

# MONITORING MEDIA PLURALISM IN THE DIGITAL ERA

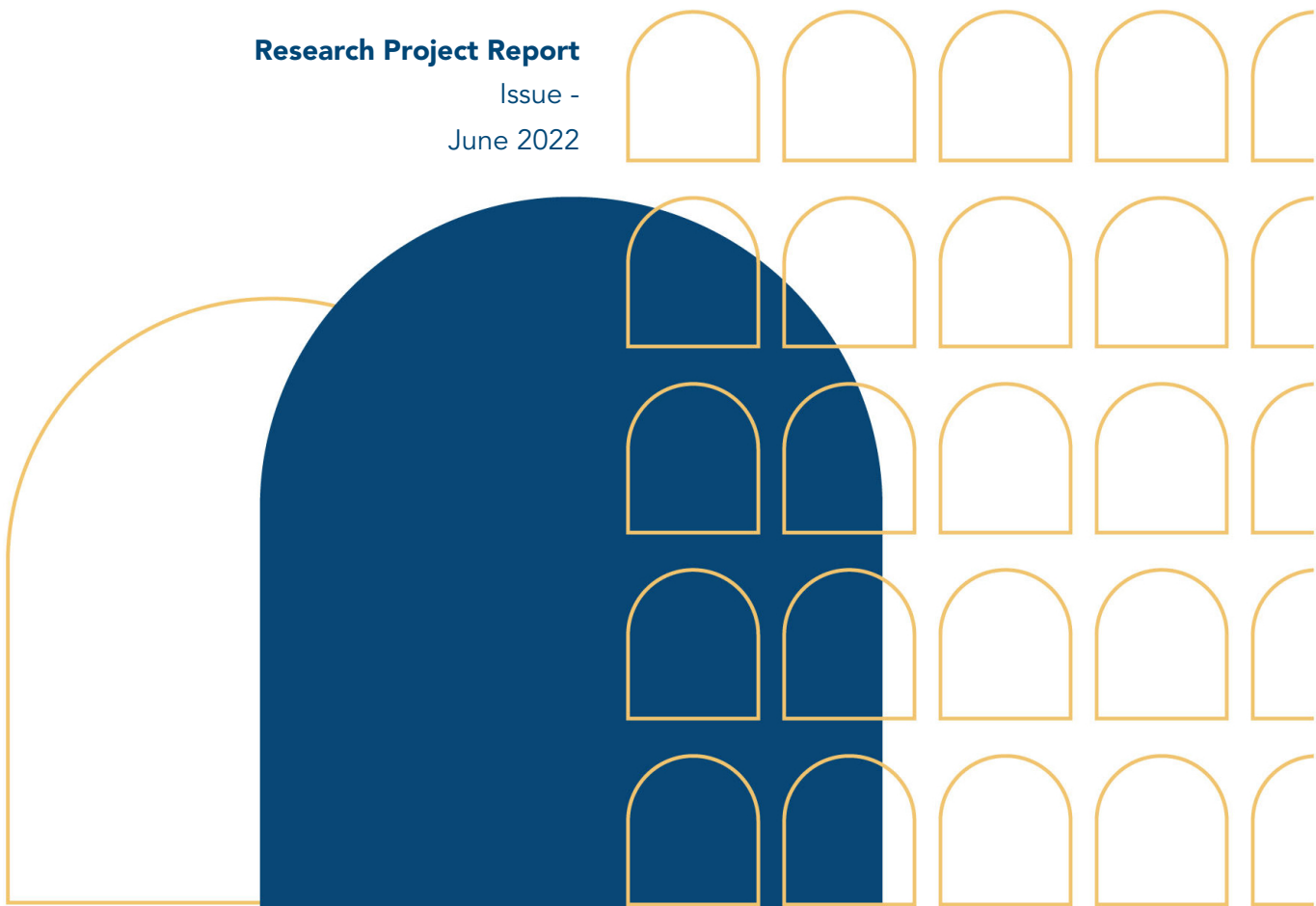
## APPLICATION OF THE MEDIA PLURALISM MONITOR IN THE EUROPEAN UNION, ALBANIA, MONTENEGRO, THE REPUBLIC OF NORTH MACEDONIA, SERBIA & TURKEY IN THE YEAR 2021

Country report: Malta

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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 Malta the CMPF partnered with Louise Vassallo (University of Malta), 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

- **Population:** The Mediterranean island state of Malta is an archipelago situated approximately 80km south of Sicily and 284 km east of Tunisia. The three largest islands are Malta, Gozo and Comino. With an overall landmass area of just 316 km<sup>2</sup> (122 sq. miles), and a total population of 516,100 (NSO, 2022a). Malta is the smallest EU Member State, as well as one of the most densely populated countries worldwide.
- **Languages:** The country's two official languages are Maltese and English, with the former also being the national language. The British legacy is strong as Malta was a colony of the United Kingdom for 164 years, until 1964, the year of Malta's independence.
- **Minorities:** Although there are no legally recognised minorities in Malta, in view of its geographical location, the country sees an influx of migrants, essentially asylum seekers, by sea. The number of sea arrivals to Malta in 2021 was 832, which is less than half of the arrivals in 2020 (2,281) and less than a quarter of arrivals in 2019 (3,406) (UNHCR, 2021). In June 2021, 28 human rights organisations endorsed a statement issued by the Malta Refugee Council, which highlighted their concern about a new policy introduced by Maltese Ministry of Home Affairs in May 2021. The policy denies asylum seekers, from countries classified as safe, the right to work for nine months after arrival in Malta. The Malta Refugee Council described the new policy as “discriminatory and inhumane”, depriving applicants from earning even a minimum income, as well as increasing the risk of labour exploitation, amongst other issues (Malta Refugee Council, 2021; European Commission, 2021a). Additionally, other EU and European migrants are relocating to Malta for employment. According to the Standard Eurobarometer 96 data set, migration to the island is perceived to be an important issue in Malta by 12% of the population (European Commission, 2022), a sharp decline when compared to the 34% of Standard Eurobarometer 94 (European Commission, 2021b), with the main issues of concern now being rising prices, inflation and the cost of living, health and the economic situation. Malta has been recognised for providing a high degree of liberty to its LGBTQI community, and is one of the few countries in the world to have made LGBT rights equal at a constitutional level (Art.32 and Art.45)<sup>[1]</sup>. Since October 2015, ILGA-Europe, an umbrella organisation for 600 rights advocacy groups, has placed Malta first, out of forty-nine observed European countries, in terms of LGBT rights legislation<sup>[2]</sup> (Reuters, 2022b).
- **Economic situation:** In recent years, Malta has enjoyed a strong economy, with a seasonally adjusted monthly unemployment rate for December 2021 of 3.4% measuring a 1.1% decrease when compared to December 2020 (NSO, 2022b). Provisional estimates indicate that the Gross Domestic Product (GDP) for 2021 amounted to €14,533.8 million, registering an increase of €1,473.9 million, or 11.3%, when compared to 2020<sup>[3]</sup>. In spite of the COVID-19 pandemic, and in view of supportive fiscal measures, the Central Bank of Malta forecasts that Malta's gross domestic product (GDP) will grow by 6% in 2022, by 5.3% in 2023 and by 3.8% in 2024. In view of an estimated 1.2% higher growth in 2021, the Bank revised earlier projections to reflect the trend, stating that pre-pandemic economic activity levels were attained earlier than predicted (Central Bank of Malta, 2022). This said, a survey commissioned by The Times of Malta revealed that the general population is concerned about rising prices during the last quarter of 2021, with cost of living concerns marginally behind healthcare and COVID-19 worries (Borg, 2022). Furthermore, the Standard Eurobarometer 96.3's data set, reveals that 63% of respondents state that rising prices, inflation and cost of living are the most important issues that they were facing (European Commission, 2022).

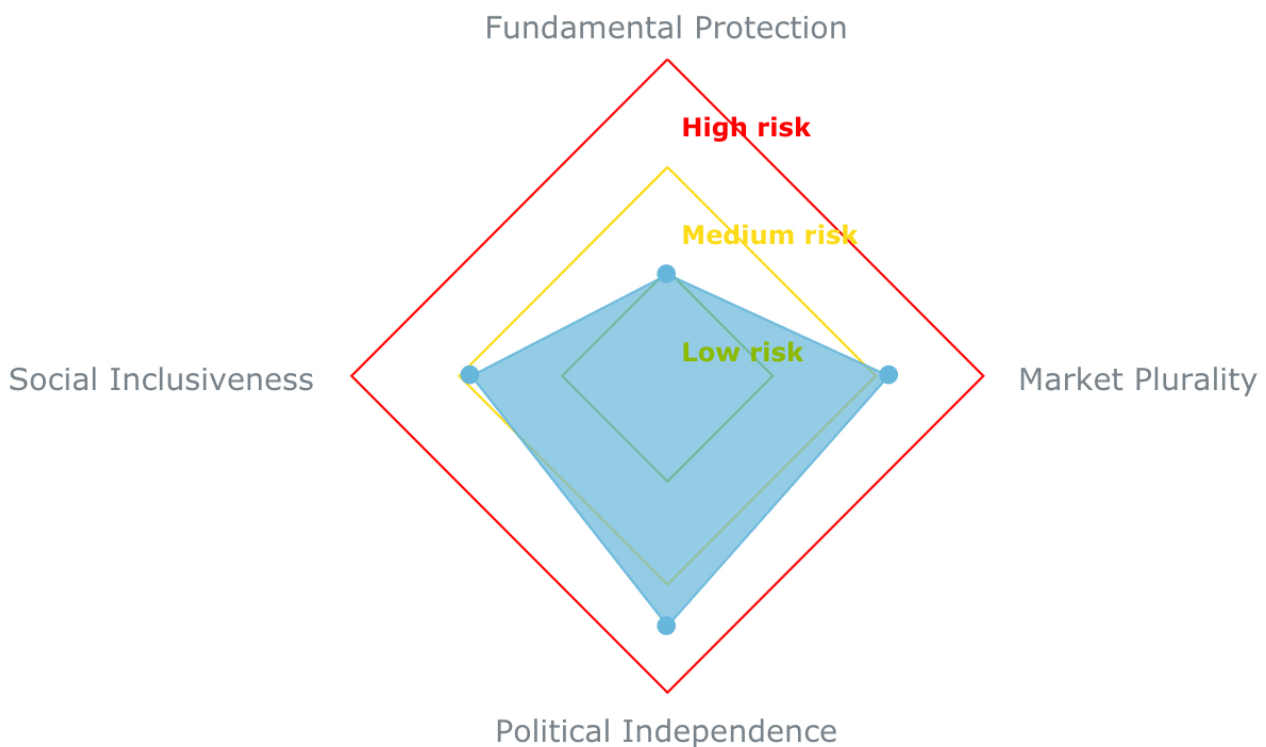
- Political situation:** Malta is a parliamentary democracy, with the two major political parties, the *Partit Laburista* (PL) and the *Partit Nazzjonalista* (PN), being the main protagonists of the political landscape. The country has been governed by the *Partit Laburista* since 2013, following three landslide election victories, with the latest held on March 26, 2022. The result was a strong mandate for Prime Minister Robert Abela, who succeeded Joseph Muscat in January 2020, after the latter was forced to resign<sup>[5]</sup>, in the wake of months mass protests, held after connections between Muscat, his chief of staff Keith Schembri, two cabinet ministers and those accused of investigative journalist Daphne Caruana Galizia's murder were exposed<sup>[4]</sup>. In spite of reports on widespread, institutionalised corruption, as well as pressure from the EU for the implementation of judicial reforms and concrete action towards alleged corruption, critics of the government lament the fact that very little has changed, and that the only changes made were those forced upon the Prime Minister, particularly the Venice Commission (European Commission for Democracy through Law (Venice Commission), 2020); Walsh, 2021). Yet, in spite of 89% of the Maltese population believing that corruption in Malta is widespread (European Commission, 2020), polls have consistently given a commanding lead to the PL over the PN, which gave the incumbents the latest electoral victory. In spite of a change in leadership, the PN remains in opposition, seemingly unable to recover and gain ground since the 2013 electoral defeat. Smaller parties, like the *Partit Demokratiku* (PD) and *Alternattiva Demokratika* (AD), have yet to elect a member of parliament, in spite of forming a coalition in recent years (ADPD), with the exception of PD, who elected 2 MPs in 2017, but only after forging a union with the PN and running on the same ticket (Parliament of Malta, 2017). Additionally, since 2017, Malta has witnessed the birth of a far more vocal civil society, particularly on issues related to good governance and the rule of law, and environmental issues.
- Media market:** There are a number of independent media outlets in Malta, however, the two main political parties (PL and PN) both own and manage multiple media platforms, which include TV and radio stations, print and online outlets, thus making them key players in the media market, as they are actively contributing towards shaping the working environment for journalists and being a major influence on public discourse. Added to this, the State media (PSM) has been under the spotlight for, allegedly, acting as a mouthpiece for the government, with the PN taking legal action in a constitutional case after claiming to be the victim of political bias and propaganda on the State broadcaster (Martin, 2022). According to the Standard Eurobarometer 94 (European Commission, 2021b), online news media platforms are the most widely used media, followed by social networks and by television, which was, up to recent years, the preferred medium.
- Regulatory environment:** The Rule of Law in Malta remains a topic of debate and international scrutiny. Serious threats to media freedom, judicial and police independence, and the freedom of assembly were highlighted in a resolution adopted by the European Parliament in April 2021<sup>[6]</sup>. Additionally, the lack of transparency in relation to citizenship and residence schemes, and the impact this has on the integrity of EU citizenship was also underlined. Although progress was noted in relation to the rule of law and judicial independence, the slow progress, delay in proceedings and the need to investigate further and more rigorously was pointed out, given the 'deep corruption patterns' outlined by the European Commission in its Rule of Law Report, published in 2020 (European Parliament, 2021). In June 2021, the Financial Action Task Force (FATF), placed Malta on the greylist, after years of international pressure and criticism in relation to the sale of national passports, and the lack of legal action against financial crimes, in particular prominent people mentioned in the Panama Papers<sup>[7]</sup>.
- COVID-19:** The pandemic impacted multiple sectors, particularly the tourism and leisure industries. The Government of Malta launched supportive economic measures which, overall, were well received. The

vaccine roll-out was also successful and efficiently implemented and, to date, Malta has had the highest COVID-19 vaccination rate in Europe (Reuters, 2022; Statista, 2022).



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

#### Malta: Media Pluralism Risk Areas



JS chart by amCharts



The overall result for the Media Pluralism Monitor 2022 for Malta indicates a medium risk, in line with the previous two reports. Added to this, half of the individual indicators point to high or very high risk levels.

The overall risk level of the **Fundamental Protection** area is low (32%), and 3 percentage points lower than the previous MPM report, which rated medium risk at 35%. This is the only area in which Malta performs relatively well, in view of the fact that certain legal provisions are embedded in the law and put into practice. This does not mean that issues are absent, especially with regards to Freedom of Information, which has been a point of discussion for the past few years. Journalists report encountering regular difficulties which include rejections, unnecessary delays, no reply scenarios, and the application of diversionary tactics. Malta still does not have a comprehensive media authority. Unregulated gaps in the media landscape remain, particularly when it comes to print and online media, with the Broadcasting Authority acting as the main regulatory body, working in tandem with the Malta Communications Authority, although the latter has a very specific and limited role, and mainly related to the technical operations of media outlets and service providers. Moreover, the final recommendation in the July 2021 report of the Public Inquiry<sup>[8]</sup> into the assassination of investigative journalist Daphne Caruana Galizia in 2017<sup>[9]</sup>, states that all the journalists who gave testimony to the Inquiry Board “expressed their concern that the journalists’ profession was not recognised by the State and even less so appreciated”, leading the board to conclude that, amongst other things, Malta needs a law that would allow journalists to operate “freely and totally independent from interference or undue pressure” (Mallia, Said Pullicino & Lofaro, 2021, p. 444). This was seen to be a major development that consolidated claims, made both locally and internationally, that Malta needed to offer better protection to journalists. Almost 6 months after the publication of the report, on January 11, 2022, the

government appointed a committee of experts<sup>[10]</sup>, following a number of meetings held with key stakeholders (Agius, 2022). In terms of accessibility, the universal reach for traditional media is guaranteed, as are coverage and internet speed.

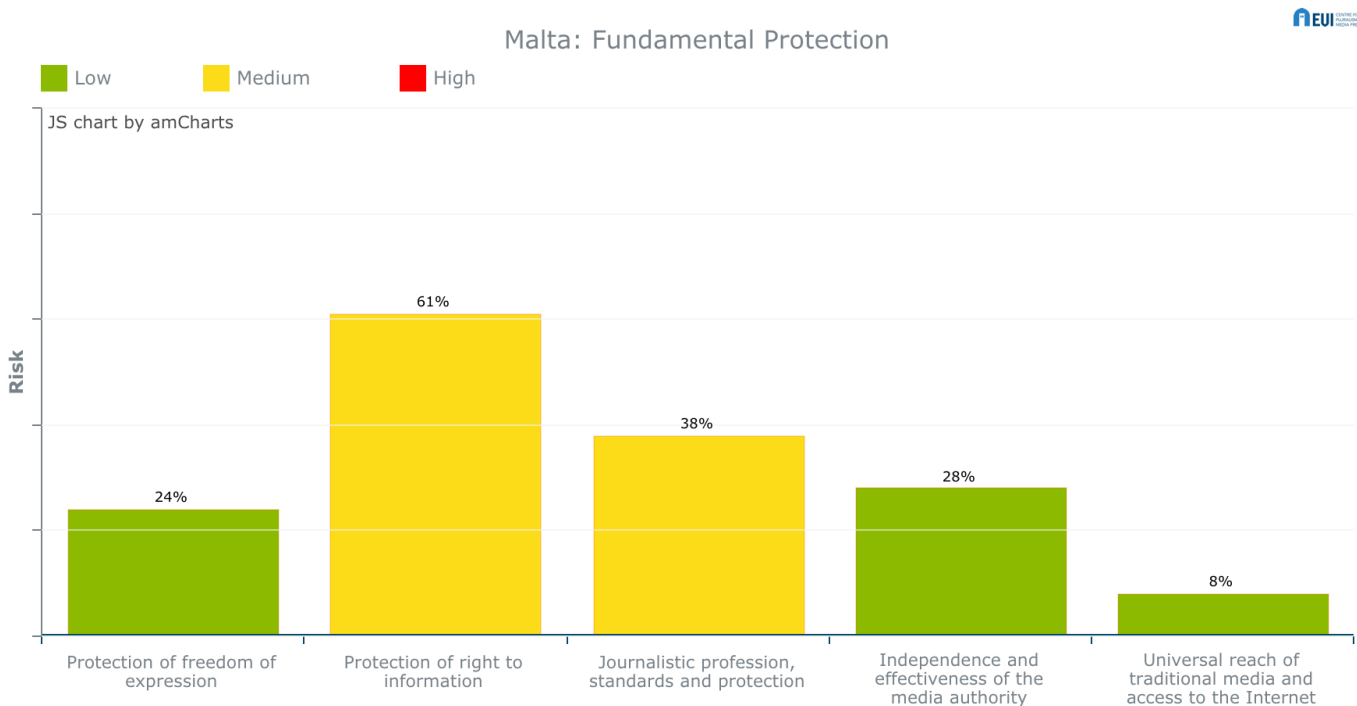
As in the two previous MPM reports, Malta continues to score an overall high risk in the area of **Market Plurality** (70%), with three indicators clearly hitting the high risk band: News Media Concentration, Online Platforms Concentration and Competition Enforcement, and Media Viability, with the remaining two variables scoring a medium risk. Media ownership is, by and large, transparent, yet Malta is particular in view of the fact that the two main political parties - the PL (*Partit Laburista*) and the PN (*Partit Nazzjonalista*) - own and operate multimedia outlets which include TV, radio, print and online platforms. Consequently, such ownership structures, inevitably, have an impact on the editorial autonomy of their newsrooms, since editorial direction tends to reflect the concerned party's respective agenda. There is also a lack of transparency when it comes to the publication of revenues, since party-owned media structures have failed, repeatedly, to publish audited accounts, as required by law. Anecdotally, the pandemic had a negative impact on media outlets, who claimed to have experienced a loss in revenue in view of decreased economic activity (Vella, 2021). Financial assistance was offered to media outlets, although a number of independent media houses protested at the lack of transparency in distribution, and claimed that particular outlets were being discriminated against, with broadcast operations, including party-owned media, being treated more favourably (IPI/The Shift News, 2020; Diacono, 2021).

The overall score for **Political Independence** remains in the high risk band (79%), as was the case for previous MPMs, and 7 percentage points higher than the MPM2021 (72%). Three indicators score very high risk: Political Independence of Media (94%), Editorial Autonomy (88%), and the independence of PSM Governance and Funding (97%), and which are the same three indicators that were deemed high risk in previous MPMs. This is, evidently, a result of political party-owned media and the impact these structures have on the media landscape, as mentioned above. Added to this, the Public Service Media are increasingly facing criticism, by the opposition and by civil society, for acting as a mouthpiece for the government, as well as censoring dissenting voices calling out for good governance (Martin, 2022; Delia, 2021).

Overall, the **Social Inclusiveness** area scores a medium risk (62%), with four indicators being in the high-risk band: Access to Media for Minorities, Access to Media for Women, Media Literacy and Protection Against Illegal and Harmful Speech. Access to Media for Local/Regional Communities and for Community Media scores a very low risk at 3%, in view of Malta's geographical size and small population. In essence, if the latter were to be removed from the equation, the overriding risk factor for this area would be high. Minority groups continue to be marginalised through lack of media access as well as appropriate representation (Aditus, 2021). Women, too, are still underrepresented, especially in decision making structures and as experts in the current affairs sphere, and when they are included, and often they are "portrayed as victims, or commodified" as highlighted by Media and Gender academic, Brenda Murphy (Calleja, 2020). Malta does not have a Media Literacy policy, although a Media Literacy Development Board has been set up by government. To date, there is still no formal regulatory framework to combat disinformation, and the absence of a comprehensive media literacy policy further aggravates the current situation.

### 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.



The overall risk level of the **Fundamental Protection** area is low (32%), and 3 percentage points lower than the previous MPM report, which rated medium risk at 35%.

The **Protection of Freedom of Expression** indicator reaches a relatively low risk score at 24%, down by 4 percentage points from the MPM2021, and identical to the MPM2020 score.

In general, individuals are free to express their views publicly, since freedom of expression is embedded in the Maltese Constitution (Article 41)<sup>[11]</sup>. Additionally, in the wake of the assassination of investigative journalist Daphne Caruana Galizia in 2017, the past four and a half years have seen the emergence of a number of independent newsrooms, like the Times of Malta, The Shift News, Newsbook and Malta Today, following up on Caruana Galizia's investigations, as well as uncovering new corruption scandals. This, however, does not come without any form of retribution. The harassment of journalists, especially those investigating cases of corruption, is widespread, and many individuals, particularly public-service employees, choose silence over the criticism of powerful actors, for fear of retribution (Freedom House, 2022). Intimidation is also levelled at members of civil society who hold power to account, especially those who advocate for good governance and the rule of law (Farrugia, 2021; Meilak, 2021).

The Daphne Caruana Galizia Inquiry Report, published on July 29, 2021, highlights a number of issues

surrounding FoE and Freedom of the Press. The 437-page report concluded that “evidence shows that there were elements both within the State entities and in particular within the Office of the Prime Minister that actively acted to thwart the journalist in her work and contributed to a sustained campaign in an organised manner” (Mallia, Said Pullicino & Lofaro, 2021, translation document, p.172), and that “there was an orchestrated plan in order that the investigative journalism work of the assassinated journalist would be suppressed” (p.409). In its final recommendation, the Board also noted concern that the journalistic profession is neither recognised, not appreciated by the State, and suggested that the Constitution be amended to recognise free journalism as one of the pillars of a democratic society (p.440). It further concluded that “there are grounds for a law which provides an organisational framework in which journalists may operate freely and totally independent from interference or undue pressure” (p. 444).

The **Protection of Right to Information** indicator scores a medium risk at 61%, at the higher end of this spectrum, and identical to the MPM2021 score.

In theory, the the Freedom and Information Act (CAP. 496)<sup>[12]</sup>, which was brought fully into force in 2012, should guarantee access to information. In practice, however, journalists are still consistently encountering difficulties when requesting government information, which include rejections, unnecessary delays, no reply scenarios, and the application of diversionary tactics (Vella, 2021, p.46). In April 2021, the Human Rights NGO Aditus reported that government had only provided information for 54 percent of FOI requests made between 2015 and 2017, also quoting a 2018 report in the Times of Malta, highlighting that persistent rejections of FOI requests were flagged to the UN Human Rights Council by PEN International (Aditus, 2021, p.10).

In May 2021, Malta’s Data Protection Commissioner lamented his office’s limited powers under the current legislation and appealed for the law to be revised (Times of Malta, 2021), and in December 2021, the National Audit Office (NAO, Malta) was critical of the fact that a government agreement with Vitals Global Healthcare, on the operation of three public hospitals, lacked transparency, noting “lack of documentation, the company’s failure to meet its obligations, and concerns surrounding the company’s condition among other issues” (Freedom House, 2022, n.p.).

More recently, in January 2022, 30 government ministries and entities appealed against a decision by the Information and Data Protection Commissioner, after the latter ordered the disclosure of information on public expenditure requested through an FOI request. The European press freedom watchdog Mapping Media Freedom registered this FOI dispute as a ‘violation’, describing it as censorship and blocked access to information (The Shift Team, 2022). The FOI challenges faced by newsrooms in Malta has also been flagged in a joint statement by the International Press Institute (IPI), the European Centre for Press and Media Freedom (ECPMF), the European Federation of Journalists (EFJ), Reporters Without Borders (RSF), OBC Transeuropa (OBCT), ARTICLE 19 and the Daphne Caruana Galizia Foundation (ECPMF, 2022; IPI, 2022).

The **Journalistic Profession, Standards and Protection** indicator scores a medium risk at 38%, up two percentage points from the previous MPM (MPM2021, 36%).

In Malta there are no legal obstacles which prevent a person from working as a journalist, and the protection of sources, explicitly recognised by the law (CAP. 579, Media and Defamation Act, Art.22)<sup>[13]</sup>, is generally

enforced in practice. However, in September 2021, PEN Malta highlighted the fact that journalists and activists were still being targeted, and were subject to “hostile rhetoric” and “consistent failures by public institutions” (Cordina, 2021).

In August 2021, a number of online news sites were targeted and spoofed in what was described as a disinformation campaign. The first target was blogger Manuel Delia, who wrote that “someone somewhere is pretending to be me and sending emails that look like I’ve sent them and building spoof websites to look like they’re carrying things I wrote. Which I didn’t.” (Delia, 2021b). This incident was followed by online harassment. Other news sites were also targeted and included, Times of Malta, Newsbook, Net News, Lovin Malta and TVM, as well as the website of non-governmental organisation Repubblika (IPI, 2021). To date, no information has been published as to who was behind these attacks. Additionally, a number of journalists have had to seek police protection, amongst them two journalists from The Times of Malta, as confirmed by the newsroom’s editor-in-chief, Herman Grech, who stated that an unnamed government MP had suggested that he should seek police protection for himself and for two of his journalists (Diacono, 2021b). Furthermore, in October 2021, blogger Manuel Delia revealed that he was leaving the island for a few months after receiving a number of threats from individuals complicit in the Caruana Galizia’s murder, and that he was being supported by the European Center for Press and Media Freedom until the situation calmed down (Times of Malta, 2021b).

Following a visit to the island in October 2021, Council of Europe Commissioner for Human Rights, Dunja Mijatović stated that the authorities need to implement, without delay, “far-reaching reforms needed to ensure journalists’ safety and address mistrust in the media in Malta” (Giordimaina, 2021).

As stated in the introduction, COVID-19 brought about new challenges to media practitioners, as confirmed by the Institute of Maltese Journalists (IGM) on World Press Freedom Day, 2021. The organisation called for “a national debate on extending State funding beyond the current crisis” (Balzan, 2021). The IGM also noted that many media organisations have faced indeterminable economic difficulties during the pandemic, and whilst acknowledging that State aid by means of wage supplements and a one-time media grant were welcome forms of assistance, they also highlighted the fact that media practitioners had to take pay cuts, in spite of continued work-related pressures.

In terms of access to COVID-19-related information, the Health Department took on a pro-active approach, giving regular press briefings and access to information. One negative aspect to the online briefings was that journalists had a limited time to ask questions, which, on occasion, were either not answered clearly, or not at all, without giving the media the opportunity to ask follow up questions.

The **Independence and the Effectiveness of the Media Authority** indicator scores a low risk at 28%, identical to the MPM2021 score.

In spite of an urgent need for more effective and transparent regulation, there is still no comprehensive media authority in Malta. The Broadcasting Authority (BA) monitors and regulates radio and television broadcasting in Malta, as well as some aspects of online audio-visual publication. The main operation of this authority involves the monitoring and regulation of the PSM - Public Broadcasting Services (PBS). All five members of the Authority’s board of directors are political appointees, selected by the two main political parties, that is the party in government (PL) and the opposition (PN), who each appoint two members, whilst the chairperson is generally chosen by mutual agreement of the same two parties.

The Caruana Galizia Inquiry report, in its recommendations for Constitutional amendments, clearly states that public broadcasting “has failed in its duty of impartiality when it had not correctly or adequately reported and discussed the serious allegations of corruption which were revealed as a result of investigative journalism,” highlighting further the fact that the Broadcasting Authority had, so far, erroneously interpreted the concept of impartiality, and applied it only to the public service, and not political party-owned stations (Mallia, Said Pullicino & Lofaro, 2021, p.441).

The Authority has clearly defined responsibilities at law (Cap. 350, Broadcasting Act)<sup>[14]</sup>, and is generally transparent about its activities, but the very nature of its make up, in terms of board appointees, as well as its interpretation of the law, is problematic.

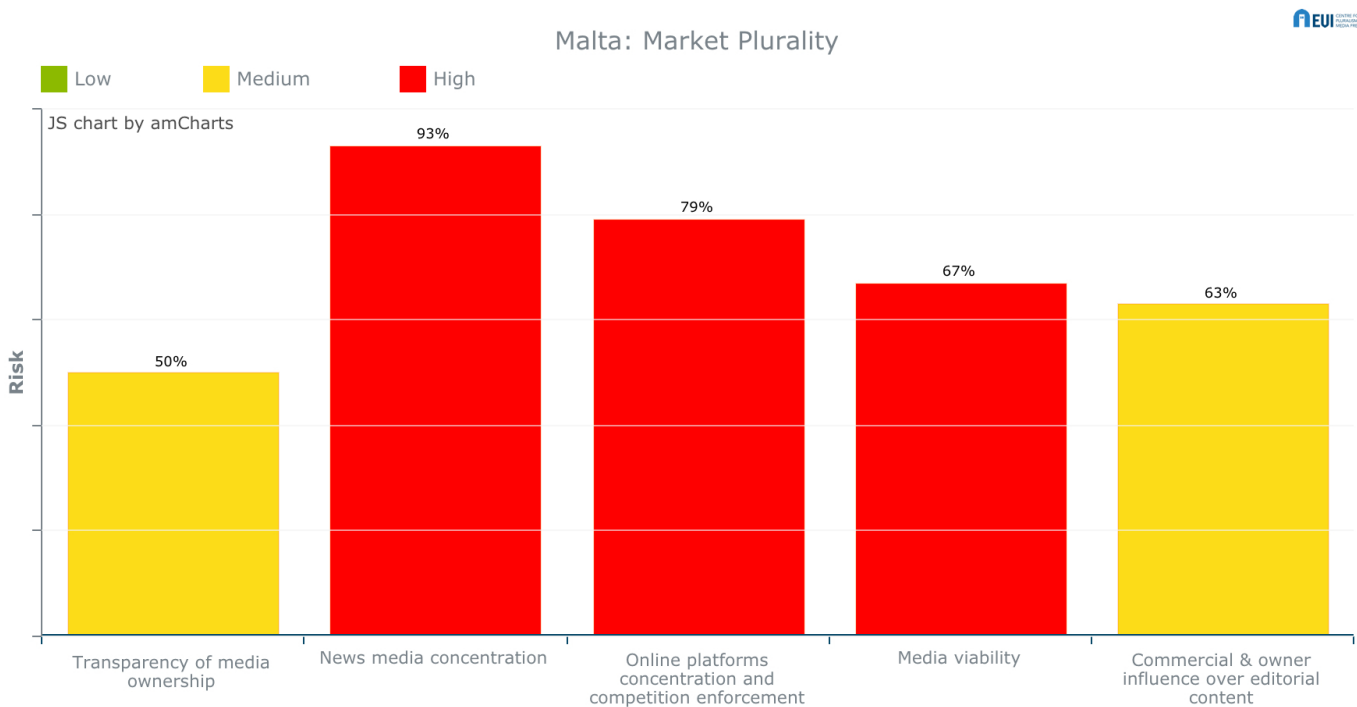
The fifth indicator in this area, **Universal Reach of Traditional Media and Access to the Internet**, scores a low risk at 8%, down 13 percentage points from the MPM2021 (21%).

The risk score reflects the fact that, according to the Malta Communications Authority (MCA), practically all of the Maltese Archipelago has TV and radio signal. Essentially, all service providers, collectively, cover the whole country when it comes to TV signal. In its 2020 Annual report, the latest available, the MCA restated its commitment, in line with both local legislation and European directives, to monitor the availability of a Universal Service, meaning that “a number of identified electronic communication services are [to be] made available to all end-users in the Maltese islands, independently of geographic location, at affordable prices and meeting specific quality thresholds” (p.43). Malta still enjoys almost 100% broadband coverage of 30 Mbps, and regulatory safeguards regarding net neutrality are implemented in practice under the watch of the MCA. Additionally, the two largest ISPs, between them, service approximately 95% of internet subscriptions (MCA, 2021). Moreover, digital radio service (Digital Audio Broadcasting (DAB)) has addressed problematic pockets of reception. Malta was the first European country to roll out a DAB+ network, with services being made available since 2008<sup>[15]</sup>, and the provider’s licence document defines “National Coverage” as “the coverage of all islands of the Maltese archipelago” (MCA 2014).



### 3.2. Market Plurality (70% - high 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.



As in the two previous MPM reports, Malta continues to score an overall high risk in the area of **Market Plurality**, with three indicators clearly hitting the high risk band: **News Media Concentration**, **Online Platforms Concentration and Competition Enforcement** and **Media Viability**, with the remaining two variables scoring a medium risk. **Transparency of Media Ownership** is assessed as a medium risk at 50%, 3 percentage points more than the previous MPM (MPM2021, 47%).

Malta is particular in the fact that the two main political parties - the PL (*Partit Laburista*, in government) and the PN (*Partit Nazzjonalista*, in opposition) - openly own and operate multi-media groups, which include TV, radio, print and online platforms. This information is public and is a defining factor in the make-up of the local media landscape. All Maltese companies are legally bound to register with the Registrar of Companies (RoC) and submit information which includes a list of directors, shareholding and a list of documents submitted. Such information is available online through the Malta Business Registry site <sup>[16]</sup>, although information pertaining to ultimate beneficial ownership, detailed company accounts and any amendments to the Memorandum and Articles of Association may only be accessed against a fee.

The Broadcasting Authority still has a right to obtain any type of information it considers necessary from the licence holders (Broadcasting Act<sup>[17]</sup>, Articles 15; 16(2),(3); First Schedule, para.1(d)), although this information is not made public. The Media and Defamation Act (Cap. 579, Art.19(2))<sup>[18]</sup> requires every newspaper editor and/or publisher to provide the Media Registrar with their name and surname, a legally valid identification document number, their age and place of work or residence. If the publisher is a company or an association of persons or a legal person, they must submit their name, address, their judicial representative/s, and, where applicable, the company, partnership or other registration number. Notwithstanding, the latter does not ensure transparency of the actual ownership structure.

There are no specific obligations whereby media companies are required to publish their ownership structures on their website, or in records and documents that are accessible to the public, that go beyond the Companies Act<sup>[19]</sup>.

The **News Media Concentration** indicator scores a high risk at 93%, 4 percentage points up from the MPM2021 (89%), and is the highest scoring risk indicator in this category.

The overall assessment of this variable is that there is a worrying lack of data when it comes to the market share of individual news outlets. The only information available is by means of the regular broadcast audience assessments commissioned and published by the Broadcasting Authority, which give indications of the size of TV and radio audiences, and confirm that the PSM and party-owned TV stations dominate the local broadcast landscape (BA Audience Assessment, November 2021). In recent studies, the BA has started to include some data pertaining to online activity, in relation to the preferred source for local news, where TV still dominates with 43% (BA, 2021, p.89).

The print market is still heavily unregulated and media houses are not obliged to publish circulation and readership, so an accurate assessment of this sector is practically impossible.

The **Online Platforms Concentration and Competition Enforcement** also scores a high risk, at 79%, a decrease of 4 percentage points from the previous MPM (MPM2021, 83%).

Again, as with the previous indicator, there is a lack of available data with regards to advertising revenue and audience concentration, as well as no specific regulation for this market. The Broadcasting Authority dedicate a section of their audience research to online platforms, but this only gives an indication in terms of percentages as to which online portals are preferred for news consumption and for watching audio-visual programmes online.

Moreover, the PSM is in an advantageous position of generating revenue by selling advertising space and airtime, as well as receiving State funding, whilst private TV and radio stations struggle to make ends meet, and other legacy news outlets are having to diversify and expand to offer digital platforms in order to survive. Additionally, PSM has been awarded a €30 million cash injection over the next 5 years to fulfil a "regeneration" project (The Shift News, 2021). PSM ended 2020 with €3.8 million more in liabilities than assets, as shown in the latest audited accounts for the year ending September 2020. This in spite of a €4.1 million subsidy given to PBS each year, as well as other direct government grants for a range of initiatives, which include broadcast services for Malta's EU Presidency and the hosting of the Junior Eurovision. Added



to this, PSM also received €2.4 million in advertising from the government and its entities (The Shift News, 2021; Delia, J., 2021). Other media organisations contend that this creates an unfair scenario, especially in view of the fact that PSM may offer attractive packages surrounding its online activities, as a consequence of being a leader in terms of TV audiences.

With regards to competition, the Broadcasting Authority is entrusted with regulating broadcasting services in Malta, including checking compliance with ownership restrictions (Articles 3 et seq. of the Broadcasting Act)<sup>[21]</sup>. The Broadcasting Act does not preclude the application of competition rules to audiovisual media service providers. Thus, the Maltese competition authority may also intervene to prevent concentration and, ultimately, sanctioning powers rest with the Office for Consumer Affairs of the Malta Competition and Consumer Affairs Authority (MCCAA)<sup>[20]</sup>.

The **Media Viability** indicator score is identical to the MPM2021, rating at 67%.

The anecdotal feedback from legacy media outlets is that revenues have decreased, in view of increased advertising spending on digital platforms. Advertising agencies and businesses are also allocating parts of their budgets to social media platforms. Furthermore, as mentioned above, independent media organisations also have to compete with the PSM, which, apart from receiving State funding and other payments for services, also sells advertising time and space (online). Both political party-owned stations have not published their accounts in over 10 years, even if they have a legal obligation to do so annually under the Companies Act (CAP. 386, Art. 179, 179A, 179B)<sup>[22]</sup>. To date, the Malta Financial Services Authority (MFSA) has not issued any fines to these media houses, even if they have consistently failed to publish their accounts (Bonnici, 2021).

Naturally, the COVID-19 pandemic had its impact on most economic sectors and the media were no exception. Although a wage supplement as well as grants were offered, the manner in which economic assistance was distributed came under criticism, with claims that the PSM and party-owned media were treated more favourably. (Diacono, 2021)

The **Commercial and Owner Influence Over Editorial Content** indicator scores a medium risk of 63%, which was also the exact same score as for the MPM2021.

Although the Institute of Maltese Journalists' (IGM) guidelines are very clear and define any form of commission-based publicity or editorial favours as a breach of ethics, the Institute is not an enforcement entity, as confirmed by all journalists who testified in the Caruana Galizia Inquiry<sup>[23]</sup>; they all agreed that the organisation, in its current set-up, is not suitable to offer effective protection, in view of limited resources and the reliance on private entities for funding (Mallia, Said Pullicino & Lofaro, p.445). This said, it is also encouraging to note that, as outlined by Norman Vella, "the IGM is in the process of becoming a trade union", even if there is, to date, no consensus of how their code of ethics should be updated (2021, p.40).

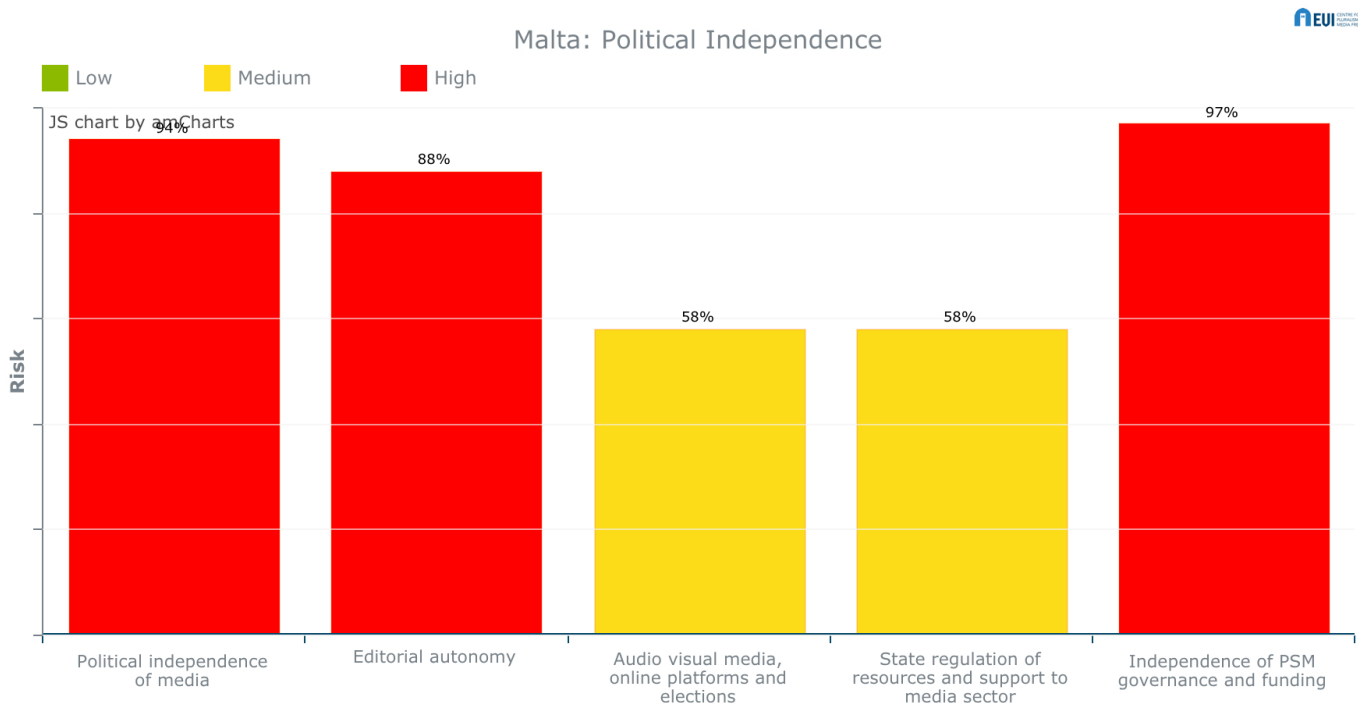
There are still no clear safety measures to prevent the influence of commercial and/or political interests over the appointments and dismissals of editors-in-chief, quite the opposite, since a significant number of media outlets are owned by political parties that, inevitably, have a direct influence on their newsrooms, as well as a partisan editorial line. Additionally, there is always a risk that particular commercial entities may apply pressure on newsrooms by, for example, threatening to cancel advertising revenue. Moreover, political

parties tend to partly depend on big business to survive, and since both major parties own leading media houses, indirect pressure will always exist. Chris Peregin, ex-CEO of Lovin Malta, described political parties as “slave[s] to the big business” (Walsh, 2021b). Added to this, Vella's recent study exploring the journalistic profession confirms in its findings that "editors described government as the biggest advertiser in the Maltese media market, but some added that public advertising money is distributed in an arbitrary and abusive way", with one editor confirming on record that there were "instances when adverts were withheld because they were being “too critical” of government" (Vella, 2022, p.45).

On a positive note, it is refreshing, as well as unusual for Malta, to see that news media organisations like The Shift News and blogger Manuel Delia have transparent procedures, and are committed towards preserving their credibility by publishing their earnings and refusing direct advertising or donations by corporate organisations or the government. Additionally, The Shift News’ operating company, Tula Ltd., is committed, under its articles of association, to investing all earnings back into journalism (The Shift News, 2021b).

### 3.3. Political Independence (79% - high risk)

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



The overall score for **Political Independence** remains in the high risk band, as was the case for previous MPMs, and 7 percentage points higher than the MPM2021 (72%). Three indicators score very high risk: **Political Independence of Media** (94%), **Editorial Autonomy** (88%), and the **Independence of PSM Governance and Funding** (97%), and which are the same three indicators that were deemed high risk in previous MPMs.

The **Political Independence of Media** indicator scores a very high 94% risk, which is identical to the two previous MPMs.

As reported in previous years, in Malta there is still no law that makes government office incompatible with media ownership, and political parties are expressly permitted to own, control or be editorially responsible for nationwide television and radio services, under certain conditions (Broadcasting Act, Part III, Article 10, paragraph 4D, 2020[1991])<sup>[24]</sup>. As outlined in the Transparency of Media Ownership section, the two leading political parties continue to both own multi-platform media companies, which include a TV station, radio station/s, newspapers and online news portals. Consequently, such media outlets cannot be politically independent, since the owners' editorial line cannot but influence their newsrooms.

Although this scenario was challenged by Lovin Malta, who filed constitutional action in this regard (Walsh, 2021b), the case is ongoing, and neither party seems willing to give up its operations any time soon. The Caruana Galizia Inquiry report<sup>[25]</sup> was critical of the Broadcasting Authority for interpreting the impartiality clause as applying solely to PSM, and not to political party-owned stations, erroneously reasoning that these would balance each other through contrasting content (Mallia, Said Pullicino & Lofaro, 2021, p. 441).

The only relevant provision, in this sense, is the prohibition for Local Councils to own radio and television stations (Broadcasting Act, Art. 10(6D); Local Government Act, Art. 77)<sup>[26]</sup>. Elected members of the Local Councils, however, are predominantly affiliated with political parties, so they get media exposure on their own respective party media.

Added to this, the PSM is often criticised for being the mouthpiece for the party in government (The Shift News, 2021c, Martin, 2022). The appointment of a head of news who is closely affiliated with the Labour Party in government further added to this notion, together with appointments of sympathisers of the same party to senior roles, as the recently instated Executive Chairman (Xuereb, 2022), or as presenters and producers. A comparative study launched by the Centre for Media, Data and Society has classified Malta's Public Broadcasting Service (PBS) as state-controlled (Dragomir & Söderström, 2021, p.21). Such a scenario becomes even more problematic when one considers that audience figures for TV for the last quarter of 2021 which shows the PSM's share at 44.3% and the PL-owned One TV at 22.4% (Broadcasting Authority, 2021).

The **Editorial Autonomy** indicator also scores a high risk at 88%, 17 percentage points higher than the previous MPM. (MPM2021, 71%).

This is quite a significant increase, which might have been registered, partly, in view of the omission of a variable from last year's set (*journalists' social media use*). On the other hand, the increase may also be justified by the fact that political party-owned platforms have a direct influence on editorial direction, as well as increased criticism levelled at PSM (see above) for lack of impartiality and independence. One must also take into consideration the fact that PSM and the party-owned TV stations dominate the audiovisual market, and much smaller commercial operations have little or no impact.

Malta is small and densely populated, so proximity, and thus influence, tends to be an issue. There are still no common regulatory safeguards when it comes to appointing or dismissing editors, and in view of the existence of political party-owned media outlets, it follows that political influence in such appointments or

dismissals is inevitable. Political influence is a given in Malta, and is widely acknowledged as normal, except in the case of a few independent media outlets.

Although a couple of years ago the Institute of Maltese Journalists (IGM) had highlighted the need to implement measures of self-regulation as one of their primary objectives, this has yet to take place. The absence of self-regulation structures within the journalistic profession was focused upon by the Caruana Galizia Inquiry (p. 352), and it is yet to be seen whether the appointed committee of experts will address this issue. The said committee was appointed in January 2022 by the Prime Minister. A group of international media freedom NGOs reacted to this news by emphasising the importance of a fully independent committee, and noted their disappointment at the “lack of transparent consultation with civil society and key stakeholders in this process to date”. (Delia, M., 2022) Since members of the IGM form part of this committee of experts, one would expect that they resist any form of proposed State regulation of the journalistic profession, and that they pursue the self-regulation route, as they themselves proposed two years ago.

The **Audio Visual Media, Online Platforms and Elections** indicator scores a medium risk at 58%, up 5 percentage points from the previous MPM (MPM2021, 53%)

The Broadcasting Authority is responsible for issuing directives for fair representation on audio-visual media during elections, and broadcasting stations have to submit a detailed schedule of programmes and advertisements for the Authority’s approval. Although the directives outline detailed requirements, like programme content and lists of guests, the Authority also “recognises that it would be practical and at the same time in conformity with the law that the programme content in terms of the schedules submitted to it by the political stations is considered in the light of the optional provision which may be exercised by the Authority in terms of article 13(2) of the Broadcasting Act” (Broadcasting Authority, 2022, p.5). In other words, a distinction is made between what is expected of the PSM and demands made upon party-owned stations. One only needs to watch the broadcast programming on the latter to understand that the respective party’s campaign is extended to all its media platforms, including TV. Overall, during election periods, the Authority tends to focus its attention on PSM broadcasts and, unless a complaint is filed, as outlined previously, party-owned stations’ messages are viewed as neutralising one another.

Smaller parties and independent candidates often lament the fact that the Authority allocates too little airtime to them, since they are not represented in parliament. During the recent elections held in Malta, ADPD, a coalition formed between *Alternattiva Demokratika* and *Partit Demokratiku*, formally registered a complaint with the Authority for not having been scheduled to debate the major parties, arguing that the same Authority was ignoring the fact that the PN and the PL operate their own radio and TV stations and, thus, have an unfair advantage over small parties (Calleja, 2022).

In Malta, audio-visual political advertising on PSM and independent channels needs to be marked. This would involve a short jingle before and after the spot, as well as the party’s logo placed at one of the corners of the frame.

When it comes to online content and advertising, the Authority’s directive is not comprehensive to say the least, and there is an evident lack of regulation since the focus is on TV and radio broadcasts. This last election saw increased political advertising activity online, with many commenting on the overkill that online users were being subjected to. The independent media published estimates that outlined the big parties’

spend on social media and online advertising, which are substantial for a country the size of Malta (Martin, 2022b; Vella, 2022). Additionally, online advertising did not cease on the eve of the election, which should be a “day of reflection” as stipulated by the law (Delia, J., 2022).

In its latest Needs Assessment Mission Report for Malta’s 2022 general elections, observers from the Office for Democratic Institutions and Human Rights within the Organization for Security and Co-operation in Europe (OSCE/ODHIR) noted that there had been very little progress in the implementation of a number of recommendations made in its 2017 report, including those pertaining to PSM (OSCE/ODIHR, 2022).

The **State Regulation of Resources and Support for the Media Sector** indicator scores a medium risk at 58%, which is 8 percentage points higher than the MPM2021 (50%).

The PSM is the only media entity eligible to receive funding from the Malta government, and the latter does not normally provide any subsidies to privately owned media.

This changed when the COVID-19 pandemic broke out, and media houses appealed to the State to extend financial aid to media houses, in view of difficulties that were being faced on account of diminished economic activity. Funds were distributed by means of wage supplements, grants and direct advertising. This was not without controversy and some independent media houses reported on the lack of transparency with which financial assistance was being administered, after a number of FOI requests remained unanswered. Moreover, they reported that economic packages were designed in a manner that would benefit political party-owned media houses over independent outlets (Diacono, 2021).

On Press Freedom Day 2021, the IGM called for a national debate on the extension of some form of financial aid by the State, beyond the pandemic, describing this as an opportunity to “support and applaud journalists in providing the public with reliable, quality information” (Balzan, 2021, n.p.).

The **Independence of PSM Governance and Funding** indicator scores a very high risk at 97%, up 5 percentage points from the previous MPM (MPM2021, 92%).

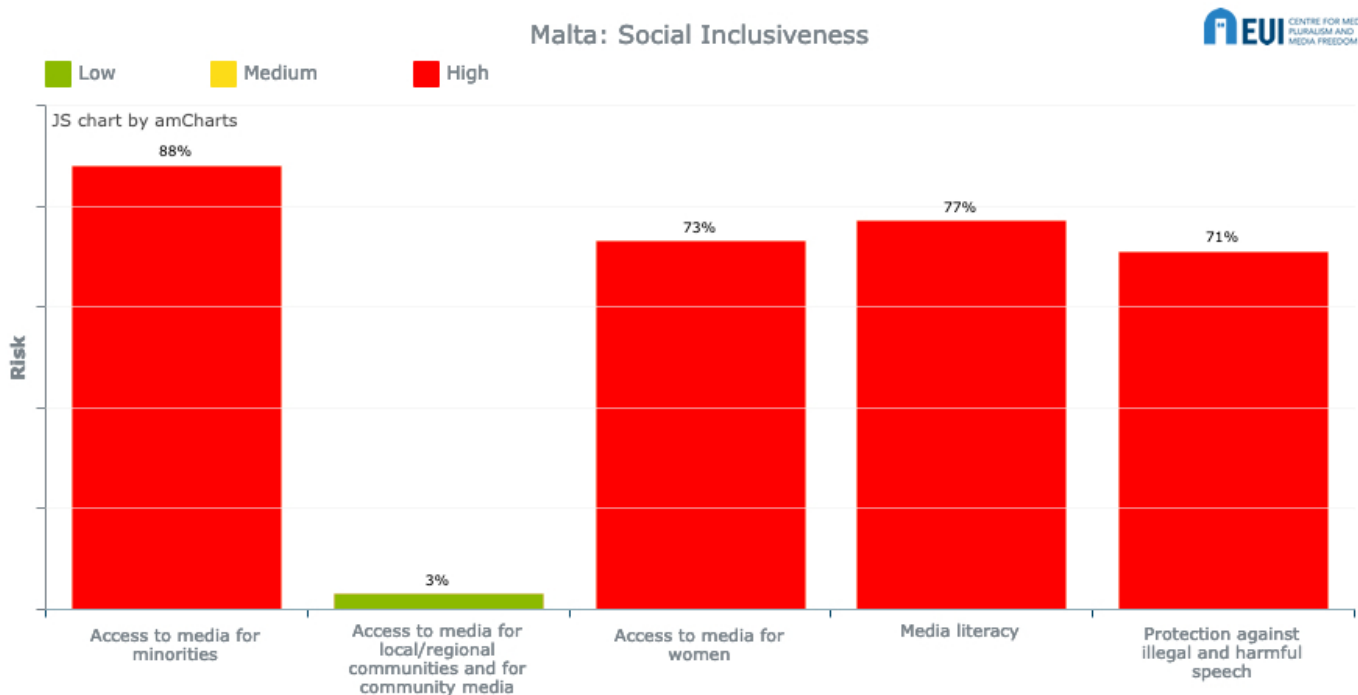
The government has a significant and direct influence on PSM structures, in view of the fact that members of its Board of Directors, as well as its Editorial board, are appointed by the State, and key decision-making personnel are also appointed by the Minister concerned, thus making PSM particularly vulnerable to political influence. In a 2021 report, the Centre for Media, Data and Society (CMDS), classified Malta’s PSM (PBS) as ‘state-controlled media’, which is the most concerning category of the seven-tier spectrum applied in the report. The reasons given were: PBS has “accessed an increasing amount of funding from the government”, in view of accumulating debt; it is a government-owned company with a board nominated by the government; and data and research collected “have shown that the editorial coverage is controlled by the government” (Public Media Alliance, 2021, n.p.; Dragomir & Söderström, 2021).

The appointment of the new Executive Chairman in 2021 was seen by some as yet another political appointment, since the appointee, Mark Sammut, has no known experience in broadcasting or journalism. His predecessor, Prof. Carmen Sammut (no relation), who occupied the post for approximately 6 months, is an academic with years of practical experience in journalism and media in general (The Shift, 2021c).

More recently, the opposition (PN) launched a legal action against the Broadcasting Authority, PBS (PSM), the Minister responsible and the office of the State Advocate, claiming political bias and propaganda on the State broadcaster. The proceedings are underway (Martin, 2022).

### 3.4. Social Inclusiveness (62% - 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.



Overall, the **Social Inclusiveness** area scores a medium risk, with four indicators being in the high-risk band: **Access to Media for Minorities**, **Access to Media for Women**, **Media literacy** and **Protection Against Illegal and Harmful Speech**. **Access to Media for Local/Regional Communities and for Community Media** scores a very low risk at 3%, in view of Malta's geographical size and small population. In reality, if the latter were to be removed from the equation, the overall risk factor for this area would be high.

The **Access to Media for Minorities** indicator acquires a high risk score at 88%, an identical score to the previous MPM.

The situation is still the same for this sector, in that little or no research has been conducted when it comes to media and minorities in Malta. Thus, drawing an accurate picture is problematic. There are no legally recognised minorities in Malta and, as a result, there are still no specific provisions relating to access to airtime for underrepresented groups. On the other hand, the fact that Malta sees a number of immigrants arriving by boat, and hosts third country nationals who move to the island to work in the health and care and construction sectors, minorities do, in fact, exist. Effective integration cannot be achieved unless minority groups are given access to local media, as well as the opportunity to participate visibly within the media landscape. Even more worrying is the fact that, as documented by human rights NGO Aditus, if group



arrests of migrants are carried out, the media visuals show detainees escorted to court “in the main pedestrianised street in Valletta”, sometimes “tied together with cable ties, sometimes barefoot and not in appropriate attire”. The NGO adds that the general impression amongst legal professionals is that “foreign defendants are treated differently to local ones, both in relation to police actions and also in relation to court proceedings” (Aditus, 2021, p. 6-7). Such images perpetuate marginalisation and do very little to counteract racist and populist narratives, mainly present on social media platforms and news site comments boards. This said, one must also acknowledge that a number of independent media outlets cover minority-groups stories fairly, sympathetically and sensitively.

Last year, the Malta Government published the updated policy document *Malta's 2021 - 2030 National Strategy on the Rights of Disabled Persons*, which includes Action 5.4: Representation of Disabled Persons in the Media, and has a two-year time-frame completion target, and Action 5.5: Sign Language, Closed Captioning and Narration/ Commentary in Television Programmes and Adverts, targeting a five-year time-frame completion. The policy document was compiled following consultation with stakeholders, however, progress is yet to be monitored and evaluated (Ministry for Inclusion and Social Wellbeing, 2021, p.24). In 2007, subsidiary legislation (S.L.350.17) was annexed to the Broadcasting Act in 2007, to include "Requirements as to Standards and Practice applicable to Disability and its Portrayal in the Broadcasting Media"<sup>[27]</sup>.

COVID-19 press conferences and updates on the PSM always featured sign language interpreters. No audio descriptions are available for blind people, possibly due to lack of expertise as well as budgetary reasons.

**Access to Media for Local/Regional Communities and for Community Media** scores the lowest risk in this area at 3%, also identical to the MPM2021.

There are no regional or local media outlets in Malta, but there is also no risk related to this factor due to the geographical size of the country. Community radio stations, on the other hand, are explicitly recognised by the law and are widely present in the country. The 20 stations<sup>[28]</sup> that make up this group register a reach of less than 1.5%, since this percentage is also shared with digital stations (Broadcasting Authority, 2021).

**Access to Media for Women** scores a high risk at 73%, up 3 percentage points from the previous MPM (MPM2021, 70%).

Although women are active participants within the media landscape, when it comes to current affairs and news content, the predominance of men is still an issue, especially with regards to participation in discussion panels and as sources and experts in news. Malta's trends follow the Global Media Monitoring Project (GMMP 2020) results, where “women’s invisibility as subjects and sources is still the norm” (WACC | GMMP Results, 2021). NGO Mediating Women often draws the attention of broadcasters in instances of “manels” - panels made up of only men - as well as proactively corrects inappropriate use of language in print and online headlines. The Broadcasting Authority published a document entitled "Gender Representation Guidelines for Discussion Programmes", but they are merely a reference point and producers are not obliged to follow them (Broadcasting Authority, 2021b).

Editorial posts are also predominantly occupied by men, with the exception of a handful of newsrooms which include the PSM head of news, The Shift News, which is led by its founder, Caroline Muscat and, up to February 2021, the editor in chief of the Catholic Church-owned Newsbook and 103 Malta's Heart radio station, whose job was taken over temporarily by a woman news manager until November 2021, when a man was appointed editor in chief. Until the general election in March 2022, the PSM Board of Directors was made up of 9 members, 3 of whom are women, whilst the Editorial Board was made up of 3 men. At the time of publication, the government's landing pages listing these boards are blank, so this information may change in view of new appointments by the Ministry responsible.

The **Media Literacy** indicator scores a high risk at 77%, similar to the previous edition of the MPM (75%).

Although well over a year has passed since a Media Literacy Development Board was appointed by the Minister within the Office of the Prime Minister, Malta still has no official policy on media literacy. The Board should function in consultation with the Broadcasting Authority, as well as other government entities, yet to be specified, with the objective of drafting a way forward and promoting the development of media literacy skills. To date, however, there has been no concrete output as to the way forward. The first chairperson of the Board was replaced only five months after he was appointed (Cordina, 2021b). Media literacy is still not an intrinsic part of the curriculum, but rather one of the subjects that may be offered by individual schools as a non-compulsory option at secondary school level.

Finally, the **Protection Against illegal and Harmful Speech** indicator scores a high risk at 71%, up 8 percentage points from the previous MPM (2021, 63%), when this variable was included for the first time.

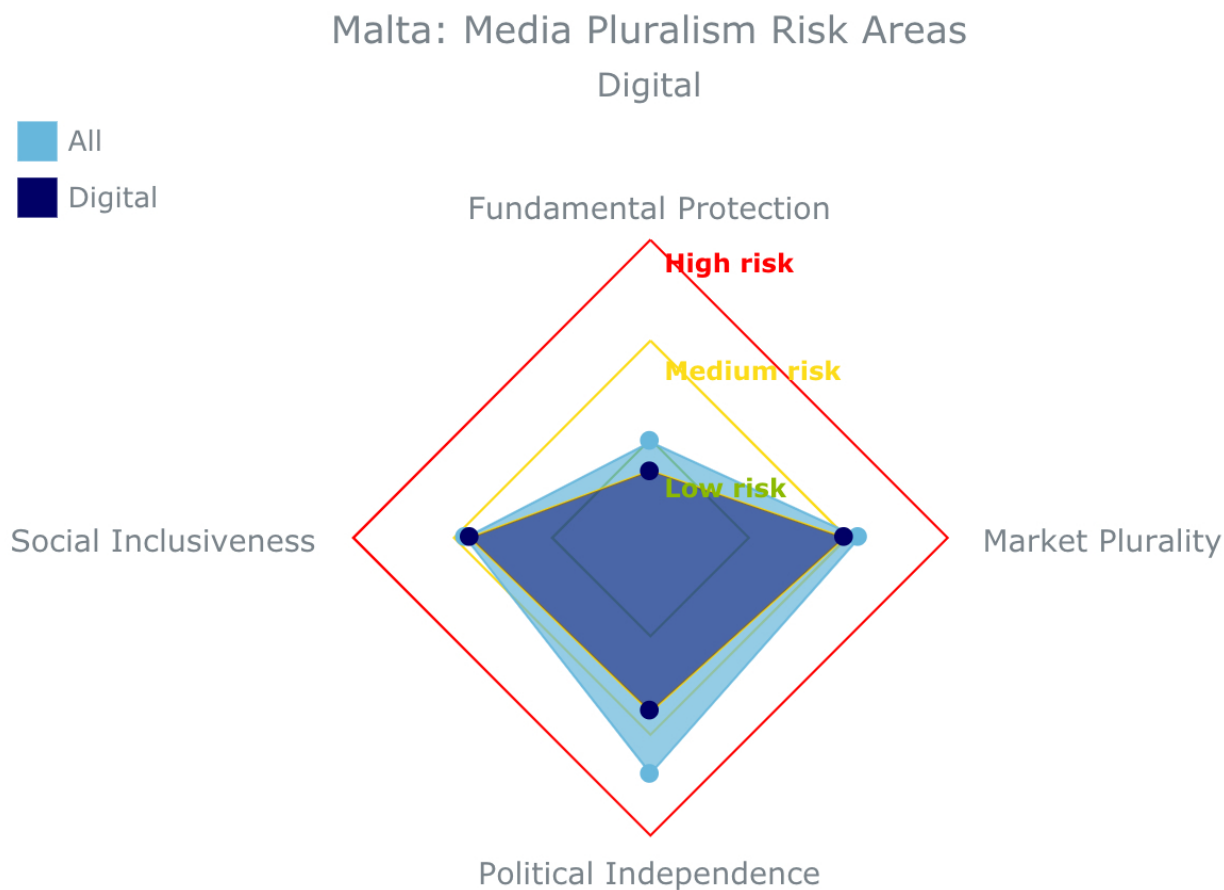
In 2018, the National Police System was amended to facilitate the capture and reporting of hate crime when such incidents are reported, and in 2019, the Hate Crime and Hate Speech unit, was set up to provide legal and psychological support for victims of hate crime, including online hate speech. The majority of hate crime police reports are either racial or political (Carabott, 2021). Additionally, racist hate speech is widespread on social media, oftentimes misinterpreted as "free speech". In their *Feedback to DG Justice on the Malta Country Chapter – Rule of Law Report*, NGO Aditus noted that they have seen a "substantial increase in trolling activities against political opponents, activists and NGOs that show disagreement with government policy (Aditus, 2021). Malta, however, has never submitted information on hate crimes to OSCE/ODIHR (OSCE/ODIHR, 2022b).

A positive development is that, in November 2021, amendments to the Criminal Code (CAP. 9)<sup>[29]</sup>, wherein incitement to violence or hatred against the elderly or persons with disabilities will become a crime, started being debated in parliament.

According to lawyer and academic Mary Muscat, "hate speech" in itself is not a legal term, as the wording within the Criminal Code is "incitement to hatred" (Art. 82A, 82C and 83B). Muscat deems this unfortunate and states that "it needs to be called by its name". The reasons she gives are that incitement is a problematic term, in that collecting the required evidence for proof is difficult since it is an intangible behaviour, adding that "the constituting elements of hate, of speech and related crimes fomented by hate, need to be clear" (Muscat, 2021, n.p.).



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



JS chart by amCharts



### Fundamental Protection | Digital

When compared to the overall MPM scores for **Fundamental Protection** (32%), the digital variables for Digital score 10 percentage points less at 22%, which places them in the low risk band.

Although the **Protection of Freedom of Expression** online is not specifically defined at law, a wider interpretation of Article 41(1) of the Maltese Constitution<sup>[30]</sup> is extended to freedom of expression online, since the text does not refer to a particular medium. In 2010, the Maltese government amended the Broadcasting Act (Art. 16F)<sup>[31]</sup> in order to transpose the Audiovisual Media Services Directive, subsequently amended in 2020, so that on-demand services fall under the scope of the Broadcasting Act which allows for restrictions to freedom of expression, and which appear to comply with the criterion of clear definition, for example, freedom of expression of on-demand providers and restrictions to protect minors. "New media content is notably one of the most under-regulated subject matters within the sphere of Maltese media law. As a general rule, Maltese legislators have tended to adopt a technology-neutral approach to regulation of new media, applying or amending existing laws to emerging technologies where possible" (Zammit, 2019, n.p.).

There is still no evidence to suggest that the State is filtering, blocking or removing online content in an arbitrary way, apart from ISPs blocking inappropriate content to protect minors, or news media platforms mediating comments boards to exclude hate speech, in accordance with the law. However, internet service providers in Malta informally collaborate with the Cyber Crime Unit (CCU) to block or filter websites providing illegal content (Ghio, Bugeja & Cannataci, 2015, p.446).

No new restrictions in relation to the reporting of COVID-19 were introduced and daily updates and data were freely available and accessible online.

**Journalistic Profession, Standards and Protection** - 2020 saw less reports of distributed denial-of-service (DDoS) attacks on independent media. However, in late August 2021, a number of online platforms and news portals were the target of spoofing attacks, which began with a smear campaign targeting blogger Manuel Delia, and which included fake emails from the journalist saying he was suffering from a mental illness. Delia was then targeted by harassment on social media, which included comments that suggested he should be “taught a lesson”. On 28 and 29 August, the websites of news outlets, including Times of Malta, Newsbook, Net News, Lovin Malta and TVM, as well as the non-governmental organisation Repubblika, were spoofed. Many of the fake platforms were registered using the same domain registration service (IPI, 2021).

Additionally, troll armies are regularly unleashed upon government critics, including journalists, and online, organised hate groups, investigated by The Shift News in 2018<sup>[32]</sup> and 2019<sup>[33]</sup>, are still in operation.

Although no data is available locally, a high level of online misogyny is evident, also visible on social media platforms. There are anecdotal reports by women journalists who have reported being targeted, discredited and threatened (Mediating Women, Webinar, 2021).

**Universal Reach of Traditional Media and Access to the Internet** - The whole population is covered by broadband and over 90% of households are subscribed to a service. The latest Malta Communications Authority (MCA) Annual Report (2020) identifies two major operators in Malta (Melita 48.4% and GO 47.1%) who hold 95.5% of the market share (p.27). Regulatory safeguards regarding net neutrality are in place and being implemented, and there are no records of restrictions on content. “In June 2020, the MCA published the report covering the period between 1st May 2019 and 30th April 2020, whereby it concluded that all IAS providers in Malta were compliant with the requirements of the EU Regulation” (p.46).

### **Market Plurality | Digital**

The digital variables for **Market Plurality** score 65%, that is 5 percentage points less than the overall medium risk score for Malta (70%), placing them in the medium risk band.

**Transparency of Media Ownership** - Digital news media are not obliged to publish their ownership structures on their website or in records or documents that are accessible to the public, beyond those set by the Malta Companies Act<sup>[34]</sup> (if they are a company structure), which include registering with the Maltese Registrar of Companies, and giving details on company ownership and structure. This information is available online, with limitations with regards to UBOs and access to submitted documents, which are available against a fee. In Malta’s case, the leading native digital media companies offer full disclosure of ownership.

**News Media Concentration** - No data is available in relation to market share or audience share when it comes to local online news platforms. In Malta, media concentration rules exist only for radio and television services. The same goes for market share of news media owners across different media markets, including digital platforms.

The Broadcasting Authority is entrusted with regulating broadcasting services in Malta, including checking compliance with ownership restrictions (Articles 3 et seq. of the Broadcasting Act), and since the Broadcasting Act does not preclude the application of competition rules to audiovisual media service providers, the Maltese competition authority may also intervene to prevent concentration. Ultimately, sanctioning powers rest with the Office for Consumer Affairs of the Malta Competition and Consumer Affairs Authority<sup>[35]</sup> (MCCAA).

**Online Platforms Concentration and Competition Enforcement** - Broadly speaking, with regards to competition enforcement, there is no specific legal provision for online platforms. There is still no data in relation to online advertising market share or audience share of online platforms. Also, a high degree of concentration in the advertising market may not be prevented through the enforcement of competition rules, since there is no regulator or regulation that takes into account the specificities of the media sector.

The only data available is through the Broadcasting Authority Audience Survey for November 2021, which asked about preferred media for news consumption. 20% of respondents prefer online portals, of which 53% mentioned the timesofmalta.com.mt and 10% mentioned tvn.com.mt (Broadcasting Authority, 2021). One must note that the total number of respondents for this section was only 20% of the entire sample, so the result is only indicative and must be interpreted with caution.

**Media Viability** - Again, no data is available on advertising expenditure, whether online or offline, over the past year. Since 2020 was the year the pandemic broke, it would be safe to consider a scenario where advertising revenue in 2021, compared to the previous year, increased in view of renewed economic activity.

Two native digital platforms, namely The Shift News and blogger Manuel Delia, do not accept direct advertising and rely on NGO grants, crowdfunding, donations or subscriptions, and automatically generated online adverts. Lovin Malta also use the crowdfunding approach when launching particular initiatives, and some newsrooms, like the Times of Malta, have a subscription option in place for readers to support their journalistic efforts.

Over the past year, in view of the COVID-19 pandemic, media houses also received financial assistance from the State, in the form of a wage supplements, grants and advertising. Both legacy and new media were included in the scheme, and digital news platforms could apply for funding.

**Commercial & Owner Influence over Editorial Content** - Whilst the IGM's existing code of ethics applies to all journalists across all media, some of the leading legacy media owners, operating online platforms, are inevitably prone to commercial and/or owner influence over content, since they are either owned by political parties or depend on commercial backing to survive. Additionally, larger media groups do promote their own products and services. This said, there are independent newsrooms that operate commercially, yet have shown that they are willing to report on sensitive issues, whether commercial or political, free from influence, in spite of evident pressures, whilst some media houses are breaking the mould by not accepting direct advertising.

COVID-19 subsidies partly resulted in government entities and ministries becoming major "clients" in this regard. This has raised some concern (IPI, 2021) as to the effect that such adverts might have on news content published. Government entities and Ministers have been a source of income for media houses, with some editors describing government as "the biggest advertiser in the Maltese media market" (Vella, 2021,

p.45). There are no specific guidelines indicating the parameters of how and when such adverts may be carried and it is within the entity's discretion to select which media house it wants its adverts to be carried on.

### **Political Independence | Digital**

At 58% medium risk, the digital variables for **Political Independence** score a substantial 21 percentage points less than the overall score, which is placed in the high risk band at 79%. This decrease, when compared to legacy media is, potentially, in view of the fact that native digital platforms are not affiliated to any political entity.

**Political independence of Media** - The two main digital native platforms are The Shift News, which is a dedicated investigative news portal, launched following the assassination of Daphne Caruana Galizia, and Lovin Malta, which is a mixture of entertainment, popular culture, gossip and news. One might also consider the Truth be Told blog by Manuel Delia, which also includes only news and current affairs content. Other prominent online news media are all affiliated with legacy media platforms. More recently, a couple of newcomers have emerged, namely, Side-Street and MaltaDaily. They are both independently owned and are not affiliated to any political parties, at least not evidently. Another platform, that mainly consists of light news, celebrity gossip and commercial content is Strada Rjali, which is in Maltese, and seems to carry a substantial amount of commercial as well as State-sponsored advertising and content.

Both the Shift News and Truth be Told (manueldelia.com) depend on readers' subscriptions and contributions. They carry no direct advertising, except those generated automatically online (Google/Taboola). Lovin Malta is a commercial entity, and does carry direct advertising, which includes the government and various ministries/government entities as clients, although they also publish some hard hitting stories holding power to account. Of course, having the government as a client, however, does pose a risk, especially with the State being the biggest client any local media house can have, as outlined above.

**Audio Visual Media, Online Platforms and Elections** - There is no legislation regulating political advertising online and on social media to this effect, and the only directives issued were in relation to TV and radio adverts (Broadcasting Authority, 2022). The recent elections held in Malta were unique, in that online users were subject to increased political advertising activity online. As outlined earlier in the report, the independent media published estimates that highlighted the big parties' expenditure on social media and online advertising, and, in some cases, described the spend as a "small fortune" (Vella, 2022; Martin, 2022b). Additionally, online advertising did not cease on the eve of the election, which should be a "day of reflection" as stipulated by the law (Delia, J., 2022).

When it comes to campaign spending, candidates seem to be more heavily regulated than political parties, as they need to submit a declaration of expenditure listing different expenses to the Electoral Commission, even if there is no legal requirement to provide receipts as proof of expenditure, raising concerns that the current procedure lacks accountability. These declarations are not made public. On the other hand, political parties are not obliged to break down their electoral campaign expenditure in detail. In their submission of the annual expenditure report to the Electoral Commission, the sums outlined are generic and there is no breakdown in relation to campaigning, but an allocated lump sum.

**Independence of PSM Governance and Funding** - The National Broadcasting Policy states that PSM have to report to the Government of Malta on an annual basis to review whether funds allocated have been

spent adequately, and to give details as to their conclusions, as well as provide an estimate of what is due, in the case of amounts not spent. Additionally, the Broadcasting Policy includes a dedicated section on PSM Digital Media, but it does not specifically outline funding strategies, except a relocation of efforts that are to migrate from loss-incurring audio visual production to better online content generation.

PSM registered a loss of €557,380 in 2019. At the time, its liabilities exceeded its assets by €5.9 million. Sources have told Lovin Malta that the situation has deteriorated further in recent years (Peregin, 2021). As of January 2021, PSM started receiving an injection of €30 million, allocated by the State, spread over a period of 5 years, to cover all operations, including online. This might be considered as an unfair advantage over the other private stations, since PSM also compete with them directly for advertising revenue.

Additionally, as outlined earlier, in a 2021 report, the Centre for Media, Data and Society (CMDS), classified Malta's PSM (PBS) as 'state-controlled media', and mentioned that data and research collected "have shown that the editorial coverage is controlled by the government" (Public Media Alliance, 2021, n.p.; Dragomir & Söderström, 2021).

### **Social Inclusiveness | Digital**

When compared to the overall MPM scores for Malta (62%), the digital variables for **Social Inclusiveness** score only 1 percentage point less at 61%. Essentially this reflects the overall trends seen in legacy media. This could also be in view of the fact that most cases of hate speech, especially towards ethnic minorities (but not limited to), take place online.

**Media Literacy** - According to 2019 Eurostat Data, 59% of the Maltese population has basic or above basic overall digital skills, whilst 29% has low overall digital skills, overall yielding a medium risk. Malta has had a Digital Literacy policy in place since 2015, but is yet to publish a Media Literacy policy document, in spite of a Media Literacy Development Board being appointed in January 2021.

**Protection Against Hate Speech on Social Media** - In spite of the fact that there is increased awareness about hate speech, as well as a dedicated Hate Crimes & Speech Unit, set up in 2019, social media is still rife with considerable amounts of hate speech, some of which would classify as illegal incitement to violence or hatred. NGO Aditus observes that the most targeted group are asylum seekers, refugees and third-country nationals in general, a particularly vulnerable group in view of their limited access to structures that effectively address hate crimes committed against them. Aditus has also noted "a substantial increase in trolling activities against political opponents, activists and NGOs that show disagreement with government policy" (2021, p.3).

To date, there is still no formal regulatory framework to combat disinformation, and the absence of a comprehensive media literacy policy designed to empower consumers in critically assessing the output of media outlets further aggravates the current situation. Although The Shift News, primarily, together with other independent newsrooms, as well as good governance NGOs like Repubblika and Aditus make a concerted effort to combat disinformation, the reach that the party in government has on traditional and digital/social media, as well as its influence on PSM, makes the work of these organisations all the more difficult.

Women are frequently targets of hate speech, as highlighted by the Commissioner for the Protection of Equality, Renee Laiviera (Calleja, 2021). They are threatened with rape, or dehumanised. Although reports

are made to social media platforms - mainly Facebook, since it is a more popular platform in Malta - it is very difficult to have certain posts removed, especially in view of linguistic nuances in Maltese.

## 5. Conclusions

Yet again, the results from the MPM2022 clearly show that Malta has a number of pressing issues that need to be addressed and resolved in all areas of the Monitor.

**Fundamental Protection** is the only area with no high risk scores, however, certain issues, evidently, need attention, especially in relation to Freedom of Information requests, and self-regulation of the profession, as highlighted by the Caruana Galizia Inquiry report (2021)<sup>[36]</sup>.

- There is an urgent need for cooperation from Government and its agencies in addressing FOI requests in a timely and transparent manner;
- It would be advisable for a wider consultation to be held by the Committee of Experts appointed as a result of the Caruana Galizia Inquiry recommendations, if the latter are to be implemented effectively, thus involving all stakeholders in creating a safer environment for the journalistic profession and ensuring that effective self-regulation is achieved;

The absence of transparent data pertaining to market shares of media companies, both legacy and digital, advertising revenue, as well as lack information on print media circulation figures and online activity are the main contributors to the high risk score obtained in the area of **Market Plurality**.

- More research and data collection needs to be carried out on a regular basis. Without reliable research and objective strategies based on information gathered, the media landscape cannot be strengthened in a systematic and reliable manner, and, although problematic areas may be identified at present, it is essential for media operators and regulators to have access to accurate, publicly available data that would inform decisions that need to be taken;
- As stated in previous reports, the establishment of a comprehensive and independent Media Authority, overseeing all platforms, set up with the input and participation of all stakeholders, would contribute towards improving the Maltese media landscape, and would, not only protect the rights of those who operate within the field, but serve as a determining factor towards improving each sector operationally, as well as strengthening the credibility of its practitioners, by overseeing that expected standards are met by all media houses across all platforms.

As in previous reports, the highest risk scores for Malta are in the area of **Political Independence**. Key problematic areas are the political party-owned media, as well as concerns over the lack of independence in PSM governance, funding and editorial independence.

- The conversation about party-owned media needs to be placed high on the agenda again, with clear and realistic targets;
- Additionally, it is being reiterated that a policy, with a set of clearly defined objectives, and a strategy outlining concrete goals, need to be put forward for PSM, so as to restore, safeguard and strengthen their role as a trusted public service.



The area of **Social Inclusiveness** also sees very high scores, more specifically in the areas of minority group representations, access to media for women, media literacy and protection against illegal and harmful speech.

- The drafting of a comprehensive media literacy policy has become all the more urgent, if Malta is to start seeing an improvement in all aspects of this area. The educational policy recommendations need to have clear goals and timelines, that include empowering consumers by strengthening their critical evaluation of all media content, as well as significantly reducing any form of hate speech;
- It is also being recommended that the Broadcasting Authority addresses issues of underrepresentation (ethnic minorities, women, persons with disabilities) and disinformation, not through guidelines, but by means of clear and comprehensive directives that apply to all practitioners.



## 6. Notes

- [1] See: <https://legislation.mt/eli/act/2014/10/eng/pdf>
- [2] See: <https://www.rainbow-europe.org/#8647/0/0>
- [3] NSO (2022, 1 March). News Release. [https://nso.gov.mt/en/News\\_Releases/Documents/2022/03/News2022\\_037.pdf](https://nso.gov.mt/en/News_Releases/Documents/2022/03/News2022_037.pdf)
- [4] See: <https://www.theguardian.com/politics/2019/dec/01/malta-pm-joseph-muscat-quits-daphne-caruana-galizia>
- [5] See: The Guardian - Malta's PM quits in crisis over Daphne Caruana Galizia murder. <https://www.theguardian.com/politics/2019/dec/01/malta-pm-joseph-muscat-quits-daphne-caruana-galizia>
- [6] European Parliament resolution of 29 April 2021 on the assassination of Daphne Caruana Galizia and the rule of law in Malta, [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0148\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0148_EN.html)
- [7] See: <https://www.reuters.com/world/europe/malta-says-it-has-been-greylisted-by-financial-crimes-watchdog-2021-06-23/>
- [8] Translation of the Daphne Caruana Galizia Inquiry Report, commissioned by the Daphne Caruana Galizia Foundation. <https://www.documentcloud.org/documents/21114883-public-inquiry-report-en>
- [9] Investigative journalist Daphne Caruana Galizia was assassinated by a car bomb, metres away from her home in Bidnija, on Monday, 16 October 2017.
- [10] See: Establishment of a Committee of Experts on Media | Information Note - [https://www.gov.mt/en/Government/DOI/Press\\_Releases/PublishingImages/Pages/2022/01/11/pr220024/pr220024a.pdf](https://www.gov.mt/en/Government/DOI/Press_Releases/PublishingImages/Pages/2022/01/11/pr220024/pr220024a.pdf)
- [11] Constitution of Malta - Arrangement of Articles, p. 19 - <https://legislation.mt/eli/const/eng/pdf>
- [12] Chapter 496, Freedom of Information Act. <https://legislation.mt/eli/cap/496/eng/pdf>
- [13] Chapter 579, Media and Defamation Act. <https://legislation.mt/eli/cap/579/eng/pdf>
- [14] Chapter 350, Broadcasting Act. <https://legislation.mt/eli/cap/350/eng/pdf>
- [15] See: World Dab - <https://www.worlddab.org/countries/malta>
- [16] Malta Business Registry. <https://registry.mbr.mt/ROC/>
- [17] Chapter 350, Broadcasting Act - supra
- [18] Chapter 579, Media and Defamation Act - supra
- [19] Chapter 386, Companies Act. <https://legislation.mt/eli/cap/386/eng/pdf>
- [20] Malta Competition and Consumer Affairs Authority. <https://www.mccaa.org.mt/>
- [21] Chapter 350, Broadcasting Act - supra
- [22] Chapter 386, Companies Act - supra
- [23] Translation of the Daphne Caruana Galizia Inquiry Report, commissioned by the Daphne Caruana Galizia Foundation - supra
- [24] Chapter 350, Broadcasting Act - supra
- [25] Translation of the Daphne Caruana Galizia Inquiry Report, commissioned by the Daphne Caruana Galizia Foundation - supra
- [26] Chapter 363, Local Government Act. <https://legislation.mt/eli/cap/363/eng/pdf>
- [27] See: <https://legislation.mt/eli/sl/350.17/eng/pdf>
- [28] See: Broadcasting Authority - Long Term Community Radio Stations - <https://ba.org.mt/en/stations-licenced>
- [29] Chapter 9, Criminal Code. [https://justice.gov.mt/en/pcac/Documents/Criminal\\_code.pdf](https://justice.gov.mt/en/pcac/Documents/Criminal_code.pdf)

- [30] Constitution of Malta - Arrangement of Articles - supra
- [31] Chapter 350, Broadcasting Act - supra
- [32] See: The Shift News - Investigating Joseph Muscat's online hate machine.  
<https://theshiftnews.com/2018/05/14/investigating-joseph-muscats-online-hate-machine/>
- [33] See: The Shift News - Malta one of 70 countries using organised social media manipulation campaigns. <https://theshiftnews.com/2019/09/27/social-media-manipulation-malta/>
- [34] Chapter 386, Companies Act - supra
- [35] Malta Competition and Consumer Affairs Authority - supra
- [36] Translation of the Daphne Caruana Galizia Inquiry Report, commissioned by the Daphne Caruana Galizia Foundation - supra

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## ANNEXE I. COUNTRY TEAM

First name	Last name	Position	Institution	MPM2022 CT Leader
<i>Louiselle</i>	<i>Vassallo</i>	<i>Associate Academic</i>	<i>University of Malta</i>	X

## ANNEXE II. GROUP OF EXPERTS

The Group of Experts is composed of specialists with a substantial knowledge and recognized experience in the field of media. The role of the Group of Experts was to review the answers of the country team to 16 variables out of the 200 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>Herman</i>	<i>Grech</i>	<i>Editor in Chief</i>	<i>The Times of Malta</i>
<i>Alex</i>	<i>Grech</i>	<i>Senior Lecturer</i>	<i>University of Malta   3CL - Commonwealth Centre for Connected Learning</i>
<i>Brenda</i>	<i>Murphy</i>	<i>Associate Professor</i>	<i>University of Malta</i>
<i>Joseph</i>	<i>Mizzi</i>	<i>Publisher</i>	<i>Midsea Books</i>

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