies

have been given out even during the pandemic, and it is in our view important not to mix state advertisement with support for the media. The state is expected to advertise following the legal requirements based on audience criteria; unlike for other state advertisement campaigns, in this case the unique goal was to reach out to as many people as possible and no other more specifically targeted campaigns were carried out regarding the Covid-19 pandemic. Public support for news media is expected to follow a different logic following a definition of public interest information. Different criteria are to be used in the evaluation of the two both in terms of fair distribution and effectiveness, which is why advertisement allocation was rated as less problematic than in other years, but it was hardly likely to act as a support for public interest news media.

3.4. Social Inclusiveness (69% - high 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 Social inclusiveness area registers a high risk (69%), with almost the same score as last year (70%). The biggest risk areas are **Media Literacy** and **Access to media or local/regional communities and for community media**.

Access to media for minorities is on the higher side of medium risk (63%). Public service media provides some programming targeted to an ethnic minority audience, though the amount of programming does not reflect the size of the populations concerned (e.g. more programming aimed at Germans than Roma). More importantly, though, as we wrote in last year's report too, incorporating diversity – in a culturally respectful manner – is not an apparent concern in programming (on PSM or elsewhere), and setting aside a few slots for minority language programming targeted exclusively at that particular group is not conducive to building

bridges and fostering a shared cultural space between different linguistic and cultural groups in the same country (Szabo 2020). Ethnic Hungarians tend to consume Hungarian state-funded and/or Fidesz-supporting media both from Hungary and local sources (Felseghi, 2019, Kiss 2018, Sipos 2018; interview with Istvan Szekely, researcher at the Institute for the Study of National Minorities and associate lecturer at the Babes-Bolyai University in Cluj, conducted for the MPM Digital Report in 2019). By law, broadcasters are obligated to offer at least 30 minutes of news with sign language translation per day (there is no such obligation for audio descriptions for the visually impaired). The National Audiovisual Council monitors compliance and issues fines to non-compliant channels, but most broadcasters do no more than required by law and the translation is not necessarily for prime time but for less popular broadcasts, like the morning news.

Access to media for local/regional communities and community media has a high risk score (69%), slightly up from last year due to methodological rather than substantive changes in the situation. There are only two community media outlets established through a project by Activewatch and operated by community members at the moment, and there is no legal framework or state assistance for community media specifically. The state does not guarantee licenses or frequencies for local/regional media or give out any assistance, but it does require cable providers to carry some local/regional media through must-carry rules.

Access to media for women scores on the higher side of medium risk (60%), slightly lower than last year (65%). We find good female representation among editors in chief of the top two outlets in broadcasting, radio, print and online media (in 2020, 5 out of 8 had female editors-in-chief) and among top executives in public service media (two out of three are women), but less representation of women among the boards of directors and executives of private media (although the share did go up slightly relative to last year). It is important to keep in mind that even apparent gender parity at the top level of the top outlets is not necessarily equivalent with gender parity in the executive bodies or gender parity or equal treatment within the newsroom, and this is not really an issue that appears to be getting due attention (for instance the PSM have no gender equality policy).

The absence and under-representation of women as invited experts / panelists has drawn increasing commentary (e.g. on social media) in recent years in Romania. However, there are no recent systematic studies on this. A 2013 analysis based on 141 TV talk shows and 6,900 articles found that women made up 26% of invited guests on talk shows and had a 22% presence in news articles (Leșcu & Chiorpec 2013). The European Media Systems Survey in Romania (conducted in 2017) specifically asked related questions, and experts' responses suggested a significant sexist bias in the media, which is in line with NGO and academic observations.

The **Media literacy** indicator registers very high risk (92%), in large part due to the lack of proper digital and media literacy promotion policies.

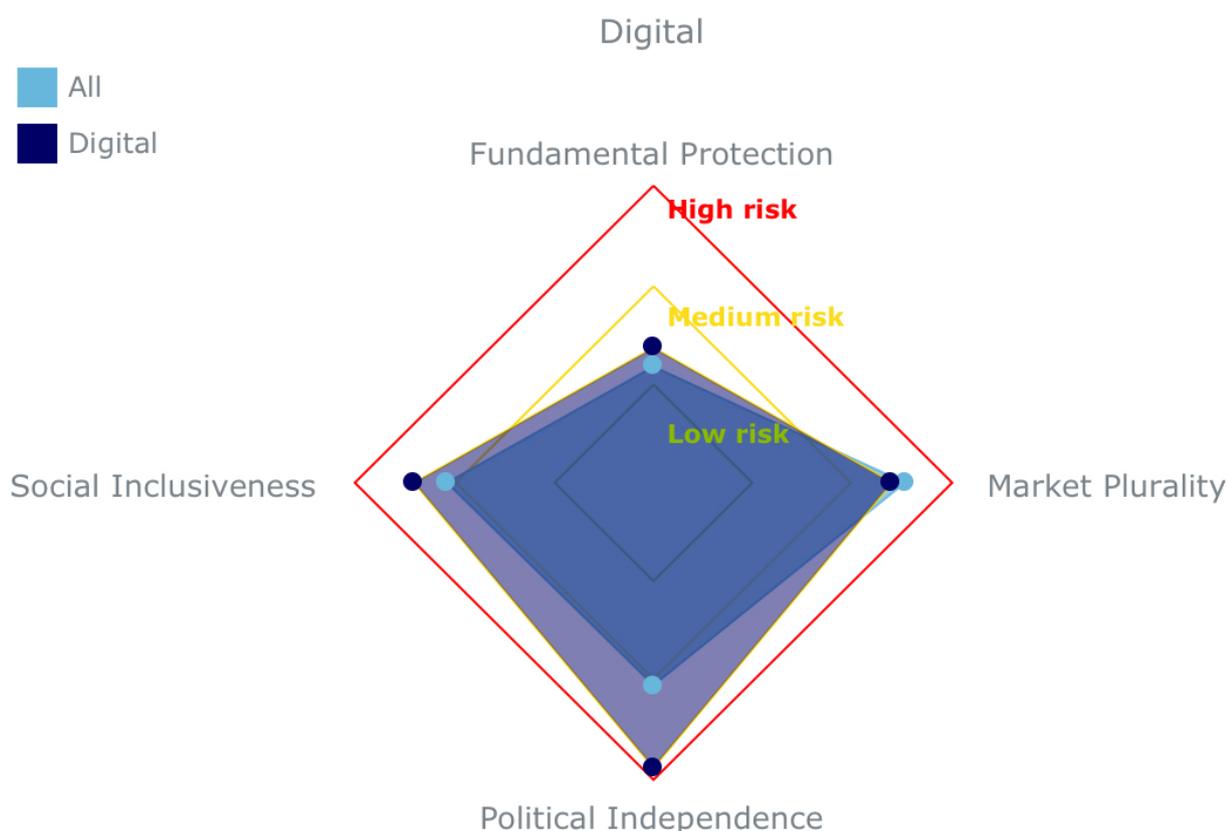
There are no policies systematically designed and implemented by the authorities for media literacy. Some of the elements that are part of a media literacy education can be found scattered in various classes that are part of the core curriculum, but there are no classes focused on media literacy in the core curriculum (i.e. mandatory classes). Most efforts come from NGOs, but they are insufficient and cannot be systematic, but there is no coordination and coherence, therefore certain aspects are missing and some over-emphasized, and none of them assess all levels of individual competences (communicative abilities, critical understanding of media content and use skills, criteria put forward by UNESCO and the European Commission).

The sub-indicators under **Protection against illegal and harmful speech** (63%) dealt with hate speech and mis- or disinformation. With regards to misinformation and disinformation, Romania does not have laws that aim at countering disinformation, understood as the distribution of false information with the intent to mislead. Still, under a Spring 2020 State of Emergency, declared through a presidential decree, authorities took the unprecedented step of ordering the take-down or blocking of sites that were deemed to deliberately publish false information in order to mislead the public or sow panic and/or distrust. The measures affected a dozen sites and expired on exit from the State of Emergency, yet they seem emblematic of the at once authoritarian and (arguably) ineffective approach to combating the problem of misleading or false information. Still, to assess the true scope of the misinformation / disinformation phenomenon in Romania, we would need rigorous and comprehensive analyses that are currently not available, as one of the experts we consulted also pointed out (Lucian Dumitrescu, LARICS).

With regard to educational initiatives to reduce or prevent intolerance and hate speech, there are no systematic programmes or policies implemented by the state. Civil society organizations conduct such initiatives, but they are usually limited in scope, reach a limited number of beneficiaries and have diverse approaches.

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

Romania: Media Pluralism Risk Areas



JS chart by amCharts



The situation as captured by the digitally-focused variables of the media pluralism monitor reflects, on the one hand, risks that we find in other countries too, such as the ones generated by the dominance of players like Facebook and Google, and on the other hand, the issues that affect the media industry and media consumers in general in Romania. In many cases, risks present offline are multiplied online.

Fundamental protection registers the lowest risk score of the four areas when it comes to the online environment (45.3%).

The most notable development in 2020 that has to do with freedom of expression online was the temporary blocking or take-down of several sites during the State of Emergency in March-May, an unprecedented move that was enforced through a highly untransparent system that was very vulnerable to arbitrary decision-making and abuse. In short, by order of the Ministry of the Interior – following the recommendation of a secretive ad hoc group of communication officers from several Ministries and Institutions – 13 sites deemed to promote false information or to sow fear among the public were taken down (by the web hosting company) or blocked in Romania (by all Romanian ISPs). This was extraordinary considering that we do not have any legislation forbidding the publication of “false” information. Furthermore, experts in organizations like Article 19 and bodies like the Council of Europe agree that protections for freedom of expression are not limited to true statements and that blocking content is an extreme measure that must be proven to be legal, necessary and proportional (Article 19 2020; Council of Europe 2020; Toma 2020). The measures expired at the end of the State of Emergency.

This year, we did not find any documented cases of threats to the “digital safety” of journalists, but we located two cases of threats to the safety of journalists issued through digital means.

As we discussed in last year’s report, too, the way EU data protection regulation was transposed into Romanian law did not involve special precautions to safeguard journalistic work. Law no. 190/2018^[4], which implements GDPR rules in Romanian legislation, fails to protect or give explicit legal exceptions for journalistic purposes. It provides derogations for discretionary use of personal data by political parties for political or advertising purposes, as emphasized in a 2019 complaint filed with the EC by the ApTI (Association for Technology and Internet) (Pavel, 2019). In some cases, GDPR has been invoked in the past two years either to put pressure on journalists to disclose their sources or to (unreasonably) deny journalists access to public data. For instance, until recently, authorities invoked GDPR and declined to disclose the names of members of the ad-hoc “Strategic Communication Group” – made up of communication officers from various institutions – that played an important part in the communication on the pandemic.

With regard to access to the Internet, broadband coverage is high (84% of households in 2020) but there are some gaps in net neutrality safeguards, and there is a high concentration of the ISP market.

In the area of **Market plurality** there are high risks (79.6%) coming from a range of factors.

As we explained in last year’s report, too, regulation on media concentration is flawed: Transparency requirements for media ownership for digital outlets are the same as for any other company in Romania; there are some important loopholes; and it is only audiovisual media that are subject to more stringent regulation in this area. The loopholes include the fact that bearer shares were still in existence during the reporting period and represent a form of secret ownership and that companies can be owned by foreign companies, which in turn are owned by other foreign registered entities without disclosed ownership. Law 129/2019 eliminated bearer shares but allowed for a grace period, which meant that companies had until Jan 21, 2021 to convert bearer shares into nominal shares.

While in the case of recent mergers and acquisitions with a digital component, the competition authority took a cross-media perspective, the lack of regulation on this leaves the field open for arbitrariness in the future.

Lack of data continues to be an obstacle for assessing market shares, but in terms of audience concentration, there seems to be more fragmentation among digital news outlets than in television, radio, or print. The fact is, however, that most Romanians still use television as their main source of news.

A minority of news consumers rely on online news, but among them, a significant share use “side doors” at least some of the time. According to Standard Eurobarometer 92 (data collection via computer-assisted in-person interviewing, in November 2019, n=1,058), 82% of Romanian respondents name television as their primary or secondary source of news (respondents were asked to name their #1 source and their #2 source) (European Commission 2021). According to Flash Eurobarometer 437 (European Commission 2016), of people who read news online, 37% reported mainly going to the app or site of the publisher directly, while 30% reported going to social media, 18% to search engines, and 14% to news aggregation services. But it is important to note that this refers to people who read news online - and not all do. In fact, this particular survey was conducted strictly online (on a relatively small sample of 502 people) and as such is not entirely representative of the population at large. According to the 2020 Digital News Report, 60% of

respondents to an online survey get some of their news from social media (Newman et al. 2020). (Note, however, that the Flash Eurobarometer and Digital News Report rely on online samples and since there are no probability online samples in Romania, the data cited does not entirely reflect the consumption habits of all Romanians).

The Romanian digital advertising market is dominated by Google and Facebook. According to the latest data we have, in 2019 they took 74% of digital revenue (Initiative Media 2020).

This is happening to the detriment of local display, but we do not have access to more specific data regarding online advertising share of the top competitors. As we noted in the 2020 digital report (MPM Digital Report 2020) the lack of data in Romania is a major problem that prevents having an understanding of the status-quo and thus limits the possibility of evidence-based policy making.

As we discussed in previous sections, the lack of legal or self-regulatory safeguards for journalistic standards and editorial independence is a major risk factor in Romania, and it also affects digital outlets. One of the most popular digital natives (ziare.com) was recently revealed to have published misleading information that could benefit one of the companies in the portfolio of the outlet's owners – this, a few months after much of the newsroom had quit (and been replaced), after citing differences with the ownership and claiming that the latter intended to push for “a change in editorial policy” and “control the content” (Bambu 2021b; Obae 2021; Obae 2020).

In terms of **Political independence** online, the risk score is 68% (high risk). Some risk factors worth highlighting have to do with the independence of online media, lack of self-regulation and transparency of online campaigning.

PSM seem to lack funding and a strategy for online growth.

The lack of effective self-regulation extends to the online environment. Among the outlets we looked at, we could find no evidence of guidelines regarding social media use by journalists even at media operations that have published ethical codes.

Digital native media is often considered a beacon of hope for Romanian journalism, a place of political independence and limited commercialism, marred only by limited resources (IREX 2019). This assessment may apply to a lot of the new “independent” media started by journalists disgruntled with the lack of professional standards at mainstream outlets. Yet, very few of these reach a significant audience (for a full list and for an analysis of reasons see Bodea and Popescu 2019 and the 2019 MPM digital report), and some of the digital natives with the highest audience are no bastions of political independence and resistance to commercialization.

Between the requirements of the law and those of Facebook, there are still large transparency gaps in political advertising online. Facebook posts now show who paid for an ad – and Romanian law (law 334/2006) requires that the ultimate paying party be a political competitor – but the work can still be subcontracted to a private party. Political ads posted online (outside of Facebook) need not be labelled as such, and at the end of a campaign parties do not have to disclose who they paid, only how much they spent on online advertising overall and on how many items (ads/posts).

Under the **Social inclusiveness area** in the online environment (69% risk), indicators examined referred **Digital competencies** and **Protection against hate speech**.

Digital literacy remains rather low. According to Eurostat data, in 2019, 43% of Romanians had low digital skills (compared to 28% of EU-28 citizens). Only 31% of Romanians had basic or above basic digital skills (compared to 58% of EU-28 citizens).

With regards to combatting hate speech, Romania already had several pieces of legislation that cover hate speech or speech that constitutes incitement to discrimination (e.g., Governmental Ordinance 137/2000 against discrimination and the Penal Code). In 2020 a new law, which some described as redundant, against “anti-Gypsyism”, was also adopted (Government of Romania 2020, Legislative Council 2020). The National Council on Combatting Discrimination (CNCD) hands out fines and warnings in the case of high-profile incidents but does not have the scope and the power to tackle hate speech online as a mass phenomenon.

Moreover, we do not have much representative data about the scope of the phenomenon in Romania, and rigorous analyses are rarer yet. The monitoring project set up by the European Commission to track how platforms are implementing the Code of Conduct against Hate Speech suggests that things are going well (European Commission Directorate-General for Justice and Consumers 2020), but these results are not representative. This is due to the methodology used, whereby selected participating organizations in EU Member States flag “illegal hate speech” to the platforms, and what happens to those flagged cases is then tracked and results are tallied up. The Commission itself says this is not representative: “The figures do not intend to be statistically representative of the prevalence and types of illegal hate speech in absolute terms, and are based on the total number of notifications sent by the organisations.” And in the case of Romania, for instance, for the last evaluating exercise, on which information was released in June 2020, only 86 cases (instances of flagged content) were tracked.

With regard to mis- and disinformation, it is difficult to know its scope and impact because of a lack of high quality research on this. During the pandemic, news media, authorities and NGOs have reported on or tackled the spread of misleading or false information online, but perhaps equally or more troubling is that several television stations gave a platform to figures that hand out potentially misleading or confusing information and advice – that is not necessarily unlawful but could have a deleterious effect on public health (Pagina de Media 2020-2021; Code for Romania 2020; I.B. 2021). Our preliminary research also suggests that the so-called infodemic also took hold in Romania: some outlets put out articles at a frenetic pace during the pandemic. Media efforts to address information overwhelm by synthesizing and gathering strictly necessary and up-to-date accurate information in one place have been few or inconsistent.

In terms of self-regulation by publishers that host user-generated content (UGC), most publications lack policies to deal with UGC, and those that do have such policies do not always tackle hate speech in them (Toma, Popescu & Bodea 2016, Janto-Petnehazy 2018). As we mentioned in past reports, the reasons for this include many factors like lack of resources and focus on audience engagement.

5. Conclusions

The COVID-19 pandemic accelerated ongoing developments in Romanian media but did not alter their direction. The most serious threats to media pluralism remain the poor economic viability of media outlets in an almost purely commercial media system with an irrelevant PSM.

Advertising revenues kept falling for print and somewhat increased for digital media, while alternative funding models hardly reach beyond startups with limited audience catering for a small middle-class audience. Excellence in investigative and narrative cannot compensate for the insubstantial, superficial but judgmental political journalism, and the very limited presence of explanatory and data journalism. Conventional norms of good journalism are not shared widely beyond expected differences related to partisanship, ownership and tabloidization levels.

The defining features of the state relationship with the media sector are a lack of concern for public interest information and a preference for partisan media, with lip-service being paid to EU directives on GDPR or media literacy that overlook underlying social problems. The pandemic emergency rules against “fake news” sites reflect the general sketchy approach to policy making as unaccountable and unspecific prerogatives were given to an institution without the relevant legal or epistemic competence and without their consultation. In turn, the audio-visual regulator itself has limited monitoring and analytical capacity and there are no discussions about digital content regulation even at the level of campaign rules in print media.

Public service broadcasters are relatively well funded but the audience of their public affairs coverage is exceedingly low and the general programming indistinguishable from that of commercial channels. Domestic critics of the PSM focus on the political appointment of the executive board, lack of civil society input, and direct state funding. However, the most influential obstacle to progress seems to be the legally enshrined lack of mission-based accountability and planning that makes the term in office unpredictable and dismissals follow purely partisan lines.

Accuracy, internal diversity, cognitive accessibility, proper contextualization and critical scrutiny of sources remain neglected in news reporting. Partisan polarisation in the media, low state capacity, limited institutionalization of the journalistic profession and public disbelief in the possibility of an independent public sphere remain a tangible threat to democracy and the rule of law. New models for journalism and media spread and hate speech recede slowly and exclusively as a result of spontaneous change in society and in spite of misinformation and intolerance emanating from elite sources.

The current evaluation of risks is likely to be an underestimation as we use relatively aggregated indicators. The lack of data is acknowledged as a problem in itself but we do not follow a weakest link logic of institutional evaluation. Last but not least, the dearth of data in the Romanian case is quite significant and it in itself related to the limited capability of the state, professional or labour institutions.

6. Notes

- [1] The Constitution of Romania, <https://www.presidency.ro/en/the-constitution-of-romania>
- [2] For operators in the audio-visual field, ownership information has to be reported to the CNA. The CNA also has to be informed about stockholders with 10% or more of the company's shares and / or with voting rights, and information must be public regarding holders of more than 20% of stocks.
- [3] See: the law regulating the functioning of the PSM (Law 41/1994).
- [4] Law no. 190/2018 (General Data Protection Regulation), <http://legislatie.just.ro/Public/DetaliiDocument/203151>

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Annexe I. Country Team

First name	Last name	Position	Institution	MPM2021 CT Leader
<i>Marina</i>	<i>Popescu</i>	<i>Research Director</i>	<i>MRC - Median Research Centre, Bucharest</i>	X
<i>Roxana</i>	<i>Bodea</i>	<i>Executive Director</i>	<i>MRC - Median Research Centre, Bucharest</i>	
<i>Raluca</i>	<i>Toma</i>	<i>Senior researcher & programmes director</i>	<i>MRC - Median Research Centre, Bucharest</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>Manuela</i>	<i>Preoteasa</i>	<i>Managing Partner</i>	<i>Euractiv.ro</i>
<i>Ionut</i>	<i>Codreanu</i>	<i>Project Manager</i>	<i>Activewatch Press Monitoring Agency</i>
<i>Silvia</i>	<i>Branea</i>	<i>Conf. univ. dr., Dean, Department of Cultural Anthropology and Communication</i>	<i>Department of Journalism, University of Bucharest</i>
<i>Radu</i>	<i>Herjeu</i>	<i>Council Member (2015-2021)</i>	<i>National Audiovisual Council</i>
<i>Dorina</i>	<i>Rusu</i>	<i>Council Member (2015-present)</i>	<i>National Audiovisual Council</i>

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