

# 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 2021

Country report: Italy

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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 2021. 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 notes

### Authorship and review

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

In Italy the CMPF partnered with Roberta Carlini, Matteo Trevisan and Elda Brogi (Centre for Media Pluralism and Media Freedom, European University Institute), 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 being intertwined with the traditional media and the 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 and 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, in order 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, MPM2022 scores may not be fully comparable with those in the previous editions of the MPM. For more details regarding the project, see the CMPF report on MPM2022, available on: <http://cmpf.eui.eu/media-pluralism-monitor/>.

## 2. Introduction

- **Country overview.** Italy covers an area of 301,338 km<sup>2</sup> from the Alps to the Mediterranean Sea. It has a population of 58,983,122. Due to a negative natural balance, Italy's population has steadily decreased since 2015, and since 2020, the COVID-19 pandemic has accelerated this negative trend. In 2021, there were 709,000 deaths and 399,000 births. The immigration-emigration balance was 157,000. Foreigners resident in Italy number 5,171,000. The main nationalities of these foreign residents are: Romanian (20.8%), Albanian (8.3%), Moroccan (8.2%), Chinese (6.3%), Ukrainian (4.5%).<sup>[1]</sup>
- **Languages.** Italian is the most spoken language. According to the Italian Constitution (Art. 6), "The Republic guarantees, through specific laws, linguistic minorities". There are twelve minority languages that are spoken by around 2,500,000 citizens coming from five distinct linguistic roots (Albanian, Germanic, Greek, Romance, Slavic), which are recognised and protected. Languages that are spoken by migrants are not protected.
- **Economic situation.** In terms of GDP, Italy is the third largest economy in the Euro area. In 2021, the Italian GDP increased by 6.6% (7.5% at current prices); the deficit/GDP ratio was at 7.2%, whereas the debt/GDP ratio was at 150.8%.<sup>[2]</sup> In 2020, the Italian economy was severely hit by COVID-19's impact, with the GDP falling by 8.9%. The 2021 recovery was driven by the mitigation of the pandemic emergence due to the vaccination campaign, by the gradual re-opening of the internal and international economy, and by public stimulus. In August 2021, Italy received 24.9 billion euros as pre-financing of the National Recovery and Resilience Plan (NRRP); in April, 2022 the first payment of 21 bn was authorised by the EC.<sup>[3]</sup> Italy's GDP growth, in 2021, was above the EU average, but the GDP. In absolute terms, is still below the 2019 level. The employment rate increased in 2021 to 62.7% (which is still below the level of 2019, and below the EU average); the recovery in the number of jobs most benefited those social groups that were worse hit by the 2020 recession (women and young people), but it did not attenuate the gender, generational and territorial divides that characterise the Italian labour market. The absolute poverty rate is at 9.4%, with relevant geographical differences (8.2% North, 7.3% Center, 12.1% South) (ISTAT 2022). At the beginning of 2022, Banca d'Italia forecasted a return to the 2019 level by mid-2022. The following events that are related to the war in Ukraine have had an impact on the economy and, in April, 2022, the central bank outlined three alternative scenarios, with their GDP forecasts, ranging from 3%, to minus 0.5% in 2022 (Banca d'Italia, 2022). In its Economy and Finance Document 2022, the Italian government lowered the 2022 programmed GDP growth from 4.7% to 3.1%, taking into account the worsening of the economic situation following the invasion of Ukraine by Russia, the increases in the prices of energy, food and raw materials, the trends in interest rates and the lower growth of Italy's export markets.<sup>[4]</sup> Even before the abrupt downturn in 2020, the economy was characterised by low productivity, low growth and high unemployment, particularly among the young and women, and the decline of public and private investments. Perduring issues are low productivity, high public debt and structural deficiencies that hinder growth: public administration and civil justice structural delays; corruption and tax evasion. Some of the reforms envisaged in the NRRP aim to address these perduring issues.
- **Political situation.** In February, 2021, Mario Draghi, the former president of the European Central Bank, took office as prime minister. His government is supported by all of the political parties represented in parliament but one, Fratelli d'Italia. This happened following a political crisis that was

begun by a minor party (Italia Viva, lead by the former premier, Matteo Renzi), and a call by the President of the Republic, Sergio Mattarella, for a wide national alliance with which to face the extraordinary challenges that had arisen due to the pandemic's consequences: the vaccination campaign, the socio-economic crisis, the recovery strategy with the use of EU funds – of which Italy is one of the main beneficiaries. Draghi's government is the third one appointed by the parliament that was elected in 2018. The XVIII Legislature started with a government supported by the League Party and the Five Star Movement, and was lead by Giuseppe Conte; in September, 2019, after the European election, their alliance collapsed, and a new government was created, which was lead by the same Giuseppe Conte, but supported by the Five Star Movement, the Democratic Party, and some of the smaller parties (Liberi e Uguali and Italia Viva). Even though the traditional categories hardly apply to the evolving Italian political scenario (particularly for the Five Star Movement, founded by the comedian Beppe Grillo, who claims to be “neither left nor right”), it can be said that, in three years, Italy has experimented with a centre-right government, a centre-left one, and a “grand coalition”. The only party that do not support the government, Fratelli d'Italia, has a far-right and nationalistic orientation. In October, 2021, administrative polls were held in 1.342 municipalities. The centre-left won in 15 out of 20 regional capitals (including Rome, Milan, Turin and Naples).

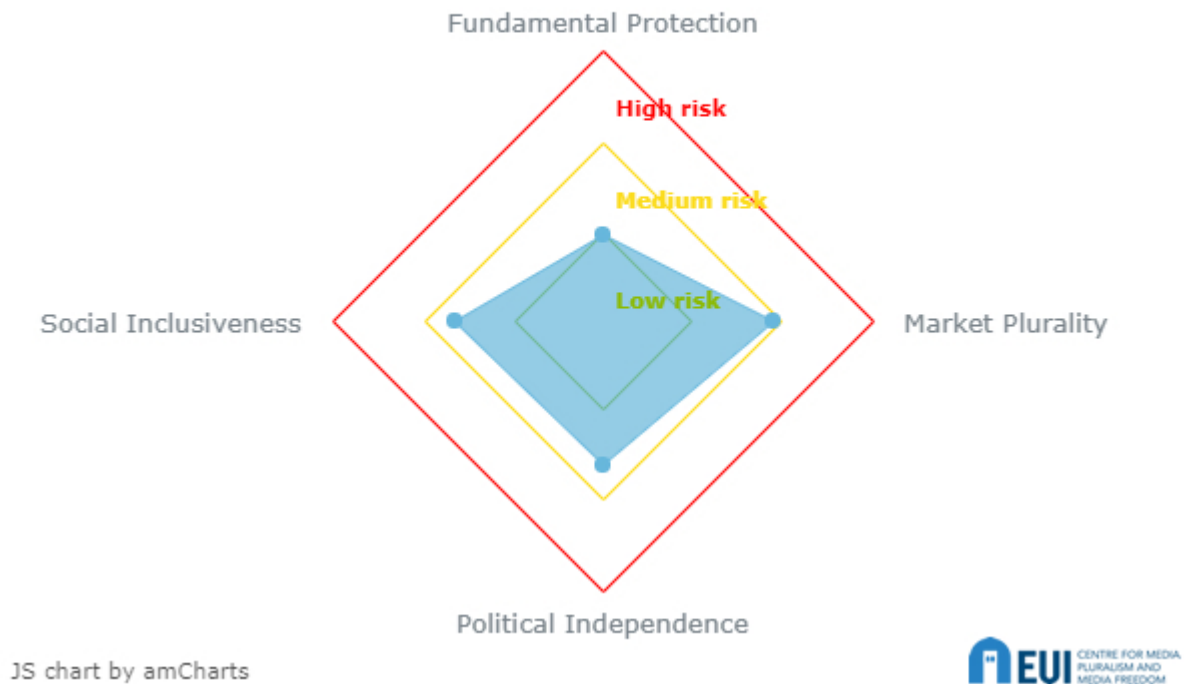
- **Media market.** Television is still the main source of information, followed by the internet, the press and radio. In the average day, information consumption is 72.5% for television, 48.3% for the internet, 17.6% for the press, and 11.9% for radio. In comparison with previous years, television remained stable, the internet experienced a sharp growth, whereas newspapers and radio declined. The pandemic accelerated pre-existing trends: for television, with a consistent shift towards the pay video on demand services (unique users of pay video on demand services increased from 11.2 millions in 2019 to 14.9 millions in 2021); for the newspapers, with a persistent decline (total circulation decreased from 2.09 millions in 2019 to 1.70 millions in 2021). (AGCOM 2021a, p. 72; AGCOM 2022a). Italians access the news online, mainly via smartphone, and mainly with side-door access, where it is intermediated by algorithmic sources (Cornia 2021; AGCOM 2021a). The growing role of the internet impacted upon the media market, as measured in the Integrated System of Communication (SIC, the widespread aggregate on which the Italian law sets the thresholds to evaluate concentration), with a decreasing share for the press, and an increasing share for the digital intermediaries. In 2019, the audiovisual media still held the dominant share of the SIC (48.2%, down from 49% in the previous year), followed by the press (19.7%, down from 21.1%) and the electronic publishing and online advertising sector (19.5%, up from 17.5%) (AGCOM 2021b). The updated evaluation of the SIC was not available at the time of this publication; but the economic indicators clearly show that the same trends continued. AGCOM (2021a) reports a growing concentration index for the online advertising market (72% in 2020). A high degree of concentration is also an enduring feature of the traditional media market, which is historically characterised by the duopoly formed by the PSM (RAI) and Fininvest/Mediaset in the free-to-air broadcasting sector (in 2021, Mediaset changed its name to MFE - Media for Europe, which is registered in The Netherlands and controlled by Fininvest, Berlusconi's family's holding; MFE retains all of the shares of Mediaset Italy); while Comcast-Sky is the main operator in the pay-tv sector, and the fast growth in the streaming services “challenges the triumvirate” (Mediobanca 2022, p.20). According to estimates, Netflix is now the fourth actor in the Italian audiovisual market (even though the same report informs its readers that the impetuous growth of 2020-2021 ended in the first few months of 2022). In the press sector, the trend towards concentration that was highlighted in the previous editions of this report, continued, and it was further fostered by the worsening economic conditions. The first player is the GEDI group, owned by Exor (the Agnelli family's holding), followed by Cairo/RCS, Monrif and Caltagirone. Other than Cairo/RCS, all the main players are not purely publishers, since they undertake other industrial, commercial and financial activities.

- **Regulatory environment.** The EU Audiovisual Media Service Directive was transposed in December, 2021, by Legislative Decree 208/2021, which replaces TUSMAR (Legislative Decree 177/2005) with a new consolidated act, TUSMA (Testo unico sui servizi di media audiovisivi). Besides extending some of the rules set for the audiovisual sector and the video sharing platforms, the new TUSMA revises the anti-concentration rules set in the media sector to guarantee media pluralism, and enlarges the tasks of the media authority, the *Autorità per le Garanzie nelle Comunicazioni* (AGCOM). The EU directive 2019/790, on Copyright and related rights in the digital single market, was transposed in December, 2021, replaced by Legislative Decree n. 177/2021.
- **COVID-19.** With almost 17 million cases and 160,000 deaths (as of May, 2022), Italy has been severely hit by COVID 19 (in absolute numbers, the ninth country at worldwide level, and the third country at the EU level). In 2021, 59,136 deaths were officially registered as being related to COVID 19 infection, and the excess total mortality from the beginning of the pandemic (March, 2020) to January, 2022, was 178,000 deaths (ISTAT-ISS 2022). The vaccination campaign, started in December, 2020, has, since May, 2021, reached high coverage levels. In May, 2022, 93% of the population over 12 was fully vaccinated (with the booster dose) or had recovered from infection after the 2nd dose. The State of Emergency lasted throughout 2021, with subsequent lockdowns and restrictions, and ended on 1st April, 2022. The second year of the COVID 19 emergency impacted on the media environment in different ways that were related to the protection of journalists (in particular, the ones covering anti-vaccination movements), and there was a further push towards digitalization in relation to consumption habits, and - above all - the perduring economic impact on media revenues. In this regard, the mitigation of the pandemic's impact and the economic recovery of 2021 benefited the media industry only to a limited extent. The decline in circulation and advertising revenues in the newspaper sector continued.
- **War in Ukraine.** In 2022 (although it was not part of this MPM assessment), the war in Ukraine swiftly became the headline news. In parallel, a debate on the quality of information provided by talk-shows dealing with the information on the war and the appropriateness of inviting pro-Russian guests, grew. Italy complied with the European Council's decision to ban the Russian channels RT and Sputnik. This decision was carried out by the media authority (AGCOM), which also invited all the Italian media to provide accurate information on the war. Since March, 2022, Copasir (a committee that is supposed to monitor the secret services) has also been investigating the use of disinformation as a weapon of war.



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

#### Italy: Media Pluralism Risk Areas



In the **Fundamental Protection** area, Italy was at low risk in 2021, at **32%**. The basic conditions of media freedom and media pluralism are respected. Two factors contributed to the lowering of the risk level in this area: a) the criminal law on defamation, which was a source of concern in previous implementations of the MPM, was the object of two interventions by the Constitutional Court. Even though a legislative reform of the law on defamation is still pending, the possible prison sentences for journalists have been limited by the Court's rulings; b) indicators of the possibility to access the internet, improved. The perduring risks in this area relate, rather than to the legal framework, to its effectiveness. They concern the growing number of attacks on, and intimidations of, journalists, the lack of safeguards against SLAPPs; and the deteriorating working conditions of journalists. The implementation of the EU AVMS Directive, 2018/1808, which was transposed into Italian law in December, 2021, should have an impact on strengthening the independence of the media authority.

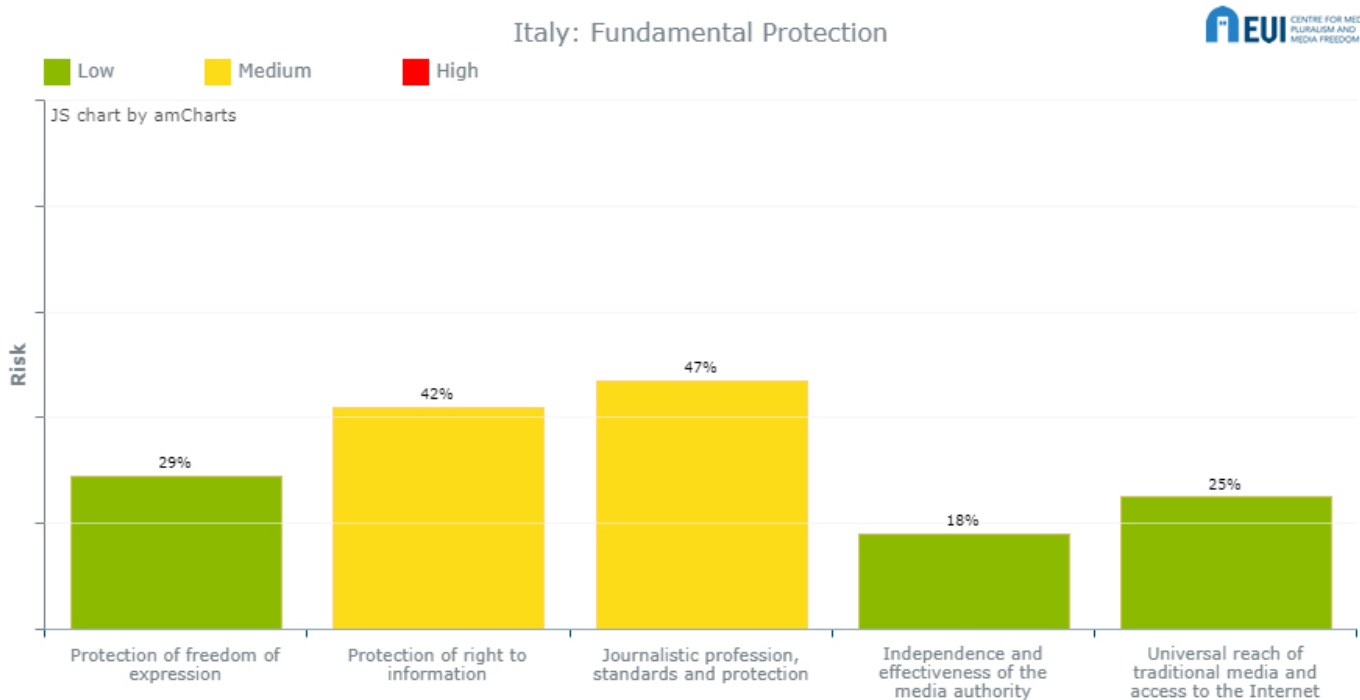
**Market Plurality** presents the highest risk score across all of the MPM's areas (**63%**, medium risk). Transparency of media ownership is guaranteed by the register that is managed by the media authority, but the information is not easily accessible to the public. The main risks in this area stem, as in the past, from the high concentration of horizontal and cross-media ownership, which is also increasing due to the defensive strategies enacted by the media companies in order to face their economic difficulties. In parallel, high concentration also characterizes the online advertising market, in which a few platforms dominate. The reform of the anti concentration framework in the sector, with the new TUSMA, has been too recent to have any substantial impact on the results of the MPM2022's assessment. Indicators of economic sustainability improved after the deep crisis of 2020, but the recovery in the sector is far below that of the overall economy, and has not reversed the long-lasting trend to decline in the newspaper sector. The high market concentration, together with the presence of intertwined interests between media industries and other businesses, as well as economic vulnerability, contribute to amplifying the risks of commercial influence on editorial independence.

The **Political Independence** area in Italy is at medium risk (**53%**). In this area, a slight increase of the risk score is registered, in comparison with the previous assessment. The indicator at the highest level of risk is that related to the independence of the PSM, due to the procedures for appointments in top management and those concerning the funding system, which do not protect the public service from political influence. The other drivers of risk in this area are the lack of an effective discipline for conflicts of interest; which leads (together with other factors) to the inadequate protection of editorial independence. The rules set for fairness of information in electoral periods hardly face up to the evolution of the media environment and, in particular, when it comes to political communication on online platforms. There are rules on the distribution of public subsidies, whose amount has increased in the last two years, but some concerns have emerged in regard to their effective outcome; finally, the regulation of state advertising to the media does not apply to State-owned companies..

In the **Social Inclusiveness** area, Italy scores as being at medium risk, **55%**. This area also shows a decrease in regard to the risk assessment, and this is to be attributed to the indicator on Access to media for local/regional communities and for community media, and to the indicator on Access to media for women. Linguistic minorities that are legally recognized are protected in relation to their access to, and presence in, the media, particularly in the PSM, which have legal obligations in this regard. Minorities that are not legally recognized - such as migrants and refugees - have no access to the media that is proportionate to their presence in the society, and their representation is often biased and stereotyped. A worrisomely high level of risk comes from the indicator on Access to media for women, despite a slight improvement, which is related to RAI's new appointments. Media literacy and Protection against illegal and harmful speech, are still at the higher level of the medium risk range, in a scenario that was characterized, in 2021, by disinformation, conflict and polarization relating to COVID-19- related topics.

### 3.1. Fundamental Protection (32% - 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 the competence to regulate the media sector, and the reach of traditional media and access to the Internet.



In the **Fundamental Protection** area, Italy was at low risk in 2021. The improvement, in comparison with 2020, is mostly related to the indicator on the reach of traditional media and the access to the internet. Overall, the international human rights standards are respected by the national laws, with a recent improvement that is related to the judiciary developments on defamation. The state of emergency related to COVID 19, declared on 31st January, 2020, ended on 1st April, 2022 and caused no detriment to the rule of law in the country. Nonetheless, risks in this area remain, and these are related to longstanding issues - such as the lack of effectiveness of some of the safeguards, and the delay in the implementation of the rules on the right to access information - and to the growing threats in the journalistic protection and working conditions, with a worrisome increase in the number of physical attacks and SLAPPs. The economic vulnerability of journalists, and particularly of freelancers, has contributed to the rise in risk.

The low risk that is found in the indicator on **Protection of freedom of expression (29%)**, reflects the fact that the Italian legal framework provides basic guarantees, in respect of Article 21 of the Italian Constitution, stating that anyone has the right to freely express their thoughts in speech, writing and any other form of communication. According to an established interpretation, media freedom is enshrined in Article 21 (Zaccaria et al. 2021: 12). Limits to freedom of expression are prescribed by the law and are proportionate to the aim pursued, and citizens have legal remedies in case of infringement; nonetheless, these remedies are not always effective, due to the slowness of the judiciary.<sup>[5]</sup> The same guarantees formally apply in the

online environment, with an increasing number of challenges to the transparency and effectiveness of the measures (see, Chapter 4). The decrease in the risk level for this indicator began in 2020, mainly due to the positive development in relation to the defamation issue. In the past, Italy has been condemned several times, by the ECtHR, for the provisions of the Press Law (n. 47/1948, Art. 13) and of the Criminal Code (Art. 595(3)), which provide for punishment by imprisonment for libel. In 2020, the Constitutional Court ruled on the question, stating that these provisions are not compliant with the Constitution, and inviting the parliament to approve a reform of the legal framework on defamation within a year (Constitutional Court, Ordinance n. 132/2020). Since then the deadline has expired without any action by the parliament; in June, 2021, the Court issued a follow-up decision, declaring that Art. 13 of the Press Law was not compliant with the Constitution, and Art. 595(3) of the Criminal Code was compliant with the Constitution as long as a prison sentence is given only in cases of “exceptional severity” (Constitutional Court, Sentence n. 150/2021). It can be said that, after this interpretative ruling, the prison sentence for defamation has practically been abolished in Italy, except in exceptionally severe cases. It is worth noticing that defamation is still a crime, which can be punished by a fine; and that the combination of criminal and civil defamation can be used with a chilling effect on journalistic activity (see below). In this context, a comprehensive reform of the defamation law is still both requested and advocated for by civil society (Article 19, 2021).

The indicator on **Protection of right to information** scores medium risk, at **42%**. In the public administration sphere, civic access to the data and documents that are relevant to public and private interests is regulated by Legislative Decree 97/2016, which introduced a “Freedom of Information Act” (FOIA) in Italy. Restrictions on access are defined by the Decree, and public administrations should provide justifications in case in which access is denied. The FOIA's implementation is monitored and reported upon annually.<sup>[6]</sup> The temporary suspension to access, which was put into place in March- April, 2020, during the COVID 19 outbreak emergency, was not extended in 2021. As was highlighted in the past MPM reports, some issues arose regarding the implementation of the legal framework, as, according to independent observations, sometimes procedures are complicated, and the reasons for such denials are not always disclosed.<sup>[7]</sup> In 2021, Legislative Decree 188/2021, transposing the European Directive 2016/343 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at a trial during criminal proceedings, regulated access to judicial information by journalists. The restrictive interpretation given to the decree by some prosecutors, denying journalists the access to information that is of public interest, raised some concerns (Osservatorio Balcani e Caucaso Transeuropa, 2022).<sup>[8]</sup>

The protection of whistleblowers (law 179/2017), which is limited to the public sector and to private companies that are working for the public administration, does not comply with EU Directive 2019/1937 on the protection of persons who report breaches of Union law. Although the deadline for the transposition expired on 17th December 2021, Italy has not yet transposed the directive at the time of writing this report. The president of ANAC (the national anti-corruption authority that oversees the implementation of the law) complained about the delay.<sup>[9]</sup> From 2019 to 2021 the number of requests of protection decreased.

The worrying increase in the risk score for the indicator **Journalistic profession, standards and protection** (from 42% in 2020, to **47%** in 2021) is related to a deteriorating situation on the ground; to the worsening economic conditions of journalists; and to the use of strategic lawsuits against public participation (SLAPPs, in Italian “querelle temerarie”). In 2021, 24 journalists were under police protection after receiving credible threats to their physical safety. The Coordination Centre of the Ministry of Interior, created in 2017 to monitor the safety of journalists, reported 232 cases of menacing and intimidation in 2021 (plus 42%, in comparison with the same period of 2020). The menace from organized crime is still relevant (11% of the cases), whereas a growing phenomenon are the threats in socio-political contexts (113 cases), which, in 2021, often occurred against journalists covering the COVID 19 emergency, for instance, in regard to the

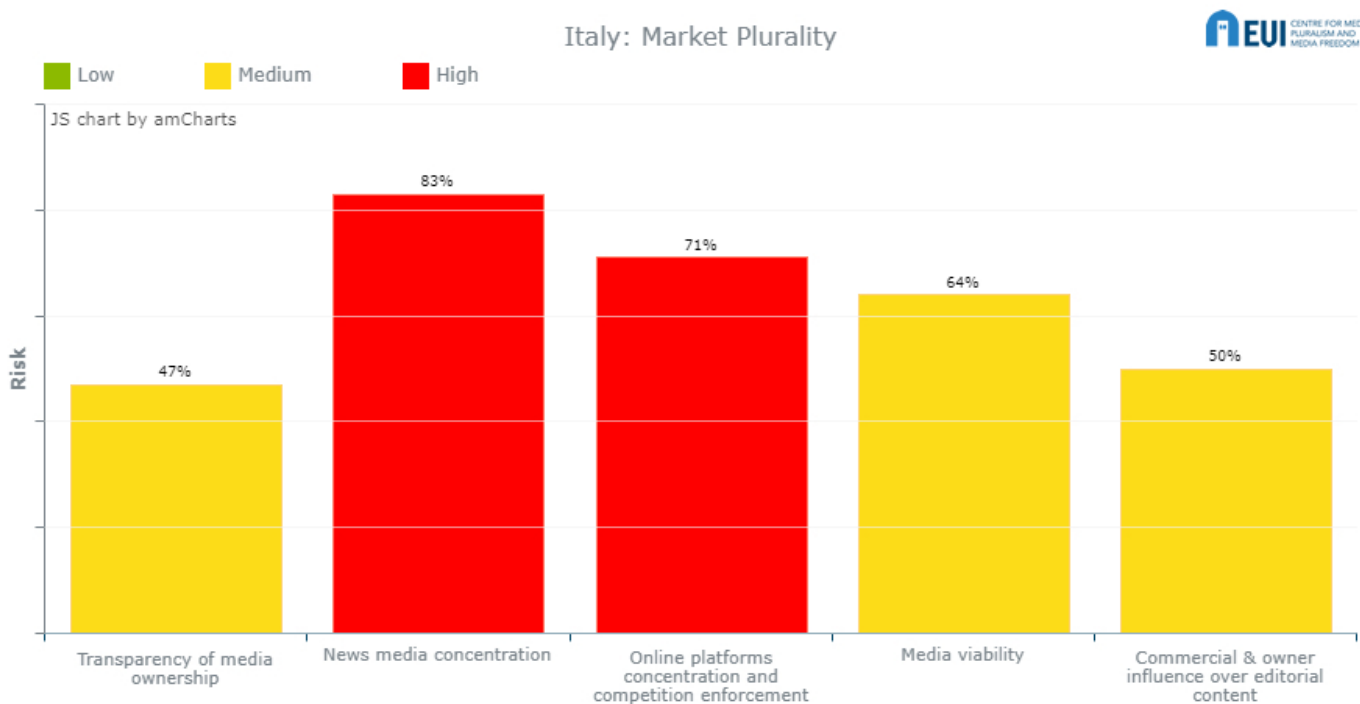
anti-vaccination demonstrations, and to the political gatherings of far-right movements. Online threats have amounted to 44% of the total.<sup>[10]</sup> The official data may be underestimated, according to the civil society watchdog Ossigeno per l'informazione, which verified 384 cases in 2021.<sup>[11]</sup> As regards the working conditions, the perduring economic crisis in the sector has led to a severe contraction of journalistic employment in recent years, which, in 2021, determined the virtual bankruptcy of INPGI, the Institute administering the pensions of journalists (see the indicator on Media viability). The newsrooms increasingly rely on the contribution of freelancers, who receive low remuneration and who are very rarely protected by social security schemes. Freelancers, as well as journalists who have different contracts and juridical statuses, are not only less protected against economic risks, but they are also more exposed to menaces and attacks, and they have to defend themselves in cases of strategic lawsuits set up to intimidate them. In spite of a long lasting debate, the draft proposal to introduce an anti-SLAPPs rule is still pending in parliament.<sup>[12]</sup> Strict interpretations of the provision of the Code of Criminal Procedure on “professional secrecy” may exclude freelancers and “non professional” journalists (those journalists who are not enrolled in the Order of Journalists), from this protection also (Verza 2017).

The indicator on **Independence and effectiveness of the media authority** scores **18%**. The low risk assessment reflects the fact that the appointment procedures and the rules on the budgetary independence of the Italian media authority (AGCOM) are designed to minimize the risk of political or economic interference (Law 249/1997). The President and the four members of the Board are appointed by using a mechanism that involves the government and the parliament. As has been noticed in the past, this mechanism guarantees that the media authority is not dependent on a parliamentary majority and is not aligned with the electoral cycle, but it is not immune to some of the risks of political bargaining, and it does not oblige the political parties to take up a fully transparent method of selection which is based on the candidates' CVs and competence (Minervini and Piacentino, 2021; Schultz, Valke and Irion, 2013). AGCOM has sanctioning powers and appeal mechanisms are in place. When it comes to effectiveness, in the past, the media authority intervention was not always responsive, particularly in the realm of the audiovisual market (Zaccaria et al., 2021, p. 51). In 2021, Italy transposed the revised AVMS Directive, 2018/1808, providing obligations to the MSs to strengthen the independence of the media authority. Art. 18 of Legislative Decree n. 208/2021 regulates the enlarged tasks of the media authority, thus confirming the pre-existing procedures for the appointment of its members.

The indicator **Universal reach of traditional media and access to the Internet** shifts to a low risk for 2021, at **25%**. Accessibility to traditional broadcasting networks, as in the past, is guaranteed; whereas the improvement in this indicator mainly reflects the steps forward that have been made with regard to access to the internet (see, Chapter 4).

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

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



In the Market Plurality area, Italy scores as a medium risk, but just below the high risk threshold. This area presents the highest level of risk across the four areas of the MPM assessment. As a matter of fact, the concentration of the traditional media market - historically high, particularly in the audiovisual sector - has not been counterbalanced by the development of the digital environment, due to the dominating role of a few platforms in intermediating access to the news and in the online advertising market. In recent years, the deterioration of the media market has triggered increasing risks for the economic sustainability of the industry and for journalistic employment, resulting in a deep crisis in the newspaper sector. The economic vulnerability amplifies the risks of commercial influence over editorial content. Information on media ownership, up to the ultimate layer, is provided to the media authority, but it is not easily accessible by the public.

The indicator on **Transparency of media ownership** scores a medium risk (47%). The principle of transparency is enshrined among the fundamental principles of the Italian Constitution (Art. 21, §5, states that “The law can request the disclosure of the financial sources of newspapers and printed publications”), and this is regulated by the law (Art. 29 Legislative Decree no. 208/2021, TUSMA ; Art. 5 Law no. 47/1948).

Since 1997, information on the ownership structure of media companies has been collected in the Register of Communication Operators (ROC), managed by AGCOM (Art. 1, §6 Law 249/1997; resolution no. 666/08/CONS). Subjects obliged to register on the ROC are network operators, all the media providers (audiovisual, radio, newspapers, digital media), electronic services providers, online search engines and online intermediation services providers (see Chapter 4).

To enlist in the ROC, operators must provide and update information on their shareholders, their quotas and voting rights, as well as to indicate controlling companies and fiduciary headings. Although the scope of the ROC is to guarantee the disclosure of media ownership to a public body (AGCOM), the medium risk assessment for this indicator is due to limits in the public access to this information: as a matter of fact, the information easily accessible to the public on the AGCOM website only includes name, business name, office address, field of activity and ROC number. Furthermore, although more detailed information and a yearly reporting are requested for publishers that receive public subsidies, the public reports available in the AGCOM's website have not been updated since 2013 (Brevini and Fanucci, 2013; Ranaivoson et al., forthcoming, pp. 359-365).

The level of risk for **News Media Concentration** scores **83%**, with a high concentration in all the news media sectors. For the sake of this indicator, two main events must be highlighted in the present assessment: the growing market share of the streaming services in the audiovisual sector challenges the old public-private “duopoly”, as well as the role of the pay-tv services. In the regulatory framework, the new audiovisual code (TUSMA) has reformed the anti-concentration rules.

In the audiovisual sector, the Top 4 index is above 80%, with a different weight for each of the main players, depending on whether their positions are calculated on revenues or audience. In terms of revenues, Comcast/Sky is the first operator (34.4%), followed by RAI (29.3%), Mediaset-MFE (18.6%) and online platforms (7.2%) (AGCOM 2021a, data for 2020). In comparison with the previous year, the data show a slight decrease in market shares for Comcast and Fininvest, and an increase for the online platforms. In this aggregate, Netflix has the lion's share and is reported to be the fourth player (Mediobanca 2022). The situation changes when it comes to audience concentration, measured by the media authority for DVT-B and satellite television: here, the first operator is RAI, with 35.2% of the audience in the average day, followed by Mediaset-MFE (32.1%), Discovery (7.7%), and Comcast/Sky, which ranks fourth (6.5%) (AGCOM 2021a). 2021 data (AGCOM 2022a) shows a slight increase in audience for RAI, and a decrease for the other main players. RAI and Mediaset are also the main players in the radio sector (25% and 14.2%, in terms of revenues, respectively), while the third and fourth operators are GEDI and RTL (9.4% and 8.8%, respectively); since 2018, this sector has gone through various merger and acquisitions operations that have increased the degree of concentration. The same happened for the newspaper sector, whose main player, in terms of revenues, is again GEDI (25.1%), followed by Cairo/RCS (21.4%), Monrif (8.6%) and Caltagirone ed. (6.8%). The same ranking, with slightly different figures, is reported for readership in 2021, in an overall scenario of declining circulation for all the main groups. The digital outlets of the legacy media dominate the online audience also, despite the development of some digital native news media (see Chapter 4). The same groups are often active across different media sectors; consequently, cross-media concentration is also high. Media conglomerates are, in the majority of cases, present in the related market for advertising and other economic sectors, ranging from automotive to finance, energy, real estate, health, infrastructures.

The high horizontal and cross-media concentration is the result of an historical trend, which has recently been accentuated by the worsening economic conditions in the sector. Even though Italy has media-specific anti-concentration rules to safeguard media pluralism in the Integrated Communication System (SIC) and its

submarkets, their design has not allowed the effective tackling of market dominance, due to the broadness of SIC and to the delays in the evaluation of some of its submarkets (e.g., the audiovisual); the delays have been justified due to the relevant technological developments (Venice Commission 2004 § 98; Cappello 2020, pp. 73-80; Zaccaria et. al 2021, p. 424; Carlini and Brogi, 2021). No infringements of the anti-concentration limits have been sanctioned by the media authority since 2017, when AGCOM sanctioned the French company Vivendi.<sup>[13]</sup> The decision originated the case *Mediaset vs Vivendi*, which was heard before the Court of Justice of the European Union, and which, in September, 2020, declared that Art. 49 TFEU must be interpreted as precluding some of the restrictions that have been set up by the Italian law for cross-media concentration (Case C-719/18). The judgment argued on the balance between the national rules, which are aimed at safeguarding media pluralism and the principle of freedom of establishment in the EU internal market, stating that proportionality must be guaranteed; a national limit can be imposed, but it must be proven that it effectively pursues pluralism (Apa 2021).

After the CJEU judgment, the Italian legislator first issued temporary provisions, and then reformed the anti-concentration rules in the media sector with the new TUSMA (Art. 51 Legislative Decree 208/2021). The first paragraph of Art. 51 states that “in the Integrated Communications System and in its sub-markets, the establishment of positions of significant market power, detrimental to pluralism, in the market and in information services, is prohibited”. To evaluate when such a position has been established, numeric thresholds for revenues (for SIC and its sub-markets) remain, as far as the notification obligations are concerned, and as being “symptomatic” of significant market power, but they must be evaluated case-by-case by AGCOM, following guidelines that are set every 3 years by the same AGCOM.<sup>[14]</sup> Moreover, to implement Art. 51, AGCOM has to evaluate SIC and its sub-market, following the new criteria, and issue the guidelines. The process is ongoing at the time of writing this report. It must be noticed that the Italian competition authority raised some critical remarks, arguing that, in the new system, a disfunctional overlapping of the competences may emerge; particularly when analytical tools that are used in the competition enforcement are to be used with the aim of reaching a different goal (media pluralism), without involving the competition authority at any stage in the process.<sup>[15]</sup> In the academic literature, criticism has emerged on the possibility that the new TUSMA exceeds the scope that was defined by the CJEU judgment, and on the fact that the criteria that are set to evaluate dominance are still anchored to the market revenues, rather than on audience shares (Grandinetti 2022; see also Giomi 2022)<sup>[16]</sup>.

One of the sub-markets that are in the course of being defined by AGCOM is the online advertising market, whose concentration contributes to the high risk of the indicator **Online platforms concentration and competition enforcement (71%)**. (this indicator is specifically analyzed in Chapter 4).

The indicator **Media viability** is at medium risk (**64%**). Even though it shows a decrease in the level of risk, in comparison with the previous year (when it scored high risk at 77%), it should be noticed that the economic recovery that occurred in 2021 - with the GDP increasing by 6.6% - benefited the media sector to a very limited extent. Advertising expenditure rebounded after the 2020 crisis (according to Nielsen estimates, by 13.5% overall, and, by 12.8% in the traditional perimeter, which includes all the news media advertising revenues, both traditional and digital, and excludes the Over The Top, OTT). However, diverging trends emerge for the news media advertising revenues and the OTT, with the first group still below the level of the advertising revenues for 2019. As for the other sources of revenues, preliminary data indicate a growth in paid services in the audiovisual market, which are pulled by streaming services at the expense of traditional tv and pay-tv; and the perduring decline of newspapers, whose sales decreased in volume by 6.9% (AGCOM 2022a). With almost all the leading legacy media shifting towards paywall models, the revenues from digital (both in advertising and sales) did not compensate for the losses in the press sector.



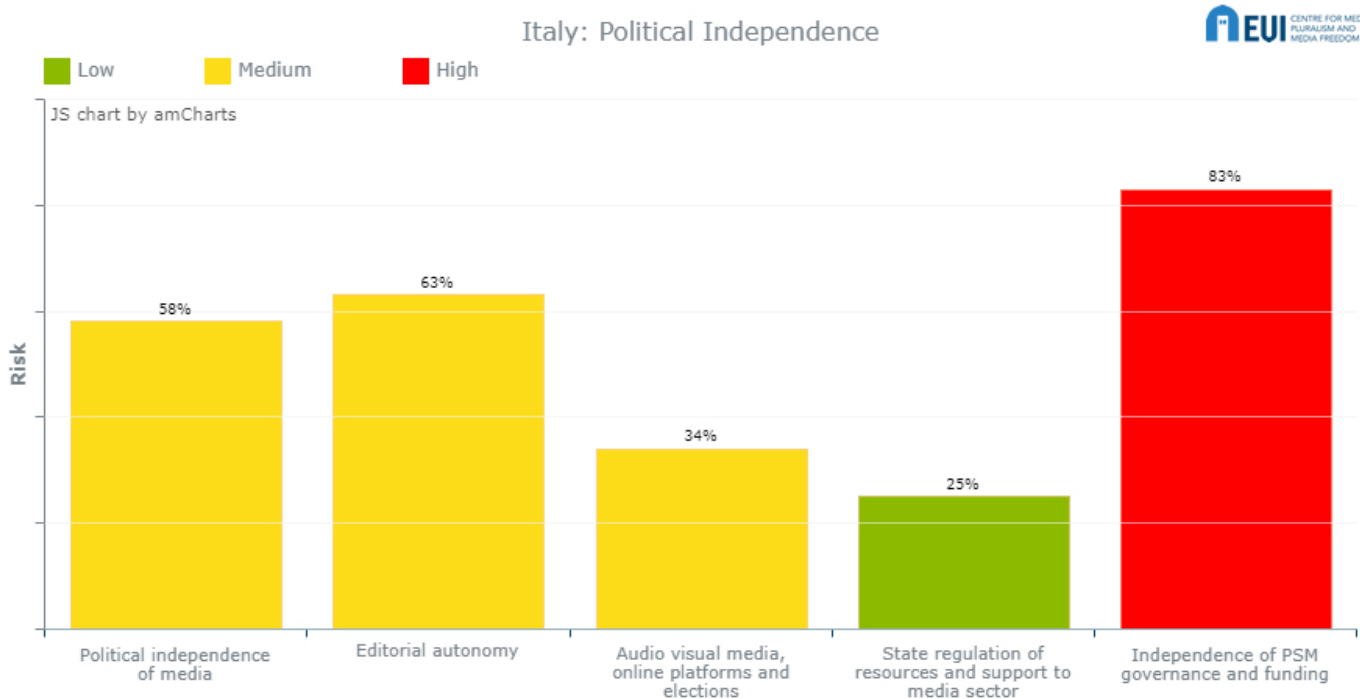
According to PwC-WAN-IFRA estimates, the sum of the circulation and advertising revenues for newspapers, in Italy, decreased by 0.6% in 2021. In the digital native sector, more signals of resilience are reported (see Chapter 4). The extraordinary events of the last two years must be framed within the long lasting trend of the economic crisis in the press sector. In a decade, the domestic revenues of newspapers and magazines more than halved (minus 52.2%, AGCOM 2022b). As the sector that, historically, has most contributed to the creation of original journalistic content, the newspaper crisis brought with it a parallel decline in journalistic employment. According to INPGI (2020), from 2012 to 2019, regular journalistic employment decreased by 14% (minus 2,509 jobs); INPGI (2022) reports further decreases for 2020-2021 (minus 1,877 jobs). This would lead us to believe that there has been a reduction in regular journalistic employment of almost 25% in the last decade. In parallel, contributions by freelancers and journalists with non-standard contracts increased; their status and remunerations are consistently below the level of those of the employed journalists, and they are not, or are just partially, covered by social security protection<sup>[17]</sup>. The draft law to provide fair remuneration to freelancers is still pending in parliament. The decline in regular employment, and the low economic level of freelancers' contributions, are among the causes of the financial losses of INPGI, the institute erogating pensions for journalists, which, in 2021, was bailed out by the State to avoid its bankruptcy.<sup>[18]</sup> The impact of the economic crisis on the journalistic profession and its standards is also the object of a public consultation by the media authority (AGCOM 2021c). Public support for the media sector increased after the pandemic emergency, and amounted to 386.5 millions euros in 2021, up from 175.6 euros in 2019, according to a government study (Dipartimento per l'informazione e l'editoria, 2021).<sup>[19]</sup> From a comparative perspective, the study assesses that the public support for the media in Italy is below the level of almost all of the other countries that are covered by the analysis (Austria, Denmark, Finland, France, Germany, Norway, Sweden, UK). The direct subsidy system is regulated by Law 198/2016, which established a Fund for Pluralism and Innovation of information, but, in spite of the name of the Law, the Fund has not earmarked public financing to the development of innovative tools, products and processes in relation to the media industry. In addition, the distribution of the funds raises issues of internal consistency, transparency and fairness (see the relevant indicator in the Political area).

The characteristics of the Italian media market are reflected in the score for the indicator on **Commercial and owner influence over editorial content**, whose medium risk (at 50%) depends mostly on the economic vulnerability of the media outlets and of their journalists. The Italian law does not provide rules with which to safeguard editors-in-chief and journalists in case of a change in ownership and/or editorial line; professional codes and the national journalists' contracts provide safeguards, the so-called conscience clauses, "clausole di coscienza", but their effectiveness has been declining in recent years, and they don't cover the growing number of journalists who are working without a formal status or contract. The incompatibility between the journalistic profession and activity in the field of advertising is affirmed both by the law and by the professional code "on journalists' duties"(2016).<sup>[20]</sup>

Nonetheless, the rules requiring a clear separation between editorial content and commercial paid messages are often bypassed, in the legacy as well as in the digital media. Legacy media often use special folders to publish sponsored content, in which the disclaimer is not clearly visible; in the digital media, users are often misled into recognizing that they are reading/viewing content that is paid for by advertisers. The situation is aggravated by the overlapping of editorial business with other kinds of business, which exposes the newsrooms to their owners' pressures, which are related to those owners' other interests.<sup>[21]</sup>

### 3.3. Political Independence (53% - medium risk)

The Political Independence indicators assess the existence and effectiveness of regulatory and self-regulatory safeguards against political bias and political influences over news production, distribution and access. More specifically, the area seeks to evaluate the influence of the State and, more generally, of political power over the functioning of the media market and the independence of the public service media. Furthermore, the area is concerned with the existence and effectiveness of (self)regulation in ensuring editorial independence and the availability of plural political information and viewpoints, in particular during electoral periods.



In the **Political Independence** area, Italy is at medium risk. Compared to the MPM 2021 assessment (49%), this domain registered an increase of 4 percentage points in the risk factor. On the one hand, the independence of PSM governance and public funding still represents the indicator with the highest risk (83%), highlighting the need for a substantial reform of RAI. On the other hand, the deficiencies that have persisted are related to an effective discipline in relation to conflicts of interest, the concerns over the distribution of direct subsidies, as well as an increase in the risk when considering fair and transparent allocation of State advertising to media outlets, which have negatively impacted upon the overall assessment for the Political Independence area.<sup>[22]</sup>

Compared to the MPM 2021 assessment, the indicator **Political Independence of the Media** scored an increase in its risk level (58%, + 8pp). On a negative note, the examination of legislative proposals for modifying the discipline concerning conflicts of interest, the so-called Frattini Law (n. 215/2004), is still underway at the Chamber of Deputies' Commission, resulting in a persistent dearth of measures affecting the independence of the media, at national as well as at local level.<sup>[23]</sup>

This insufficient regulatory context (Venice Commission, 2005) continues to shape the Italian audiovisual system: the political role of Silvio Berlusconi, the former premier and the owner of various prominent media outlets, although less prominent than before, saw a resurgence in 2021 through the formation of the new

government led by Mario Draghi, in which Berlusconi's party, Forza Italia, was given three ministers. In the same year, its family's holding, Fininvest, moved its media and communication activities to the Netherlands, thus creating the group Mediaset-MFE, and it still is the main private broadcaster company in Italy.<sup>[24]</sup> While the analysis of the leading digital native news media did not reveal evidence of direct or indirect political implications via ownership, the print press panorama continues to be characterized by clear cases of political influence in publications with a medium circulation: *il Giornale*, which is owned by Paolo Berlusconi (the brother of Silvio Berlusconi) and *Libero*, which is owned by the Angelucci group, which, in turn, reports to Antonio Angelucci, who is a member of Berlusconi's Forza Italia party.<sup>[25]</sup> The absence of comprehensive regulatory safeguards also impacted on the sub indicator related to the independence of the news agencies, since the Italian news agency AGI is owned by the state-controlled national energy company ENI.

Additionally, the interference of political power in the PSM is still a massive cause for concern, as demonstrated by the 2021 procedures for appointment of the PSM's top positions, as well as by the functioning of RAI's funding system (see the indicator Independence of PSM governance and public funding).

The 2022 risk assessment for the indicator **Editorial Autonomy** remained unchanged (**63%**). As reported by Zaccaria et al. (2021), in the Italian context, the profound ties between the editor-in-chief and the publisher - albeit with reciprocal autonomy - and the impact that it is destined to exert in the political and professional performance of the newspaper, is evident. The precarity of regulatory safeguards preventing political influence over the appointments and dismissals of editors-in-chief, which may harm editorial autonomy, remains a matter of concern. With regard to the PSM, this political interference is systematic, as demonstrated by the above-mentioned process of appointment occurred in 2021 (USIGrai, 2021). In addition, in spite of more wounding sanctions that were introduced in the Consolidated Text of the Journalist's Duties,<sup>[26]</sup> from a general point of view, self-regulatory instruments stipulating editorial independence are only partially respected and implemented. As reported in the MPM2021 assessment, there are often complaints about journalists (especially in television) that are not sanctioned, even if they violate ethical standards by favouring politicians.<sup>[27]</sup> In addition, the State bail-out of the journalists' pension fund (see Chapter 3.2), although motivated by the financial distress of the Fund, may raise concerns regarding the dependence of the media industry upon discretionary political choices.

The indicator **Audiovisual media, online platforms and elections scored 34%**, which was the same as its score in the MPM2021 assessment. Speaking about the equal representation of different political factions and ideas in the media, AGCOM issued Resolution no. 92/21/CONS, indicating the criteria and methods for respecting pluralism, and this should be evaluated as being very relevant at a historical moment when a ruling government (Draghi's government) collects high percentages of votes. The resolution was an important signal in light of the October, 2021, administrative elections.

When considering the PSM, during the electoral period an over-emphasis on the presence of majority parties, and an under-representation of political minorities, was detected (to be noted that in the non-electoral one the governmental over-representation can be justified in the light of the pandemic).<sup>[28]</sup> With regard to private channels and services, the analysis has highlighted in a more concerning way the extent of political biases and non-proportional representation. Regulatory safeguards preventing financially stronger political actors from obtaining a large amount of airtime for political advertising are defined in the *par condicio* Law (n. 28/2000), and the power to supervise that it is entrusted to AGCOM (ex officio, or upon receipt of a complaint). However, as reported by Zaccaria et al. (2021), "the office detection system for infringements" has been applied with a "non-commendable parsimony".

The absence of rules for political parties, candidates and lists competing in elections that would require them to report on campaign spending on online platforms in a transparent manner, still poses a high risk.<sup>[29]</sup> As a matter of fact, in Italy, there is still no obligation for parties to publish details of their spending on social media, nor do they do this voluntarily. It follows that the only way to (partially) estimate the amount of expenditure on social media political campaigns is via social media ad-libraries (Brogi & Carlini, 2021). The result is a fragmented and absolutely non-exhaustive scenario, with a high degree of opacity with respect to the amounts spent, and the techniques used, in election campaigns.

While the indicator on **State regulation of resources and support for the media sector** remains the one with the lowest risk in the Political Independence area (**25%**), it registered a +8pp increase, if compared to the MPM2021 assessment. This is partly due to an increase in the risk level when considering the fair and transparent distribution of state advertising to media outlets: Italy has rules on State advertising, but these are limited to the public administration, and they do not extend to the State-owned companies. In this regard, the new 2021 Consolidated Text of audiovisual media services (TUSMA) has confirmed the previous provisions, and thus the legal framework relating to this matter has not improved. When it comes to spectrum allocation, the legislation providing for fair and transparent rules can be considered to have been implemented, or to be in the course of implementation. The MISE Decree of 30th July, 2021, has defined the new national calendar (the so-called Road Map) identifying the deadlines for the reorganization of the television frequencies framework. With the Decree of 17th November, 2021, the criteria and methods for the provision of compensatory economic measures in favour of network operators, were also defined.

Public subsidies to the media are regulated by criteria that are detailed by Law n.198/2016, for direct subsidies; and by a set of various provisions, which will overlap over time, for indirect subsidies (for a summary, see Dipartimento per l'informazione e l'editoria, 2021; and the Italian chapter in Puppis and Pedrazzi, 2020, pp. 13-18). Although the legal framework provides objective criteria for the distribution of the direct subsidies, it is "internally inconsistent", as the Constitutional Court stated, with regard to Ruling n. 206/2019, affirming that "there is the need for the regulatory framework to be brought back to transparency and clarity, and, in particular, for the allocation of resources to meet certain criteria and aims". It follows that, every year, the distribution of subsidies is controversial, with relevant issues of effectiveness and fairness, since, among the main beneficiaries of the direct subsidies, there are media outlets that only formally respect the legal criteria that are put in place to enable access to funds (as for the local media, please see Chapter 3.4). Moreover, there is a chronic delay in the distribution of direct subsidies - at the time of writing, the 2020 fund has not yet been assigned - and this may negatively affect the outlets benefitting from these subsidies, which often have a very fragile financial status. With particular regard to the indirect subsidies that were introduced after the Covid-19 crisis, a medium risk has been detected: first, the tax credit for advertisements has been raised to 50% and has been extended to the audiovisual, which will, *de facto*, be the greater beneficiary of the measure, with the consequent penalization of the other media and the smaller players.<sup>[30]</sup> Second, the provisional nature of the measures, which is to be confirmed every year in the Budget Law, may raise risks for political independence. Ultimately, in spite of the announced plans, both direct and indirect subsidies have not been rescheduled to support news media's digital transition: as Datamediahub (2021) reports, "most of the concessions granted are for the traditional paper product".

**The Independence of PSM governance and public funding** is still at high risk with **83%**. The need for a reform of the Italian PSM is evident, as confirmed by the call to the parliament and the government in May, 2021, which was by 119 intellectuals, academics and managers<sup>[31]</sup> and by the debate in the Senate on the proposed changes to its governance (ddl 1415 et al.).<sup>[32]</sup> As Open Polis (2021) illustrated, in relation to the

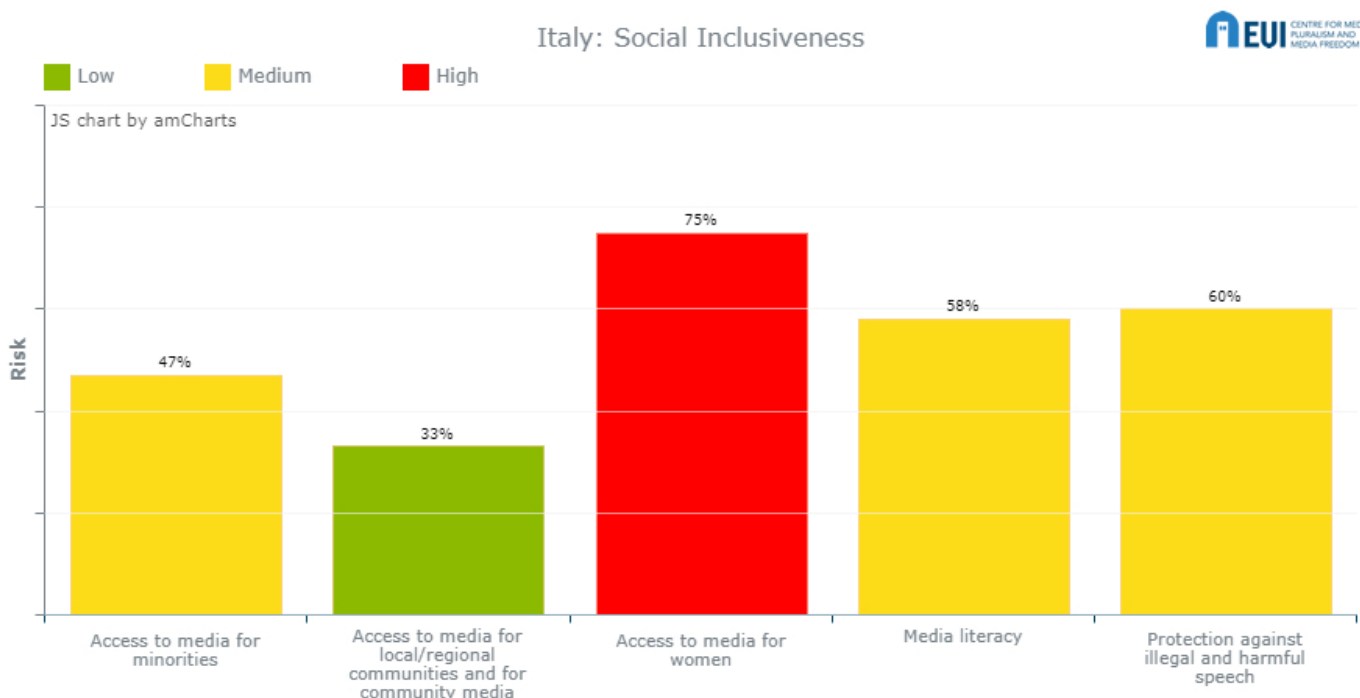
July, 2021, round of appointments to the Boards of Directors, “the particular institutional context (halfway between a broad-based government and one of national unity) and the internal dynamics of the centre-right wing, determined a structure which is entirely internal to the majority”.<sup>[33]</sup>

The subsequent appointment of the 2021 CEO and President of the RAI - Carlo Fuortes and Marina Soldi, respectively - is to be considered as a high risk, since the governance shares are controlled by the government, with a 99% stake, and, as Zaccaria et al. (2021) report, it is difficult to think that the Board of Directors (in which two members are a direct expression of government will, and two others are controlled by the same government through the parliamentary majority) could disregard the proposals of the Shareholders' Meeting. As for the November, 2021, appointment of the editors-in-chief of some of the major Italian TV news channels, this process has also reiterated the traditional concerns, with major political parties struggling to influence the choice of future appointees and making the election process clearly “appear to respond to partition logic”, as USIGrai, the RAI journalists’ union (USIGrai, 2021) have stated.

Furthermore, in spite of a more effective means of fee collection, the system deriving from the 2015 Stability Law presents problematic features, the most concerning one being the fact that the amount of the revenue devolved to the PSM is determined on an annual basis by the government, through the Budget Law (USIGrai, 2021). In this context, it is evident how Reform 220/2015 has, practically, failed to change the historical situation in regard to the PSM boards’ dependence on political influence.

### 3.4. Social Inclusiveness (55% - 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. Finally, it also includes new challenges arising from the uses of digital technologies, which are linked to the Protection against illegal and harmful speech.*



In the **Social Inclusiveness** area, Italy scores as medium risk, with a decrease of 5 pp in comparison with the previous assessment, mainly due to the indicator on Access to media for local/regional communities and for community media (which moves from medium to low risk), and to the indicator on Access to media for women. The latter, although decreasing, remains among the highest risk levels of the whole MPM assessment for Italy. The positive developments noticed for the access to the internet in the Fundamental protection area did not come with improvements in the Media literacy and Protection against illegal and harmful speech indicators.

The indicator of **Access to media for minorities (47%)**, as in the previous report for Italy, results from opposite trends for the legally-recognized minorities, and for those minorities that are not legally recognized. The former are the linguistic minorities, protected by the Italian Constitution (Art. 6), whose access to airtime on PSM is regulated by the law (Art. 59 co. 2/f Legislative Decree 208/2021) and by the service contract between RAI and the government (RAI Contratto di servizio 2018-2022, Art. 2 b and Art. 25 k). Private television stations and radio are not obliged to give access to linguistic minorities, even though some regional laws set up provisions and incentives (CORECOM 2020). It must also be noticed that newspapers which are an expression of a linguistic minority are entitled to public direct subsidies (Legislative Decree 70/2017). On the other hand, minorities that are not legally recognized don't have guarantees regarding their access to the media, and their presence in voice is not proportionate to their participation in Italian society (numerically, foreign residents in Italy are above 8% of the population). In 2021, news on migration during prime airtime declined by 24%, according to Carta di Roma, an association that was founded in 2011 to monitor the implementation of the deontological code on information about migration topics. This decrease, as noticed in the ninth annual report of the association (Carta di Roma, 2021), is due to the COVID 19 emergency, to the reduction in migration flows, and to their presence in the political debate. Nonetheless, the migration agenda in the information remains focused on flows and news related to crime (respectively, 40% and 24% of the news during prime airtime), with minor attention being given to social, economic and cultural aspects. The direct in-voice presence of migrants and refugees is still limited: just 6% of the news related to migration, as opposed to a 35% voice by the politicians on the same topics. Migrants and refugees "have a poor voice, even on issues that concern them directly. Even more rarely, their opinion, testimony or expertise is heard outside the circumscribed terrain of the immigration issue" (ibidem, pp. 46-47). The indicator Access to media for minorities also assesses the access to media for people with disabilities: here, the medium risk is mostly due to the absence of provisions in relation to the private audiovisual services. In the Media Accessibility Map<sup>[34]</sup>, Italy scores 5/7. Standards and guidelines are provided only for the PSM (in RAI's Contratto di servizio, Arts. 10 and 25h), and their implementation is monitored by the media authority and is reported on in RAI's sustainability budget.<sup>[35]</sup>

The indicator on **Access to media for local/regional communities and for community media** scores low risk (**33%**). The access to media platforms is legally guaranteed for local and regional media (Art. 4, co. 7-8 Legislative Decree 208/2021), and is effective, in practice, for community media. RAI is obliged to keep regional correspondents. The greater weight given to the public service remit on local information in the MPM questionnaire in 2021, partially explains the decrease in the risk level for this indicator, whereas the risks related to the funding remains. On the one hand, as highlighted by AGCOM (2018), local media suffer from the lack of adequate funding; on the other hand, a trend towards concentration at local level, in some cases with potential conflict of interests, is reported.<sup>[36]</sup> Local newspapers are supported by direct subsidies from the State direct, if they are an expression of a linguistic minority. This is the case for the main beneficiary of direct subsidies in 2021, a regional newspaper, whose publisher has relevant assets in other economic sectors at the local level.<sup>[37]</sup> The sub-indicator on community media shows a slight decrease in

risk, due to the fact that there are lively examples of not for profit and civic journalism, although these are still at a niche level. The existence of community media is recognized by the law in the audiovisual sector (TUSMA Art. 3 co. 1/r); there are no specific legal provisions to protect and enable community media, but, nonetheless, they have effective political independence.

The indicator on **Access to media for women** scores a high risk (**75%**). In comparison with the previous assessment, there is a decrease of 12 pp in the risk score. Nonetheless, this indicator remains the third for its level of risk across all of the areas of the MPM. The improvement is due to new appointments in the top level positions in RAI that occurred in 2021, which were more gender-balanced. It is important to notice that there is just one woman among the editors-in-chief of the leading media companies. Moreover, the worrying result for this indicator depends mainly on the variables that assess the presence of women in the news, both from a quantitative and a qualitative point of view. We based our assessment on the media authority data on social and political pluralism, monitoring women's presence in political news (AGCOM 2021a, p. 85) and on the 6th report of the Global Media Monitoring Project, which was released in 2021. According to the GMMP, "it seems that the pandemic has exacerbated certain gender imbalances typical of the Italian news media, such as the gender gap between experts. The situation in Italy has changed very little since the last GMMP in 2015: women have grown in terms of overall visibility, arguably more thanks to their greater presence and participation in institutions and businesses, than as the result of greater news media commitment towards equality". On a positive note, the GMMP reports some improvements, in both the legacy, and, particularly, in the digital media, in as far as women subjects in political news are concerned; and highlights the fact that the digital media perform slightly better than the press, radio and TV in relation to the language that is used to speak about women. However, it concludes that "apart from these few positive highlights, the picture remains highly problematic, even more so if we consider the inability of news media to report/reflect/respect gender diversity across exceptional times of multiple crises, in spite of institutional rhetoric and the many calls for more inclusive narratives, strategies and policies". (Azzalini and Padovani 2021; see also Palandri, 2019 and Maglia, 2020).<sup>[38]</sup>

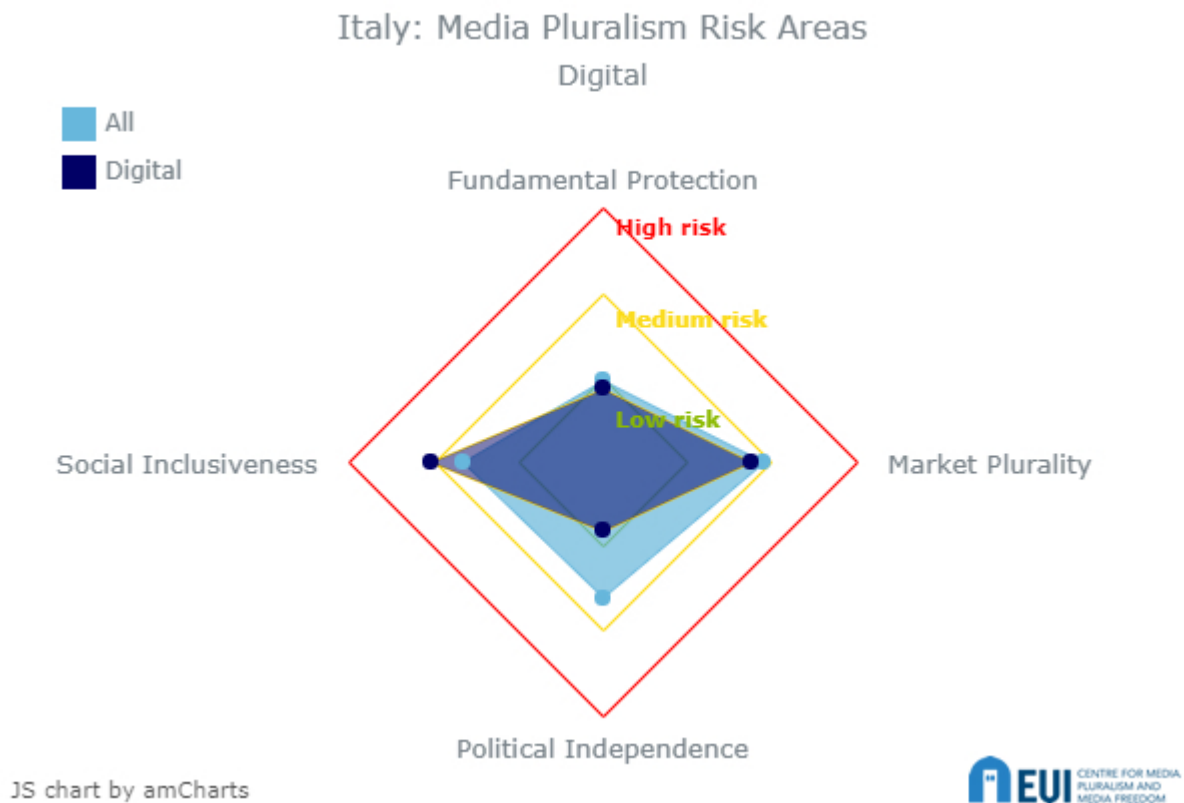
The medium risk for the indicator on **Media literacy (58%)** is justified by the fact that the existing policies are limited in scope and effectiveness. It is worth framing this issue within the broader scenario of the low level of literacy competences in the country, as assessed by comparative and national programmes. Media literacy is included in a digital civic education programme ("Curriculum di educazione civica digitale"), whose guidelines were published in 2020. Despite the growing awareness of the urgency of intervening, the media literacy presence in the compulsory education curriculum is very limited from a quantitative point of view, and the teachers' training is not well-developed and comprehensive. As stressed by Professor Christian Tarchi, from the University of Florence, in an interview that was undertaken for the MPM 2022's assessment, there is a need to pursue pedagogic innovation, together with technological innovation, as "policies to address the issue have been developed, but they have a common flaw: often they are designed to provide technical competences and tools; and even when the programs address the issue of the ability to access the sources, they don't focus on the need to connect and integrate different perspectives. Intersource integration is not a keyword of the policies". As for the more recent developments: "In the National Recovery and Resilience Plan (NRRP), launched in 2021, digital competences are horizontal goals, to be pursued with different tools and across different sections of the plan. As a result, there are no specific actions" (Ibid.).

The problematic level of media literacy increases the level of vulnerability to disinformation and hate speech. The indicator on **Protection against illegal and harmful speech** scores medium risk (**60%**). Rules set for traditional media by the criminal and civil law, as well as by the journalistic codes, should apply also

to the digital media. Since they have limited effectiveness against the creation and dissemination of disinformation in the new media environment, political and legislative initiatives have been proposed, and these are often limited to the online environment, even though cases of disinformation may also originate in the legacy media.<sup>[40]</sup> So far, the proposals have not resulted in new laws or specific regulations. A draft proposal to set up a Parliamentary inquiry commission on disinformation is pending in Parliament. Art. 4 of the new TUSMA (Legislative Decree 208/2021) places the fight against hate speech and disinformation strategies among the general principles of the audiovisual media system, calling the media authority to supervise and implement them. AGCOM has carried out initiatives against disinformation; in 2017 it created a Round Table to guarantee pluralism and the accuracy of information on the online platforms; in 2018 it issued a monitoring system on online disinformation, which resulted in there being an observatory until June, 2020. There are some activities to counteract disinformation, such as fact-checking and debunking programs, but these are set up on a professional and commercial basis, rather than as grassroots initiatives (for further details and for the sub-indicator on hate speech on line, please see Chapter 4).



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



The digital risk level in Italy is lower than the overall risk in all areas, except for Social Inclusiveness. The risk score extracted for those variables and sub-indicators that are marked as digital is 29% in the Fundamental Protection area; 58% in Market Plurality; 26% in Political Independence; 67% in Social Inclusiveness. Generally speaking, this result can be explained by the fact that the traditional Italian media environment has been historically characterized by relevant risk factors that are related to market concentration, conflicts of interest and political influence. The digital dimension shows a lower risk for some indicators of concentration (such as the digital native news media ownership concentration), economic sustainability, and the editorial autonomy of digital native media; whereas the digital risks are higher in the indicators which consider the role of the online platforms. In particular, the indicator on Audiovisual media, online platforms and elections shows a very high digital risk, as a result of the lack of rules and transparency in the political communication and in relation to advertising techniques in the social media. The highest risk level in the indicators of Social Inclusiveness is worrying, signalling vulnerability to the spreading of disinformation and harmful speech.

### Fundamental Protection (29% - low risk)

In the Fundamental Protection realm, the digital risks are lower in comparison with the overall score for this area: limits to freedom of expression on line are the same as those that are provided by the Italian Constitution and the law for the offline environment (see Chapter 3.1); the main threats to media pluralism in this area (in the indicators of access to information and journalistic working conditions) are not digitally-specific; the improvement in the access to the internet has lowered the risk level in the corresponding indicator.

The cases in which the state can intervene to block or remove content online are indicated by the law, and they are related to violations of the criminal law (terrorism; child sexual abuse); to some cases of

unauthorized financial services; and to the protection of copyright. In the latter case, removal can be ordered by the media authority. In 2021, a decision by AGCOM (no. 233/21/CONS) amended the previous regulation on copyright protection online (no. 680/13/CONS), broadening its scope to messaging platforms. Since the entry into force of the copyright regulation, as of February, 2022, AGCOM had received 3,316 complaints, nearly 70% of which originated an order for the selective removal of contents or for disabling access.

In the Freedom on the Net Report Italy scores 25/30 for the assessment on “limits on content”; the Report states that “Italy does not typically block or filter content of a political, social, or religious nature; all major websites and communication platforms are freely available”, and reports that “in March, 2021, the Customs and Monopolies Agency (ADM), an administrative body under the Ministry of Finance, blocked the popular content sharing platform Medium in Italy, because of posts that allegedly shared illegal gambling links. Following inquiries from the press, the block was lifted later the same day” (Freedom House, 2021). Another case arose with the temporary blocking and removal of a video, published by the digital newspaper Fanpage<sup>[41]</sup>. In the two cases, it can be said that the check and balances of the rule of law worked.

Filtering and removal of content by the digital platforms are issued according to the internal guidelines of the companies. Since 2017, the main digital platforms participate in a Technical committee to guarantee pluralism and correct information online, instituted by AGCOM. The Technical Committee undertook specific initiatives to counteract disinformation during the COVID 19 emergency, and promoted self-regulation and specific initiatives by the platforms, in cooperation with fact-checking activities. As was noticed in the previous implementation of MPM, in Italy, there is no evidence of systematic arbitrary removals by the platforms. The aggregate numbers show that, in line with the worldwide alarm during the health emergency, the fact checking and removal activity increased, but no detailed data has been provided on the amount, criteria and motivations of these blockings or removals. In its annual report, AGCOM once more underlines the limits of the self-regulation, calling for a new legal framework within which to increase the platforms' accountability: "the urgency of a more extensive reflection emerges, which pertains to the problem of the accountability of platforms (and their algorithms, especially recommendations). The use of detection, removal and control tools on content, accounts and social pages, especially in relation to publishers and political subjects, raises relevant questions on the legal nature of the policies adopted by the platforms and the consequent legitimacy and opportunities that enable them, unlike the other regulated information means, can autonomously remove information content, pages and profiles. It is obviously a matter that requires legislative interventions to enable a correct balance between the rights and values that are at stake to be reached, while giving full respect to freedom of information and pluralism" (AGCOM Annual Report, p. 132).

As regards the digital safety of journalists - which is part of the indicator on the Journalistic profession, standards and protection -, official data show that online threats reached 44% of the total number of threats reported in 2021. Although there are no official data on the phenomenon, a source of specific concern is the growth of online attacks on women journalists.<sup>[42]</sup>

On a positive note, the 2021 MPM assessment signals an improvement in the indicator on the Universal reach of traditional media and access to internet, which is mostly due to the increase in internet access in the country. The score of the variables on access to internet (measured based on the DESI, Digital Economy and Society Index) reflects the progress in broadband coverage, subscription rates and connection speeds – and this can be related to the huge push in 2020, with the lockdowns and the need to access internet services for work and educational purposes. The market share of the TOP4 Internet Service

Providers (Tim, Vodafone, Wind Tre and Fastweb) together is 89.5%.

### **Market Plurality (58% - medium risk)**

In the Market Plurality area, the average risk level for the digital variables and sub-indicators is slightly lower than the overall score. This is mainly due to the fact that the digital media outlets perform relatively better in the media viability indicator, whereas sources of concern emerge from the indicators on concentration, and interesting developments can be observed in regard to the transparency of ownership.

In the Italian legal framework, all the media providers are obliged to register on the ROC (see Chapter 3.1). The national digital news media thus have the same obligations as traditional ones - the only exception being for those that are smaller. A common issue is the presence of cross-border websites that may be active in the territory, thus escaping the transparency rules. The obligations for transparency extend to some digital intermediaries: search engines and online intermediation service providers (following the Italian Budget Law 2021, no. 178/2020, which implemented EU Regulation 2019/1150) must register on the ROC if they offer services in Italy, even if they are not legally established in Italian territory. In the period covered by the MPM2022's assessment, AGCOM completed its investigation on some of the digital platforms, sanctioning them for violation of the registration obligation. Some of the platforms have appealed this decision. (Resolution no. 200/21/CONS. See also Balestra, Antoniazzi & Horgan, 2021; Ranaivoson et al., forthcoming, pp. 359-365).

Market concentration is assessed separately in the MPM exercise, for the news media (providers of content) and for the online intermediaries. In the digital news media sector, the lack of official data hinders the assessment of the concentration of revenues; as for the audience, its measurement is also difficult, due to the lack of standardized metrics and official comprehensive monitoring, but some evidence has emerged which shows that the digital market is slightly less concentrated than the legacy one; in terms of the numbers of unique users in the average day, AGCOM (2021) shows a dominance of the digital outlets of the legacy media, with just one digital native (Fanpage) ranking in the Top 4 (which gather 54% of the audience for the first ten brands). A higher level of concentration emerges, instead, from the indicator on online platforms. Access to the news online is mainly intermediated by algorithmic sources (DNR reports that there is side-door access for 53% of their audience); the online advertising market is highly concentrated (TOP 4 index is evaluated by AGCOM at 72%).

In 2019 AGCOM opened a procedure to define the relevant market in online advertising (AGCOM 2019). Following the new TUSMA, attempts to define this market were postponed. In October, 2020, AGCM (the Italian Competition Authority) opened an investigation against Google over its alleged abuse of its dominant role in the digital advertising chain. The investigation was closed in October, 2021, after the opening of a similar investigation by the European Commission. In February, 2021, AGCM fined Facebook 7 million euros for unfair practices in relation to data gathering and exploitation.<sup>[43]</sup>

The EU Directive 2019/790 on Copyright and Related Rights in the Digital Single market has been transposed by Legislative Decree n. 177/2021. According to Art. 1 (8), in the case of online use of copyright protected content, the information service provider must pay a fair remuneration to the publishers. The guidelines to determine the fair remuneration are to be provided by AGCOM, following criteria set by the same Art. 1(8), amongst which are included: the number of consultations of the article online, the number of years it was active, and the number of employees in the media outlet, and the costs of the infrastructural investments of both parties.<sup>[44]</sup> According to the new rules, if publishers and platforms do not agree on the

remuneration, each of them can appeal to AGCOM for its determination. The Italian Competition Authority criticized these provisions, arguing that they exceed the scope of the EU Directive, and that they may unjustifiably restrain competition. In particular, the competition authority points out that the criteria introduced to set the fair remuneration might discriminate against smaller and new publishers.<sup>[45]</sup>

While it is not yet possible to assess the effects of the implementation of Directive 2019/790, there have been some developments in the negotiating process which have already started in Italy. In March, 2021, several Italian publishers signed an agreement with Google to use the programme Google Showcase for the dissemination and remuneration of their content (according to Ansa, the main groups are: the RCS Media Group, Sole 24Ore, Gruppo Monrif, Caltagirone Editore; plus Il Fatto Quotidiano, Libero, Il Foglio, Il Giornale, Il Tempo, Ciaopeople, Edinet, Gruppo Corriere, Citynews and Varese web).

Specific unilateral programmes used by platforms that aim to finance journalistic initiatives have been launched in Italy. Details on the amounts, criteria and definition of the negotiations and of the platforms initiatives for publishers are not publicly reported.

Moreover, Italy enacted a tax on digital services in 2019, but its implementation was suspended in 2021, following the agreement, in the OECD/G20 framework, for a two-pillar solution through which to address the tax challenges arising from the digitalization of the economy. In the waiting period for the international reform, a suspension of the unilateral initiatives was announced by a group of governments, including Italy.<sup>[46]</sup>

The lower score in relation to the digital risk for the Media viability indicator depends from the fact that digital media (particularly digital natives) even when hit by the advertising revenue decrease of 2020, were better positioned to take advantage of the marked reboot; and some of them also rely, or are exclusively dependent, on revenues other than advertising, whose turnover increased in 2021. As Marco Giovannelli, president of ANSO (Associazione Nazionale Stampa Online, whose members number around 80 digital publishers) noticed, in an interview collected for the MPM assessment: "There are no objective data. For sure, 2021 performed better than 2020, no digital outlet had to close or suffer major cuts, and they increased their advertising revenues. A very successful case is the subscription launched by Il Post. Many local outlets also have successful subscriptions models".<sup>[47]</sup> It should also be noticed that the digital news media apply different contracts to journalists, that are often below the standards set for the main national contract.<sup>[48]</sup>

Commercial influence on editorial content is at medium risk in the digital media, scoring the same level registered in the overall evaluation. Evidence that has emerged from the data collection for MPM2022 shows that the issues are not different (see Chapter 3.2), even though the technical forms of communication and dissemination of the content pose new and different challenges in relation to proposing remedies and guarantees.

### **Political Independence (26% - low risk)**

The highest risks in the online environment for the Political Independence area come from the indicator on Audiovisual media, online platforms and elections (71%).

Currently, the Italian framework exclusively provides for soft law provisions<sup>[49]</sup> aimed at bringing out the identity of the purchasers of paid political messages on digital platforms, or provisions (Art. 3, § 2 of Law n.

515/1993) indicating the name of the client responsible for “all electoral propaganda publications by means of written, printed (...) and any other means of disclosure” (Allegri, 2020). However, as reported in the 2021 assessment, the main law that deals with the transparency of political advertising during election campaigns (Law n.28/2000, the so-called *par condicio* law) does not apply to digital platforms: and this means that there is no obligation for parties and other political actors to detail their expenditures for political advertising online, as evidenced by the yearly parliamentary report on political parties’ transparency, which provides a formal assessment of the party’s compliance, but lacks any details on the expenditures by subject, media and type. <sup>[50]</sup>

As there is no obligation for parties to publish details of their spending on social media, they do not do that on a voluntary basis. It follows that the only way to estimate the amount of expenditure in social media political campaigns is via social media ad-libraries (Brogi and Carlini, 2021); which, however, do not allow for an exhaustive investigation. As a matter of fact, Google publishes the “Report on transparency for political propaganda”, in which it is possible to obtain, for each ad, the name of the buyer, the number of views they have had and the range of the amount spent. However, it is not possible to know the exact amount, something that is, instead, retrievable through the Facebook Ad Library (Caterina, 2021). <sup>[51]</sup>

Further transparency-related problematic issues remain, as evidenced by the presence of numerous additional satellite pages in support of parties, lists and candidates, that could provide further support through sponsored content launched on their pages (Youtrend, 2021). This phenomenon, which adds to the use of profiling activities and the automated processing of large amounts of information for political communication purposes, poses the problem of the purchasing of political ads online for third parties (the so-called “parallel actions”), which may circumvent the financing bans that were envisaged for political parties and candidates (Caterina, 2021).

The result is a fragmented and totally non-exhaustive scenario, with a high degree of opacity in respect of the amounts of money and techniques that are used in election campaigns.

### **Social Inclusiveness (67% - high risk)**

The extraction of the digital risk leads to a high risk assessment for this area. This result is due to the poor digital competencies, on one hand (assessed in the indicator on Media literacy), and to the indicator on Protection against illegal and harmful speech. The percentage of the population that has at least basic, or above basic, digital skills is still below the median of the EU member states, and the share of the population that has low digital skills is above the EU median. As noticed in Paragraph 3.4, this evidence is in line with the low general level of literacy, and it is not sufficiently addressed by the media literacy policies and activities in the education system. The low level of digital competencies also increases the risks of vulnerability in relation to disinformation and hate speech.

In spite of growing concern and public debate on disinformation, there is not quantitative measurement of its impact. In 2021, the media authority did not update its Observatory on online disinformation <sup>[52]</sup>, which had attempted to estimate the import of disinformation and to individuate its main topics. Some information and a qualitative assessment could be built on initiatives and reports by independent researchers, fact-checkers and stakeholders. Italy has experienced three main thematic waves of disinformation in recent times (political elections 2018; COVID 19 and the vaccination campaign, 2020/2021; and the war against Ukraine in 2022). According to IDMO (2022), in the past year, the overwhelming share of disinformation has been related to COVID 19, whereas, in March, 2022, 70% of disinformation was related to the war in Ukraine.

Newsguard ranks the top 10 disinformation websites in Italy. The GDI Disinformation Risk Assessment report (2021) analyzes 34 news websites in Italy, chosen according to their reach and balanced in terms of diffusion, location and political orientation (foreign websites are not included), and finds that a third of the sites in the sample fall within the high - or maximum - risk categories. Simona De Rosa, researcher at T6 Ecosystem, a consultancy company that has been working on disinformation since 2015, considers that "to assess the risk we have to take into consideration the dissemination of disinformation and people's ability to recognize it. We have some evidence of the fact that Italian consumers are conscious of the issue, and that during the coronavirus crisis growing numbers of them accessed the official/verified sources of information. But when it comes to the activities needed to verify information (debunking, search for the origin of the news), there is a limited knowledge. The demographic and cultural profile of the population contribute to the rising risk".

Hate crimes reported to the police increased by 50.9% between 2016 and 2020.<sup>[53]</sup> According to the Vox Observatory on Fundamental Rights, in 2021, online hate phenomena showed a decrease, together with radicalization; hate speech mostly hits working women, Muslims and people with disabilities. Intolerance against politics and the media emerges.<sup>[54]</sup>

Italy does not have a law regulating digital platforms. The provisions of the general law should apply. In the past, several proposals that were aimed at limiting disinformation and hate speech raised some concerns about their potential for harm to the freedom of expression online, but this did not result in new legislation. In 2020, the outcome of the Governmental Committee "Against Fake News" was a study, not the changing of the legal framework. A draft proposal to set up a Parliamentary Commission of Inquiry on Disinformation is pending in parliament. AGCOM instituted the above-mentioned Technical committee, in order to promote pluralism and the accuracy of information on online platforms. Recent developments are in the new competencies that are attributed to the media authority on the video-sharing platforms by the TUSMA; further evolution in this regard will follow the EU regulations of the Digital Services Act.

## 5. Conclusions

Relevant developments characterized the year of this assessment in the media pluralism scenario in Italy. The legislative and regulatory framework changed, with the transposition of EU Directives 2018/1808 and 2019/790, and the new Consolidated Act on Audiovisual Services. The public sphere was still dominated by the COVID 19 emergency; high demand for information, and the polarization of public opinion impacted upon some of the indicators of risk, across all the media sectors and in the digital environment. The media economy recovered after the 2020 recession, but in the main sectors - and particularly in those sectors that used to contribute to the production of investigative journalism – its income still below the pre-pandemic level. In a political scenario that is characterized by a very large ruling coalition, with the government committed to structural reforms; some of these characteristics may have an impact on the state of media pluralism, as measured by the MPM's indicators, on the basic legal guarantees, on competition enforcement, on digital infrastructures and digital competencies. Some of these developments are reflected in the MPM's assessment for 2021, whereas others will produce their effects in the future.

The MPM exercise for 2021 (MPM 2022) registered a low risk in the Fundamental protection area, and a medium risk in the other areas. The structural features that menace media pluralism in Italy – which are related to the concentration of media ownership, conflicts of interest, the independence of the PSM - are still there, in spite of draft proposals for reform. The digital platforms' dominance in the online advertising market and in intermediating access to the news, increases the risk for the indicators on concentration and media viability. The deteriorating working conditions of journalists, the low level of media literacy and the gender gap in the media's governance and in representation are other relevant drivers of risk.

In the **Fundamental Protection area**, the low risk score (32%) confirms that the basic conditions of media freedom and media pluralism are generally respected. Three indicators are at low risk in this area: Protection of freedom of expression, Independence and effectiveness of the media authority, Universal reach of the traditional media and access to the internet. The latter was the one that most contributed to lowering the risk, together with the positive evolution of the defamation framework, which stemmed not from a parliamentary initiative, but as a result of two interventions by the Constitutional Court. The indicator on the Protection of the right to information is still at medium risk, but, here, the main issues are the practical implementation of the law on the access to information which is held by the public administration, and the extension and effectiveness of the protection of whistleblowers. Growing risks in this area come from the deteriorating safety of journalists, as well as their working conditions, and from the lack of safeguards againsts SLAPPs. The tasks of the media authority are impacted upon, and enlarged by, the implementation of EU Directive 2018/1808, which also asks for the strengthening of the independence of the national regulator. Together with a positive average assessment, this report highlights the risks of political influence in the appointment procedures of the media authority.

### *Recommendations*

- **to the State, to approve a reform of the law on conflict of interest; to guarantee an enabling environment for journalists, strengthening State protection for journalists under threat; to approve a comprehensive reform of the criminal law on defamation; to introduce an anti-SLAPPs law to prevent the chilling effect of criminal and civil lawsuits on journalists; to extend the protection of whistleblowers to the private sector, transposing and implementing EU Directive 2019/1937; to strengthen the independence of the media authority, in view of its increased competencies.**

- **to the Journalistic Association and Councils: to advocate and guarantee the respect of professional standards and editorial autonomy, for freelancers and self-employed journalists too; to promote cooperative tools and funds to support journalists against SLAPPs.**

The **Market Plurality** area presents a medium risk score (63%), settling very close to the high risk threshold and representing, as in the past, the highest across all the MPM areas. Threats to external pluralism come from the high level of ownership concentration in all the sectors of media production, and in the online platforms market. Even though the digital native media market is more open, overall, the online evolution has not reduced this risk, but has increased the tendency to concentration as a response to the digital disruption of the legacy media business model - which is evident in the concentration index of the online advertising market, which is dominated by the big digital platforms. The renewed anti-concentration framework, seen in the TUSMA, entrusts to the media authority the task of assessing the effective threat to media pluralism in case of any violation of the market thresholds, both in the whole SIC and in its sub-markets. In comparison with MPM2021, the indicator on Media viability's score has improved, but it is still at medium risk; regular journalistic employment has continued to decrease, and the economic conditions have worsened, particularly for the younger journalists and freelancers. Transparency of media ownership is guaranteed by the ROC, but the relevant information on the ultimate owners is not easily accessible by the public. An interesting development is the enforcement of the Italian law on transparency, which enlarges the registry obligations to some digital platforms. If implemented, this provision would allow the media authority to gather data and information from all of those actors who have a role in the media environment. Public support for the media sector exists, although the amount is below the level that is seen in similar EU countries; it is not well designed and it is not effective in promoting innovation.

### *Recommendations*

- **to the State and to the media authority, to address the issue of media ownership concentration using the new anti concentration rules to effectively guarantee external pluralism in the media sector, taking into consideration the technological evolution.**
- **to the media, data protection and competition authorities, to keep cooperating and to coordinate their initiatives on data and online media markets.**
- **to the State: to use part of the revenue emerging from the taxation of digital services to sustain journalism.**
- **to the State, the media authority, the publishers and the digital platforms: to guarantee that the economic agreements between publishers and platforms on the use of copyright protected content, are transparent and effective, and that they also include the smaller and more diverse media providers.**

The **Political Independence** area for Italy is assessed as being at medium risk (53%). The MPM 2022's analysis has evidenced several shortcomings, both in relation to regulation and implementation. A major concern is posed by the persisting political influence in the governance of RAI, evidencing the need for a comprehensive reform that could also assure the budgetary independence of the PSM. Second, the Italian media system still requires an effective regulation of conflict of interest which could thus solve the continuing dearth of measures affecting the independence of the media, at the national as well as at the local level. Finally, it appears evident that there is a need to take into account, on several levels, the challenges that are



posed by the online sphere, in terms of political influence, and especially during electoral periods.

### *Recommendations*

- **to the State: to reform both the governance and the funding system of RAI, to guarantee full independence of the PSM from political interference. To reform the discipline of conflict of interest, effectively ensuring the autonomy of the media from either direct or indirect control through ownership. To put in place an obligation for the parties and other political actors to detail their expenditure on political advertising online; to strengthen the rules on political communication in the electoral period and to extend them to the online sphere.**
- **to the State: to revise the system of public support for the media, to guarantee more transparency and effectiveness; to earmark most of the subsidies to foster innovation, together with direct financing for innovative projects and start-ups by journalists; to include the publicly owned companies among the range of actors that are subject to the rules on transparency of State advertising.**
- **to the media authority and to the data protection authority: to cooperate to prevent the abuse of micro-targeting practices during electoral campaigns; data published by platforms in relation to campaign spending could be cross-checked with the reports presented by candidates.**
- **to the political parties: even in the absence of regulation, to provide details regarding their expenditure for political advertising online.**
- **to the online platforms: to fully disclose the criteria adopted by means of self-regulation, in the context of the managing of political communication.**

The **Social Inclusiveness** area scores a medium risk (55%). The worst result in this area is still due to a worryingly high risk in Access to the media for women. On a positive note, it must be said that there has been an improvement (from 87% to 75%). On the other hand, this step forward is related to the new appointments in the PSM, whereas the situation has not changed substantially in the private media sector; moreover, new research provides evidence of a stereotyped representation of women. Furthermore, women are rarely invited to be, and interviewed as, experts in talk shows and, in general, in media coverage.

Despite the increase in the extent of digitalization in social life, in the years of the pandemic, no steps forward have been made towards improving digital skills and media literacy. Deficiencies in those fields increase the vulnerability to disinformation and hate speech. In Italy, policies against disinformation are not developed, particularly in the realm of media literacy. Access to the media for minorities is guaranteed for those linguistic minorities that are legally recognized, whereas migrants and refugees have no access to media that is proportionate with their presence and that is free from stereotypes.

### *Recommendations:*

- **to the State, to the PSM and to the media industry: to promote gender equality in both the newsrooms and in the companies' governance.**
- **to the media actors: to tackle stereotypes and to promote an equal representation and**

**presence of women in their offer.**

- **to the State: to boost media literacy policies, both in schools and among adults; to adopt a holistic media policy with which to tackle disinformation and hate speech, both on- and offline.**

## 6. Notes

- [1] ISTAT, Statistiche demografiche. <https://demo.istat.it/str2020/index.html>
- [2] ISTAT, Pil e indebitamento delle AP. <https://www.istat.it/it/archivio/266825>
- [3] Ministero dell'Economia e delle Finanze. <https://www.mef.gov.it/ufficio-stampa/comunicati/2022/La-Commissione-Europea-ha-versato-la-prima-rata-di-fondi-per-il-PNRR/>
- [4] Ministero dell'Economia e delle Finanze. <https://www.mef.gov.it/inevidenza/Approvato-il-Def-2022-la-crescita-al-3.1/>)
- [5] Italy committed to address the issue of slowness of the judiciary system with the NRRP. (<https://www.mef.gov.it/en/focus/The-National-Recovery-and-Resilience-Plan-NRRP/>)
- [6] According to more recent data, in 2020, there were 1,776 requests (62% admitted), with an increase in the number of appeal requests which is related to alleged arbitrary denials or a lack of answers. In 45% of cases, they were accepted. <https://foia.gov.it/osservatorio/monitoraggio/articolo/monitoraggio-sullattuazione-del-foia-2020>
- [7] See <https://www.openpolis.it/opportunita-e-limiti-del-foia-intervista-a-giulia-crescini/> and <https://transparency.it/foia4journalists>
- [8] See statements by: Ordine dei Giornalisti <https://www.odg.it/presunzione-dinnocenza-e-libertadinformazione-lordine-scrive-a-csm-e-pg-della-cassazione/42624>; and Federazione Nazionale della Stampa Italiana: <https://www.fnsi.it/presunzione-di-innocenza-la-fnsi-scrive-alla-commissione-ue-con-la-legge-italiana-si-imbavaglia-la-stampa>
- [9] See <https://www.anticorruzione.it/-/anac-news-il-whistleblowing-n.1#p2>
- [10] See: [https://www.interno.gov.it/sites/default/files/2022-05/report\\_intimidazioni\\_giornalisti\\_2021\\_0.pdf](https://www.interno.gov.it/sites/default/files/2022-05/report_intimidazioni_giornalisti_2021_0.pdf)
- [11] See <https://www.ossigeno.info/in-italia-384-giornalisti-minacciati-nel-2021-ossigeno-ha-aggiornato-i-dati-di-dicembre/>
- [12] See [https://www.senato.it/japp/bgt/showdoc/18/DDLPRES/0/1078704/index.html?part=ddlpres\\_ddlpres1-articolato\\_articolato1](https://www.senato.it/japp/bgt/showdoc/18/DDLPRES/0/1078704/index.html?part=ddlpres_ddlpres1-articolato_articolato1)
- [13] With decision 178/17/CONS, AGCOM stated that the acquisitions made by the French group in Italy violated the rule prohibiting electronic communications' operators, which hold more than 40% of the electronic communication sector, to control more than 10% of the SIC (Art. 43 co. 11 Legislative Decree 177/2005, TUSMAR) and ordered Vivendi to terminate its acquisition of shareholdings in Mediaset or in Telecom Italia within 12 months. Vivendi complied with the injunction and, in parallel, brought an action against the decision before the Court (Tribunale Amministrativo del Lazio), alleging, amongst other things, an infringement of the principle of freedom of establishment that is enshrined in Art. 49 of the Treaty on the Functioning of the European Union. The Administrative Court referred the case to the CJEU.
- [14] Here, the thresholds set up by Art. 51: 20% of the SIC; 50% in one or more of the sub-markets that make it up (which lowers the thresholds, respectively, to 25% of the SIC and 50% of the submarkets for operators of electronic communications' services who have more than 20% of the total revenues in their market); 8% of Sic for companies publishing one or more newspapers (with the exception of those that are in exclusively electronic mode); for newspapers, the limits set by the publishing law also remain (67/1987, Art.3, Para. 1), based on the numbers of copies distributed: with a ceiling of 20% at the national level, and 50% at the macro-regional level.
- [15] See AGCM Bulletin n. 38, September 27th, 2021: AS1789 - Recepimento della direttiva UE 2018/1808 (Direttiva SMAV) (<https://www.agcm.it/dotcmsdoc/bollettini/2021/38-21.pdf>). The provisions of the draft Legislative Decree, the object of AGCM's consideration, did not change substantially in the final version of Art 51.

- [16] The new Italian audiovisual code has been also analysed at a workshop, organised by the CMPF (7th April, 2022), with academics, regulators, and stakeholders. (<https://cmpf.eui.eu/event/regolazioneaudiovisivo-ecosistema-digitale/>). The workshop was organised in two sections (The regulation of Video Sharing Platforms in the new TUSMA; Updates of the anti-concentration regulation and the protection of media pluralism).
- [17] See, for a collection of evidence, the article “Pagati a pezzo” on the website of Il Post (<https://www.ilpost.it/charlie/pagati-a-pezzo/>) and the project “Lo spioncino dei freelance” (<https://lospioncinodeifreelance.it/>)
- [18] As the independent Ufficio Parlamentare di Bilancio (UPB) pointed out, the bail-out was motivated by the need to avoid bankruptcy, with 2.5 bn euros from 2022 to 2035. The UPB criticizes the measure, highlighting that it might be a "dangerous precedent" due to its rewarding of a moral hazard by the private fund’s administrators. (Ufficio Parlamentare di Bilancio, 2021) See also, Boeri and Perrotti, “Gli insostenibili privilegi delle pensioni dei giornalisti”:<https://www.lavoce.info/archives/93177/gli-insostenibili-privilegi-per-le-pensioni-dei-giornalisti/>; Carlini, “Pensioni dei giornalisti: la cassa previdenziale torna sotto il controllo dello Stato”:<https://ilbolive.unipd.it/news/pensioni-giornalisti-cassa-previdenziale-torna>; and Caizzi, Inpgi, il regalo di Draghi all’élite dei giornalisti, <https://www.ilfattquotidiano.it/inedicola/articoli/2021/11/05/inpgi-il-regalo-di-draghi-allelite-dei-giornalisti/6380394/>
- [19] See Table on p. 62 of the study. All of the direct and indirect subsidies are included in this amount, whereas the public financing of the early retirement of journalists, even though listed in the forms of public support to the sector, is not included, due to the lack of comparable data
- [20] Art. 10 “Testo unico dei doveri del giornalista”, 2016; Legislative Decree no. 74/1992, transposing Directive 84/450 / EEC on misleading advertising; Art. 23 Codice del consumo, no. 206/2005. Recently, Arts. 43 and 44 Legislative Decree 208/2021 extend the general principles of audiovisual and radio commercial communications to video platform suppliers
- [21] See, <https://www.professionereporter.eu/2021/06/troppa-pubblicita-mascherata-da-articoli-due-ex-del-corriere-contro-il-corriere/>; <https://www.ilpost.it/newsletter/82b1e46bd19c2f264a811ab60a4a93d8/> and <https://www.ilpost.it/newsletter/9aa71a844a5b477f55515237e6893ffd/>
- [22] Please note that, although increasing in risk level, the indicator on the State regulation of resources and support for the media sector remains that with the lowest risk in the Political Independence area (25%)
- [23] See the Consolidated Text of the proposed law: <https://temi.camera.it/leg18/temi/conflitti-di-interessi.html>
- [24] See “Silvio Berlusconi: Italy’s great survivor plots a succession plan” <https://www.ft.com/content/40fabf64-e684-4772-9ac8-a96ec7e1ae1d>
- [25] For details of Angelucci’s parliamentary action, see: <https://parlamento18.openpolis.it/parlamentare/antonio-angelucci/332670>
- [26] Unlike in the past, any final sanction of a disciplinary proceeding may suffer a serious aggravation based on the specific precedents that an accused person had accumulated over the previous five-year period. See [https://www.odg.it/wp-content/uploads/2020/11/Modifiche-al-TU-giornalisti\\_19\\_11\\_20-.pdf](https://www.odg.it/wp-content/uploads/2020/11/Modifiche-al-TU-giornalisti_19_11_20-.pdf)
- [27] In a webinar organized by Associazione della Stampa Romana in March, 2021, Fabio Martini from La Stampa, in referring to television talk shows, stated that “political journalists are waving and shouting in favor of a side in the game (...). It is an issue of professional distortion, a delegitimization; the close relationship between journalists and power (political, economic, cultural, sporting) is an Italian historical tradition, with independence considered a kind of naivety”. In the same webinar, Alessio Falconio, Director of Radio Radicale, added: "It happens that journalists are invited onto TV to 'play' a political

party: 'Come and play the left one'. Information is squeezed between the communications of the politicians and the show". See: <https://www.professionereporter.eu/2021/03/i-giornalisti-politici-fanno-il-tifo-neitalk-show-e-hanno-lagente-ma-non-tutti/>

- [28] In this context it is essential to underline how the representation of actors and political instances traditionally differs among the major public service channels (Rai1, Rai2, Rai3)
- [29] See a detailed overview of the Magi law proposal, which aims to regulate the phase of electoral propaganda through digital platforms, <https://www.camera.it/leg18/126?tab=&leg=18&idDocumento=2307>
- [30] See in detail the measures adopted in the publishing sector in the pandemic context. <https://temi.camera.it/leg18/temi/le-misure-adottate-a-seguito-dell-emergenza-coronavirus-covid-19-per-il-settore-dell-editoria.html>
- [31] See the full content of the call at: <https://www.primaonline.it/2021/05/11/324783/appello-al-parlamento-e-al-governo-per-una-iniziativa-organica-che-ridefinisca-lorizzonte-della-rai-firmato-da-118-intellettuali-accademici-e-manager/>
- [32] This is corroborated also by the November, 2021, meeting between the President of the National Federation of the Italian Press, Giuseppe Giulietti, and the new secretary of Usigrai (RAI Journalists' Union), Daniele Macheda, who confirmed "the renewed commitment to free RAI from the influence of parties, through a public service reform law that is modelled on the rulings of the Constitutional Court, and the renewal of the service contract" (FNSI, 2021). See, also, the Informal Hearings as part of the examination of Legislative Decree no. 1415, and the connected (RAI reform) by ANICA representatives; Dr. Stefano Cuppi; Prof. Roberto Zaccaria; Prof. Giulio Enea Vigevani; Prof. Mario Morcellini; Dr. Stefano Balassone; Prof. Elda Brogi; Prof. Roberta Carlini; and representatives of Confindustria Radio and Tv ([https://webtv.senato.it/webtv\\_comm?video\\_evento=239319](https://webtv.senato.it/webtv_comm?video_evento=239319)), as well as the Informal Hearings of Usigrai, AFI (Italian Phonograph Association), APA (Audiovisual Producers' Association), Article 21, IFC (Italian Film Commissions) (<https://www.radioradicale.it/scheda/653810/commissione-lavoripubblici-comunicazioni-del-senato-della-repubblica>)
- [33] As detailed by OpenPolis (2021) in relation to the 4 components chosen by the Parliament, 2 were elected on the recommendation of the "Giallorossi" component of the government (Alessandro Di Majo from the 5-star Movement and Francesca Bria from the Democratic Party) and two on the recommendation of the center-right parties (Igor De Blasio from the League and Simona Agnes from Forza Italia). The agreement within the center-right only concerned the parties of the majority
- [34] See <https://mapaccess.uab.cat/accessometer/country/IT>
- [35] See for AGCOM [https://www.agcom.it/documents/10179/5284245/Allegato\\_26-7-2021/345bd439-2391-4744-bf67-70fe734d109c?version=1.0](https://www.agcom.it/documents/10179/5284245/Allegato_26-7-2021/345bd439-2391-4744-bf67-70fe734d109c?version=1.0). Bilancio di sostenibilità RAI: [https://www.rai.it/bilanciadisostenibilita2020/themes/custom/rair20/attachments/rai\\_bilancio\\_sostenibilita\\_2020.pdf](https://www.rai.it/bilanciadisostenibilita2020/themes/custom/rair20/attachments/rai_bilancio_sostenibilita_2020.pdf)
- [36] See "Viaggio nell'Italia dei nuovi padroni dei media", Domani, 14th February 2022
- [37] Dolomiten, with 3.088.498,02 euros in 2020. See, Santoro (2022), who notices that a single media outlet "receives 54% of the total state subsidies earmarked to those media that are an expression of linguistic minorities, and 7.9% of the total direct contributions. A situation that is the polar opposite of the principle of pluralism that these contributions should protect".
- [38] A recent piece of research that was conducted by CORECOM Puglia, helps to offer a broader picture. The research was run at the local level, it confirms a segregation of women into the "soft news", and that there is a very low percentage of news in which there is a central female.
- [39] According to OECD PIACC, Italian adults are significantly below the average in literacy (Italy, 250; OECD average, 266). Similar results emerge from the OECD-PISA results in regard to the literacy

- tests of young students. In these tests, there are two specific questions assessing media literacy: 1) Reading an item to distinguish facts from opinions (Italy, 40; OECD average, 47.4): 2) Access to training on how to detect biased information in school (Italy, 49; OECD average, 54.5)
- [40] One of the fake news items on COVID 19 that had a high circulation outside Italy too (it was about the number of deaths from the infection) originated from a traditional medium, the Roma-based newspaper *Il Tempo*, but had a massive circulation, thanks to its social network dissemination. (see, <https://pagellapolitica.it/artic-oli/nel-mondo-sta-circolando-la-bufala-dei-soli-3-783-morti-di-covid-19-in-italia>)
- [41] The video was part of a journalistic investigation, entitled "Follow the money" (regarding the funding of the League party). The removal was ordered by a Court (Tribunale di Roma, following the lawsuit of one of the persons involved, who is Commander in Chief of the military Guardia di Finanza), and this removal was strongly condemned by journalists' trade unions and associations. 3 days later the removal was revoked. (see, <https://www.fnsi.it/il-tribunale-sequestra-pagine-di-fanpage-fnsi-e-sugc-gravissimo-e-inaccettabile>)
- [42] See the government report: [https://www.interno.gov.it/sites/default/files/2022-05/report\\_intimidazioni\\_giornalisti\\_2021\\_0.pdf](https://www.interno.gov.it/sites/default/files/2022-05/report_intimidazioni_giornalisti_2021_0.pdf). For the online attacks on women journalists, see: <https://www.retecontrolodio.org/2021/05/10/odio-onlinefocus-sulle-giornaliste/> and <https://www.rcmediafreedom.eu/Dossiers/Interviewing-JournalismII.-Needs-and-gaps-in-support-for-women-and-local-journalists>
- [43] See A542, Google nel mercato italiano del display advertising <https://www.agcm.it/dotcmsdoc/bollettini/2021/43-21.pdf>; and IP330 - Sanzione a Facebook per 7 milioni [https://www.agcm.it/dotcmsdoc/allegati-news/IP330\\_chiusura.pdf](https://www.agcm.it/dotcmsdoc/allegati-news/IP330_chiusura.pdf)
- [44] The regulation, due within 60 days after the publication of Legislative Decree 177/2021, had not been issued at the time of the data collection (April, 2022).
- [45] See AGCM AS1789, Buletin n. 38 September 27th, 2021 (<https://www.agcm.it/dotcmsdoc/bollettini/2021/38-21.pdf>). For a critical review of the Italian transposition of the EU Copyright Directive, see also Saetta (2022).
- [46] see <https://home.treasury.gov/news/press-releases/jy0419>
- [47] Luca Sofri, founder and editor in chief of *Il Post*, reports that 55% of their revenues are from subscriptions; 35% from advertising; 10% other. See an interview in *Ellissi*: <https://ellissi.email/2022/02/04/il-post-luca-sofri-intervista-2022/>
- [48] In some cases the contracts for the digital outlets are signed with the FNSI (journalists trade union), in other cases they are not. Citynews, the first digital publisher, has been fined for anti-labour conduct; in 2021 it signed a new contract, with a minor union. (see Domani, 14 February 2022, "Quei contratti a costi ridotti dei media digitali").
- [49] See "Impegni assunti dalle società esercenti le piattaforme on line per garantire la parità di accesso dei soggetti politici alle piattaforme digitali durante la campagna elettorale": <https://www.agcom.it/documents/10179/19601687/Documento+generico+05-08-2020+1597742697668/834379a2-a160-4567-8277-8001ccd94177?version=1.0>
- [50] See [https://www.camera.it/application/xmanager/projects/leg18/attachments/uploadfile\\_commissione\\_t\\_rasparenza/pdfs/000/000/018/CRP\\_Relazione\\_28042022.pdf](https://www.camera.it/application/xmanager/projects/leg18/attachments/uploadfile_commissione_t_rasparenza/pdfs/000/000/018/CRP_Relazione_28042022.pdf)
- [51] Worthy of attention is also the fact that Facebook has also attempted to limit foreign interference in online propaganda
- [52] Established in 2019, the Observatory estimated the percentage of disinformation (using fact-checkers' contribution) and its main topics. Here the last issue: <https://www.agcom.it/documents/10179/4691489/Allegato>

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[53] Last data available, OSCE-ODIR, <https://hatecrime.osce.org/index.php/italy>

[54] See <http://www.voxdiritti.it/la-nuova-mappa-dellintolleranza-6/>

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## ANNEXE I. COUNTRY TEAM

| First name     | Last name       | Position                      | Institution  | MPM2022 CT Leader |
|----------------|-----------------|-------------------------------|--|-------------------|
| <i>Roberta</i> | <i>Carlini</i>  | <i>Researcher</i>             | <i>Centre for Media Pluralism and Media Freedom, European University Institute</i> | X                 |
| <i>Matteo</i>  | <i>Trevisan</i> | <i>Researcher</i>             | <i>Centre for Media Pluralism and Media Freedom, European University Institute</i> |                   |
| <i>Elda</i>    | <i>Brogi</i>    | <i>Scientific coordinator</i> | <i>Centre for Media Pluralism and Media Freedom, European University Institute</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 that make up the MPM2022. Consulting the point of view of recognized experts was aimed at maximizing the objectivity of the replies given to variables whose evaluation could be considered as being 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>Giovanni</i> | <i>Gangemi</i>     | <i>Representative of media regulators</i>         | <i>Autorità per le garanzie nelle comunicazioni (AGCOM)</i>                             |
| <i>Isabella</i> | <i>Splendore</i>   | <i>Head of Legal and International Department</i> | <i>Federazione italiana editori giornali (FIEG)</i>                                     |
| <i>Vittorio</i> | <i>Di Trapani</i>  | <i>USIGRAI Secretary - FNSI VicePresident</i>     | <i>Federazione nazionale stampa italiana (FNSI)</i>                                     |
| <i>Rosa</i>     | <i>Cavallaro</i>   | <i>Officer - Audiovisual Content Directorate</i>  | <i>Autorità per le garanzie nelle comunicazioni (AGCOM)</i>                             |
| <i>Marina</i>   | <i>Pietrangelo</i> | <i>Researcher</i>                                 | <i>Institute of Legal Information Theory and Techniques - National Research Council</i> |
| <i>Claudia</i>  | <i>Mazzola</i>     | <i>Research Department Director</i>               | <i>RAI</i>  |
| <i>Tommaso</i>  | <i>Canetta</i>     | <i>Deputy Editor in Chief</i>                     | <i>Pagella Politica</i>   |
| <i>Lorenzo</i>  | <i>Chiriatti</i>   | <i>Group General Counsel</i>                      | <i>Register S.p.A.</i>  |

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