

# 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: Portugal

Francisco Rui Nunes Cádima, ICNOVA - Nova Institute of Communication (FCSH - Universidade Nova de Lisboa)

Carla Baptista, ICNOVA - Nova Institute of Communication (FCSH - Universidade Nova de Lisboa)

Marisa Torres Da Silva, ICNOVA - Nova Institute of Communication (FCSH - Universidade Nova de Lisboa)

Patrícia Abreu, NOVA FCSH

**Research Project Report**

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# TABLE OF CONTENTS

<b>1. About the project</b>	<b>4</b>
1.1. Overview of the Project	4
1.2. Methodological notes	4
<b>2. Introduction</b>	<b>6</b>
<b>3. Results of the data collection: Assessment of the risks to media pluralism</b>	<b>7</b>
3.1. Fundamental Protection (23% - low risk)	9
3.2. Market Plurality (56% - medium risk)	11
3.3. Political Independence (20% - low risk)	13
3.4. Social Inclusiveness (59% - medium risk)	16
<b>4. Pluralism in the online environment: assessment of the risks</b>	<b>18</b>
<b>5. Conclusions</b>	<b>21</b>
<b>6. Notes</b>	<b>24</b>
<b>7. References</b>	<b>25</b>
<b>Annexe I. Country Team</b>	
<b>Annexe II. Group of Experts</b>	

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# 1. About the project

## 1.1. Overview of the Project

The Media Pluralism Monitor (MPM) is a research tool designed to identify potential risks to media pluralism in the Member States of the European Union and in candidate countries. This narrative report has been produced on the basis of the implementation of the MPM carried out in 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 Portugal the CMPF partnered with Francisco Rui Nunes Cádima, Carla Baptista and Marisa Torres Da Silva (ICNOVA - Nova Institute of Communication (FCSH - Universidade Nova de Lisboa)), Patrícia Abreu (NOVA FCSH), 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 Annex 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.

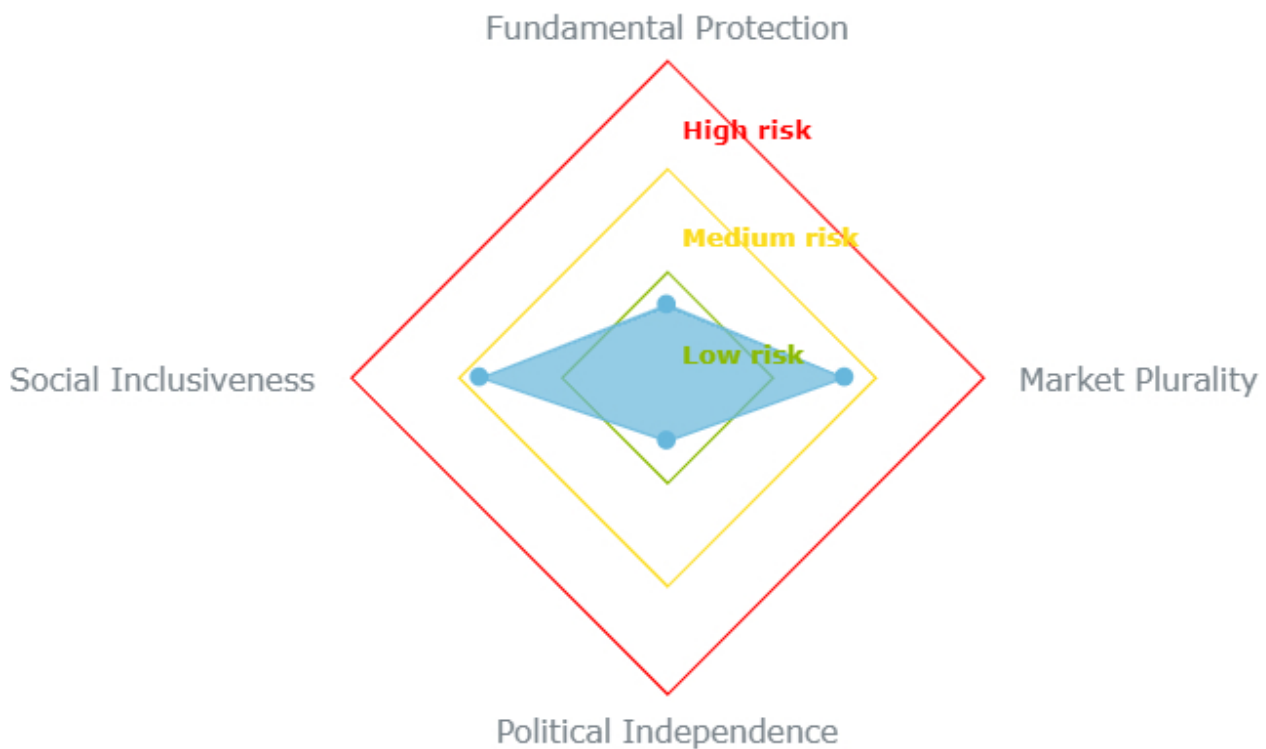
**Disclaimer:** The content of the report does not necessarily reflect the views of the CMPF, nor the position of the members composing the Group of Experts. It represents the views of the national country team that carried out the data collection and authored the report. Due to updates and refinements 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.** Portugal is located at the western end of Europe (Iberian Peninsula), and its resident population is currently, according to the 2021 Census (INE), 10,344,802 people. The language spoken is Portuguese, and a good part of the younger population is fluent in English. Moreover, except for the islands of Madeira and the Azores, there are no other regions with their own administration.
- **Minorities.** Officially there are no legally recognised minorities in Portugal. The population is quite homogeneous from the north to the south of the country. There is, however, a Roma minority that is estimated to number around forty thousand people.
- **Economic situation.** The country's economic situation remains stable, with a tendency toward growth in 2022 (5.1%), mainly due to the strong contraction suffered in 2020. Despite having suffered a substantial reduction of 7.7 pp of GDP, public debt remains very high, decreasing from 135.2% in 2020 to 127.5% in 2021 (Gov.pt).
- **Political situation.** From a political point of view, after the January 2022 elections, the next four-year legislature is relatively quiet, with the absolute majority recently won by the Socialists (41.5%), although abstention remains very high (42%). There is still a good interinstitutional relationship between the Presidency of the Republic and the current majority government of the Socialists. The only big difference compared to previous years is the emergence of the far-right in Parliament, now with 12 deputies from the Chega party.
- **Media Market.** Despite a slight recovery compared to 2020, the general situation of the Portuguese media is still relatively difficult, with the small advertising market not being enough to support all operators in the market. The inversion that has taken place in recent years with the growth of digital does not ensure the economic rebalancing of this sector.
- **Regulatory Environment.** The regulatory environment has been stable, without evidence of any kind of "capture", some kind of external - subliminal - control by the media companies over the administration of the regulatory authority itself. Even so, there are some problems of underfunding of the ERC by the State, which is a natural cause for concern. With regard specifically to the law enforcement of the Audiovisual Directive, the necessary steps were taken by the Portuguese legislator in due course. A draft law transposing the AVMS Directive (Proposta de Lei 44/XIV) was submitted to the Parliament on 29 June 2020. It was put under public consultation taking place during July. Then, the draft law was approved by the Portuguese parliament, in general, on 10 July 2020. In the same year, in October, the Culture and Communication Commission of the Parliament organised hearings with various stakeholders regarding the draft law, and finally, the draft law transposing Directive (EU) 2018/1808 was approved by Parliament on 23 October 2020 and approved by the President of the Republic on 16 November. The Law (nº 74/2020) was published on 19 November 2020 and entered into force on 19 February 2021, 90 days after its publication. About a year after the entry into force of the law, it is still premature to assess the transposition of the Directive into Portuguese legislation.
- **COVID-19.** The impact of Covid-19 on Portuguese media in 2021 was already moderate, with the most critical situation in 2020 in mind. In 2021, an existing growth of around 15% in the advertising market contributed to mitigating the deepening of the sector crisis that emerged with the pandemic.

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

#### Portugal: Media Pluralism Risk Areas



JS chart by amCharts



The 2022 report on Portugal presents a stable situation in the country, with a low risk in the areas of **Fundamental Protection** (23%) and **Political Independence** (20%) - and a medium risk in the **Market Plurality** (56%) and **Social Inclusiveness** (59%) areas.

The case of **Fundamental Protection** is very clear regarding the robust framework and sustainability of the Rule of Law in Portugal in terms of the media sector. In general, the area of Fundamental Protection is very well defended by the legislation of the sector, namely by the Constitution of the Portuguese Republic and the main laws of the media sector - press, radio and television. This does not mean that everything is perfect. There are several issues that still need to be improved. For example, the regulatory authority (ERC) has been complaining about underfunding and delays in sending budget allocations by the government. However, this does not mean that the ERC is not independent. It is important to point out that the ERC is the only Portuguese regulatory agency that does not have political tutelage and that Portugal also has an Advisory Council, a consultative body that takes part in the definition of the general guidelines for ERC activity in the context of media and associated sectors. Besides, regarding the framework for Journalistic profession, standards and protection (20%), some improvements should be implemented. As a result of the pandemic and of the insufficient State support for news organizations and news media, the situation remains the same as last year, with negative impacts of the pandemic on journalists working conditions. There are still some reasons for concern regarding the effectiveness of professional organizations regarding journalistic ethical standards. Combined with the growing precariousness in the profession, this weak effectiveness undermines the credibility of journalism. Journalists, their associations and media outlets need to be more determined to safeguard editorial independence. Other combined tendencies, such as the

growing labour precariousness and the general economic crisis - that also affect the media/new media sectors-, are exposing journalists to some risks in terms of editorial independence and professional standards.

In terms of **Market Plurality** (56%), the News Media Concentration still causes concern in Portugal. There are only four players that control the private media business: Impresa, Cofina, Media Capital, Global Media and RTP (state-owned group). There is still no general law in Portugal that prevents horizontal concentration of traditional media nor regarding the digital markets. In addition, the media viability risk indicator is still high, with the media sector having close to no growth compared to last year, as the sector is still recovering from the COVID-19 crisis. Media companies do not always have fully transparent information about their management structure and the issue of ownership, despite the regulator's efforts and the creation of the Transparency Platform. Some media outlets continue to show low levels of transparency in these dimensions. However, the risk associated to the indicators Transparency of Media Ownership and Commercial & Owner Influence over Editorial Content remains low.

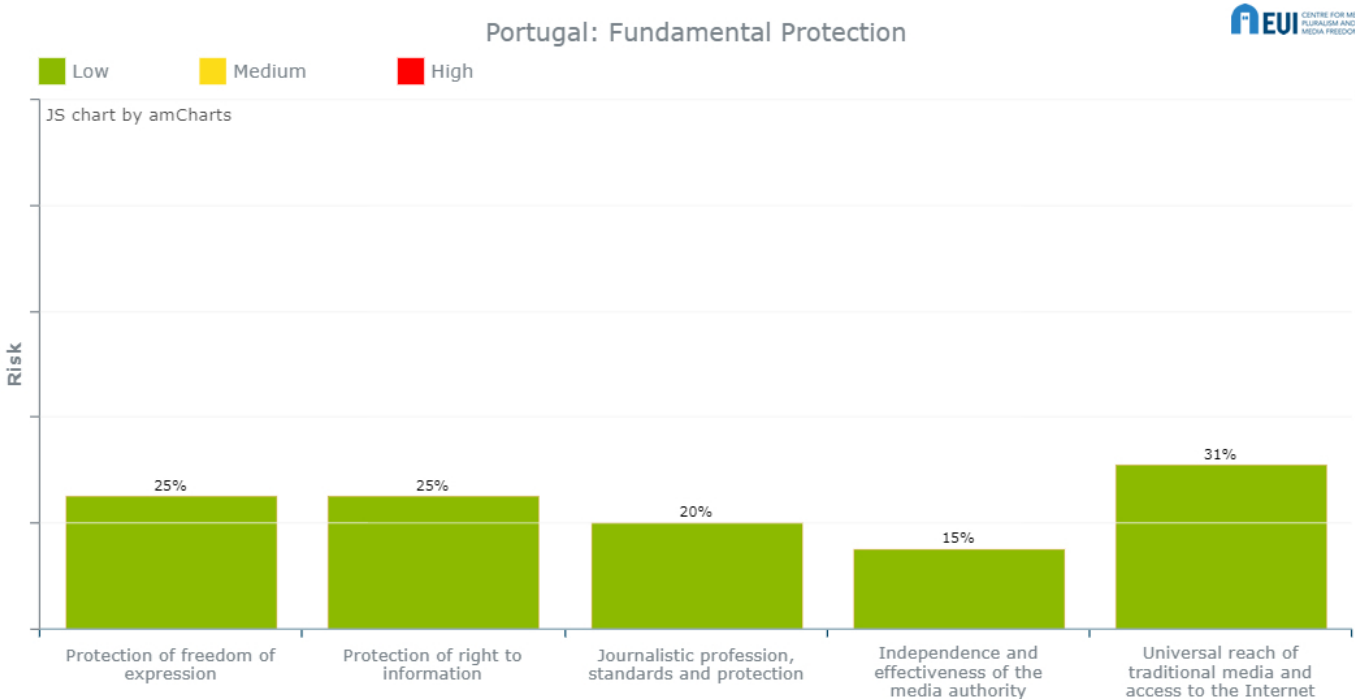
The positive indicators in the area of **Political Independence** (20%) result from a consolidated legal framework in protecting the independence of journalists from the influence of political parties. The protection of media pluralism in the future requires legislative reforms that allow for effective regulation of the digital media landscape, which is more polarized, as well as the implementation of public policies to support independent investigative journalism and safeguard the quality of public service.

The **Social Inclusiveness** area presents a medium risk to media pluralism (56%). Its score is affected by the high risk of the indicators Access to Media for Minorities and Protection against Illegal and Harmful Speech. Minorities are under-represented in Portuguese media. The pandemic context was the more significant social issue fueled by disinformation, which in 2021 turned to look more organized. Besides, the lack of concrete data collection concerning online hate speech on the Internet and social media persists. Community-based media face a very difficult economic situation. Gender inequalities related to media representation and leadership positions are also concerning.



### 3.1. Fundamental Protection (23% - 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.



As we have seen in previous years, Portugal's situation in terms of **Fundamental Protection** is relatively stable. All the indicators present a low risk, which means that this strategic area does not raise major problems from the point of view of pluralism and sustainability of the media sector.

In Portugal, there are clearly regulatory safeguards for **Freedom of expression** (FoE) in the Constitution. Also in terms of FoE international standards, Portugal signed with no reservations the ratification of the core European treaties covering freedom of expression, and Portuguese citizens have legal remedies in cases of infringement of their freedom of expression, and these legal remedies are effective (Press Law, 1999). There is no evidence of any substantive change compared to recent years, in particular with regard to the question of the effectiveness of the legal framework. Only a few cases were reported and reanalyzed by the European Court of Human Rights, but they are non-significant.

The same happens with the guarantees for **FoE online**. In general, there are no restrictions on the media or on freedom of expression online – the great majority of the cases always refer to situations that violate property rights. In the context of the pandemic, the legal framework and policies have been 'proportional' considering the legitimate objective pursued. No evidence that the government misused libel and defamation legislation to limit freedom of expression during the pandemic emergency.

In terms of strengths in this area, one can note that the entire legal framework, the entire legal basis for the

media in Portugal, is sufficiently robust to guarantee the system's fairness. Concerning less consolidated aspects, our assessment points in particular to two problems to be improved. On the one hand, despite the low risk associated to the indicator - **Journalistic profession, standards, and protection** (20%), it is necessary to strengthen the protection for journalists, especially from an economic point of view. There is a need to consolidate the market in order to create greater sustainability for the industry itself. On the other hand, there is a need to reform the legal model for assessing the issue of defamation, which needs to be framed in the light of best practices and European recommendations on this specific topic. Due to the consolidation of the democratic regime after the 25th of April 1974 (after the dictatorship of Salazar and Caetano), the Portuguese legal and normative framework, as well as the solid democratic structure in the semi-presidential parliamentary regime, practically prevent any abusive practices or threats towards journalists or the media, whether public, private, or independent. As we have seen, one or another exception, without great relevance, does not fail to confirm the rule.

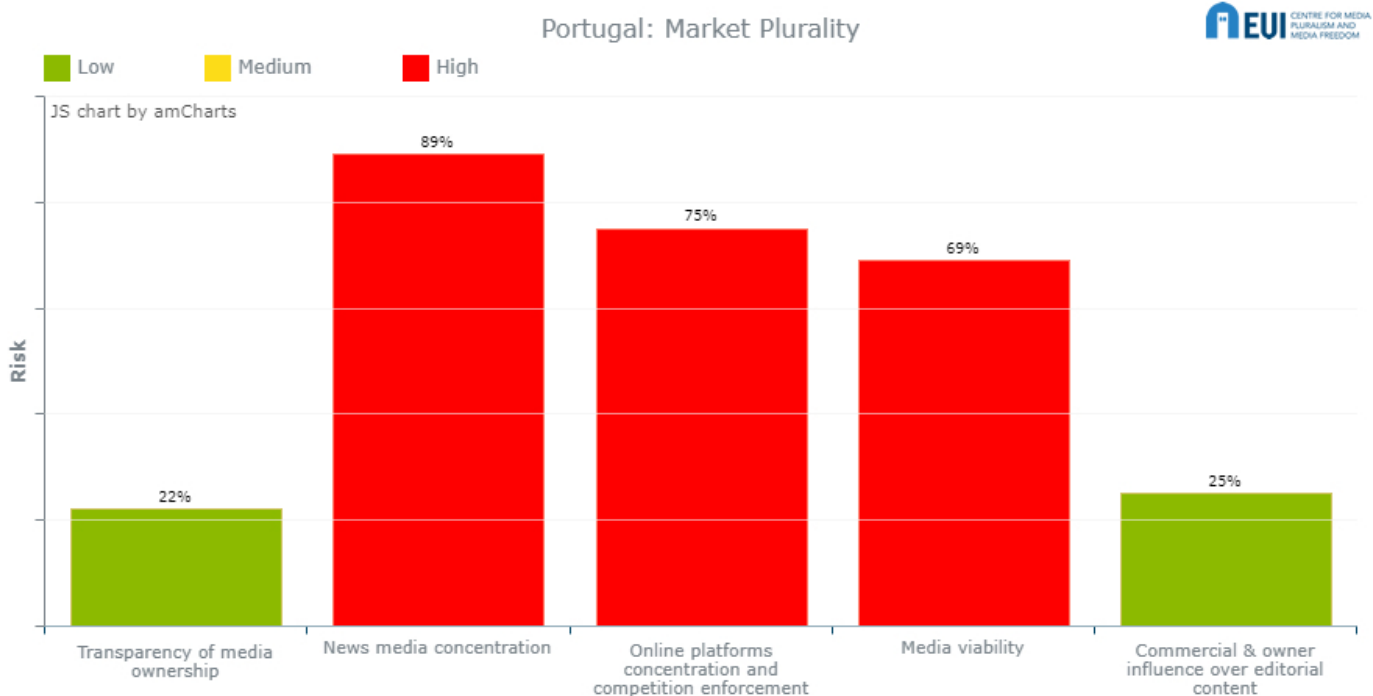
When evaluating the effects of the pandemic in the area of **Fundamental Protection**, we can say that, from the point of view of the newsrooms' autonomy and the **journalistic profession** itself, there were no interferences from either the government or interest groups, be they political or economic. From an economic point of view, this was, in fact, a problem that was still relatively mitigated with State support, namely through the lay-off legislation (Cádima, 2021).

In terms of the **Independence and effectiveness of the media authority**, there is no evidence that the government overrules the competences and the independence of the authority. There is however a debate around the need to strengthen the legitimacy of regulators, in particular the appointment mechanisms, with proposals from civil society in the sense of having a shared appointment between the President of the Republic and the Parliament. The problems of underfunding and delay in budget allocations by the Government have been verified and should be definitively resolved in near the future.

Concerning the **Universal reach of traditional media and access to the Internet** (31%), some aspects still need to be improved, namely in the percentage of the population that access broadband (86.6%) and in the percentage of broadband subscriptions in the country (82%). Besides, in the area of ISPs concerning the management of network traffic, some problems are not entirely clarified yet (Bacelar, 2021).

### 3.2. Market Plurality (56% - 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 MPM 2022, the risk level of the **Market Plurality Area** is still medium (56%) even though it has decreased slightly compared to last year (60%). Three indicators score high risk, similarly to last year: **News Media Concentration, Online Platforms Concentration and Competition Enforcement, and Media Viability.**

The indicator on **News Media Concentration** scores 89%. There are only four players that control the private media business in Portugal: Impresa, Cofina, Media Capital, and Global Media, while RTP (Rádio e Televisão de Portugal) is the State-Owned group (OMNICOM, 2021). This scenario has not changed from last year to this year. These players include all media sectors. There is still no general law in Portugal that prevents horizontal concentration of media. For traditional news media, the only limitations indicated by Portuguese Law concern distribution of share capital and turnover (over €100 million) (ERC, 2021).

Within the digital realm, the regulatory framework has not been upgraded. Although AdC (Autoridade da Concorrência – Competition Authority) has shared some concerns on abuse and collusion in the digital

environment and seems keen on undertaking these issues, there is no general media law that avoids horizontal concentration yet, namely in the digital area (Rosa, 2021). ERC - Entidade Reguladora para a Comunicação Social - is the specific authority for the media industry. However, the law is limited on what concerns cross-media concentration, and it does not foresee horizontal concentration within media players (ERC, 2021). In the last years, the laws that rule ownership have remained the same.

**Online Platforms Concentration and Competition Enforcement** indicator has decreased from 92% in 2021 to 75% in 2022. Although it is a significant decrease, it still falls in the High-Risk category. The Competition Authority (AdC) and the media authority (ERC) are in charge of analyzing any case of Mergers and Acquisitions between media companies and, if necessary, to overrule a transaction on media pluralism grounds (Law 19/2012 and Law 53/2005). Nevertheless, this legislation does not include specific rules for digital and online advertising platforms. There is no law yet that considers the digital markets or the expansion of online media platforms. The Directive (EU) 2019/790 of the European Parliament and the Council of 17 April 2019 on copyright and related rights in the Digital Single Market has not been transposed to the Portuguese Legislation. Its approval has been postponed to November 2021 (Proposal of Legislation nº 114/XIV/3<sup>a</sup>) due to the government's falling due to the 2022 Budget disapproval. The new procedure on the transposition is due by the end of 1st semester 2022 or the beginning of 2nd semester 2022. Regarding the taxation of digital services, Portugal has implemented the Digital Service Taxes on the scope of commercial audiovisual communication on video-sharing platforms and subscriptions for video-on-demand services, with a tax rate of 4.1%, in effect since February 2021.

The **Media Viability** indicator reaches 69%, which is considered High Risk. The first semester of 2021 shows a growth tendency compared to the first semester of the previous year (Durães, 2021), on what concerns the three major media companies listed on the stock market (Cofina, Impresa, and Media Capital). According to some sources, the Media Sector grew 6% in 2021 compared to the previous year. Nevertheless, this growth is similar to the nominal GDP growth, and the media revenues are not back to the numbers of 2019. The Media Sector (587M€) is expected to grow 6% when compared to 2020. A close look at the situation shows that, while Newspapers (-2%) and Magazines (-4%) are projected to decrease on what concerns revenues, Television (4%) and Radio (7%) are expected to grow when compared to last year. Although still recovering from the pandemic, various traditional media have shown a tendency of growth, from Television (with the number of Pay-TV subscribers increasing from 89.2% in the first semester of 2020 to 94.2% in Portugal as of the first half of 2021) to the Radio sector and also the Newspaper Publishing and Press Agencies (European Commission, 2021). However positive, this growth is, the numbers are still far from the general revenue of the companies before the COVID-19 pandemic. Although there are still media organizations downsizing their workforce, there have been fewer salary cuts within media groups, and layoffs have been reduced compared to last year. Some independent brands are promoting innovative sources of revenue, journalistic practices, and business models, such as *Fumaça*, *Mapa*, *Shifter*, *Divergente*, or *Interruptor*, as they “generally aim to build long-term sustainability through a much closer and intimate relationship with their audiences, with start-up funds often coming from a mix of crowdfunding and foundations” (REUTERS, 2021).

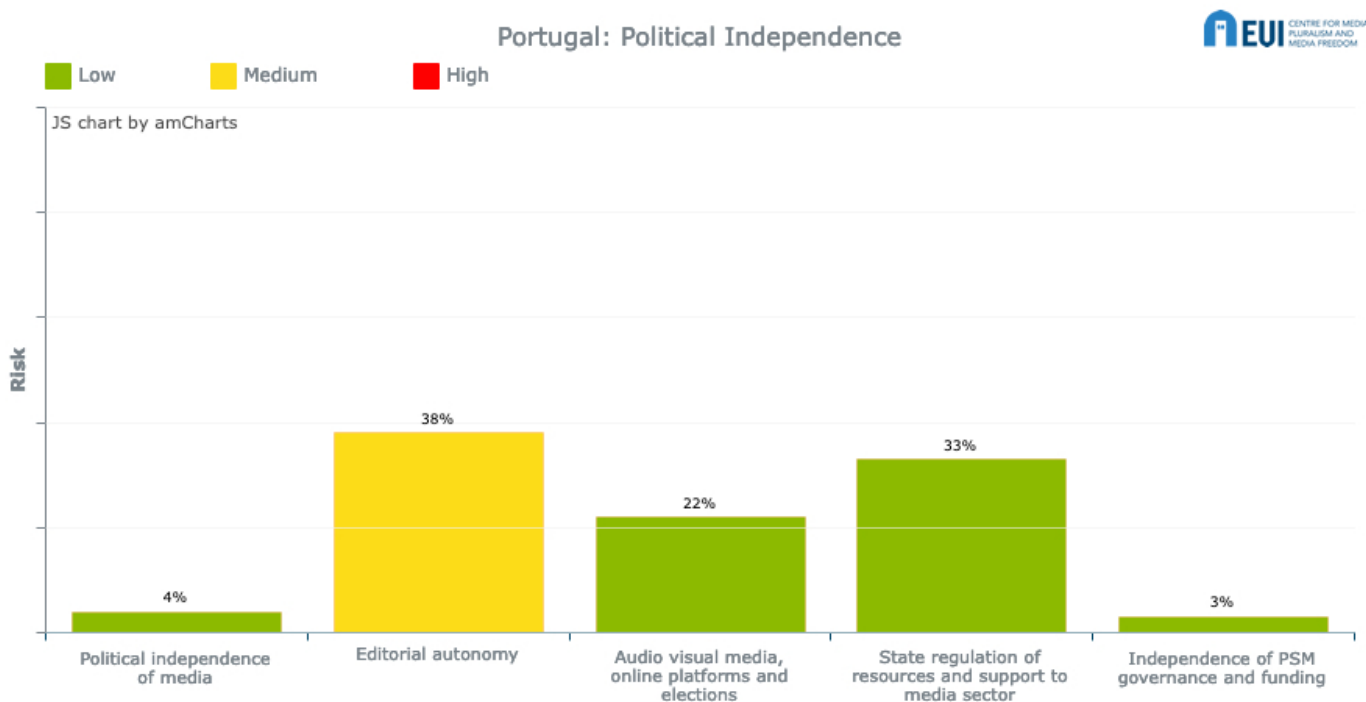
In the two other indicators, **Transparency of Media Ownership** and **Commercial & Owner Influence over Editorial Content**, the levels of risk remain low, as in the previous year. The risk associated to the indicator **Transparency of Media Ownership** is 22%. Whether traditional or digital-based, news media companies must report their ownership structures to the public and the media authority, ERC. The General Media Transparency Law (78/2015) states that all types of media companies must provide up-to-date information about their ownership structures. The majority of the media companies disclose correct and transparent

information publicly. However, there are exceptions, and the law is not always effective. Some entities show low levels of transparency, and there is no proof that the ERC actually sanctions companies based on no information or misinformation provided by them. It is hard to say whether those sanctions are applied in practice. The Portal da Transparência (Transparency Portal) was created by ERC on December 2019 in order to aggregate all the information on media ownership and make it available to the public. Article 2 clearly refers to all types of media companies, whether they are traditional or digital-based. The Transparency Portal, however, does not always provide required and transparent information on some companies.

The indicator **Commercial and Owner Influence over Editorial Content** shows the same level of low risk as the previous year: 25%. In general, appointments and dismissals of journalists, including editors-in-chief, are not dependent on the commercial interests of a media organization, as the law protects journalists from economic influences. However, there have been some exceptions in the past. This year, CNN Portugal has replaced the news channel TVI24 and even though the company is the same, Media Capital, the journalists and the team's structure have had modifications. As another example, some generalist channels, particularly TVI, promote their main entertainment programs with some frequency during prime-time news. Some contamination of information formats by commercial or advertising elements (Figueiredo and Calado, 2021) also happens sometimes.

### 3.3. Political Independence (20% - low risk)

*The Political Independence indicators assess the existence and effectiveness of regulatory and self-regulatory safeguards against political bias and political influences over news production, distribution and access. More specifically, the area seeks to evaluate the influence of the State and, more generally, of political power over the functioning of the media market and the independence of 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 **Political Independence** area presents a low-risk level (20%), aligned with last year's results (24%).

The indicator **Political Independence of Media** indicates 4% - low risk. The Television Law (Law nº 27/2007) and the Radio Law (Law nº 54/2010) prohibit parties and politicians from exercising or financing, directly or indirectly, activities on these platforms. The Transparency Law (Law nº 78/2015) requires media companies to send to the Portuguese Regulatory Authority for the Media (ERC) detailed information on ownership, financial data (including relevant clients and holders of liabilities), and holders of corporate bodies and corporate governance reports. The Regulatory Decree nº 8/99 establishes the mandatory registration of journalistic companies and periodic publications, extending the regulated universe to newspapers. The registration as a news publication implies compliance with the requirements stipulated in Article 15º of the Press Law (Law nº 2/99), including the indication of the editorial statute and at least one journalist responsible for the news content, but this is outdated given the multiplatform organization of most digital media. The leading Portuguese newspapers are independent, although political parties may own newspapers. The growing universe of digital media includes politically polarized newspapers and developing blurred monetization strategies based on branded content production. This conflicts with the incompatibilities defined in Article 3º of the Journalist's Statute (Law nº 1/99), namely the functions of marketing, public relations, communication, and image consultancy. The current regulatory framework is unable to answer this trend.

The indicator **Editorial Autonomy** marks 38% - medium risk. The slight improvement from the previous year (46%) reflects the existence of fewer cases of political power attempts to interfere in the information management of news organizations. The pandemic constraints concerning limiting access to information and reducing news diversity were less prominent in 2021 than in the previous year. Portugal has a stable legal framework of regulatory safeguards preventing political influence over news content. In the case of public media, the ERC must obligatorily pronounce itself on the appointment and dismissal of directors and editors-in-chief in the information and programming areas. Private media are exempt from this binding opinion and are less scrutinized. Article 12º of the Journalist Statute (Law nº 1/99) protects the editorial autonomy of journalists, and this safeguard also exists in the sectorial media laws (Article 1º of the Press Law, Article 26ª of the Television Law and Article 29ª of the Radio Law). The practical independence of editorial content is threatened by the persistence of situations of job insecurity and the structural weakness, or even non-existence, of self-regulatory mechanisms in many journalistic outlets, including the leading private television stations.

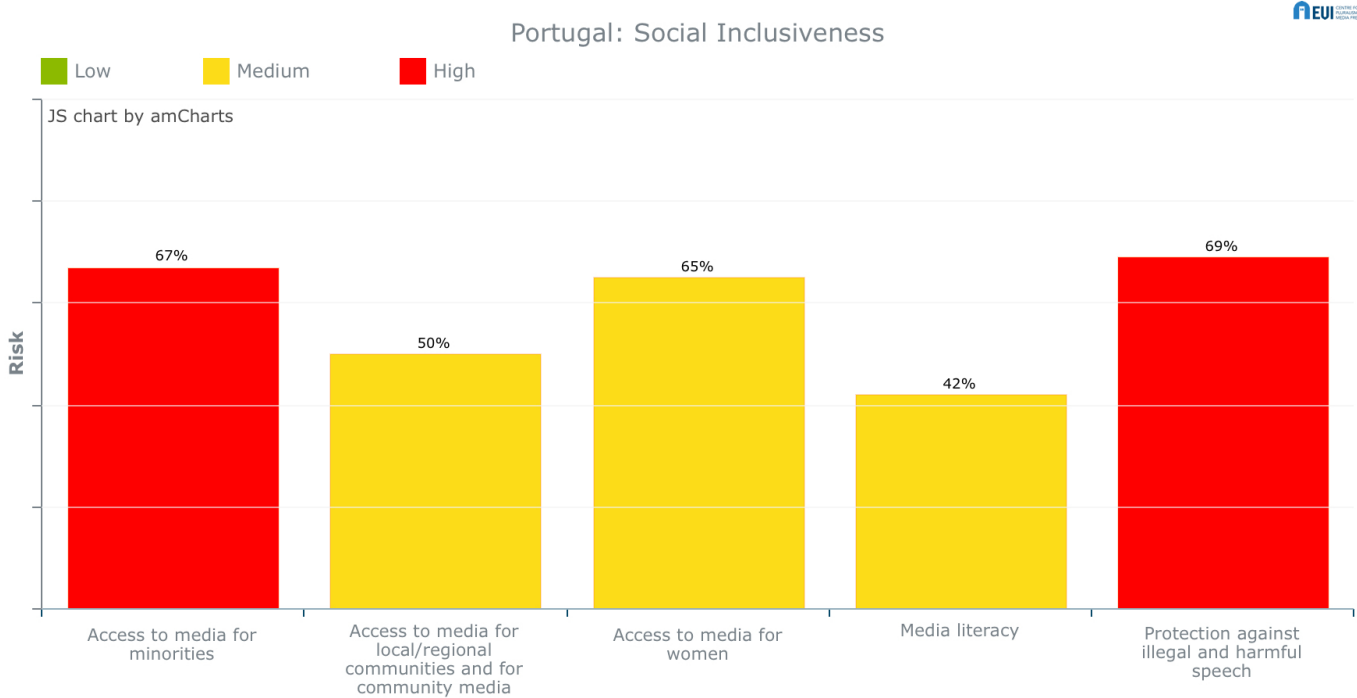
The indicator **Audiovisual Media, Online Platforms and Elections** is at low risk (22%). Political pluralism is an obligation stipulated in the Television Law and the Radio Law, and ERC is statutorily mandated to monitor the diversity of political actors in the media. In the case of the public media and the Lusa News Agency, this obligation is reinforced through the public service concession contracts. Law nº 72-A/2015 establishes the legal regime for news coverage during electoral periods and prevents political propaganda through commercial advertising. The improvement of this indicator to the previous year (34%) translates to the good performance of the principal generalist and informative cable television channels during the presidential elections of 2021, which articulated themselves to ensure the equitable presence of all candidates in television debates. Deficits exist at the level of regulation of digital platforms, which are also barred from distributing propaganda in election campaigns but escape effective regulation. There is a need to review the legal framework for media regulation, adapt it to the digital reality and foresee the new mechanisms of interference and expression of political visibility. The journalistic culture remains focused on covering the parties' activities with parliamentary seats, undermining the representativeness of political actors outside this sphere.

The indicator **State Regulation of Resources and Support to Media Sector** scores low risk. Portugal does not have a consolidated public policy to support the media. The existing subsidies are postage paid for local and regional press and funds for digitisation, professionalisation and content production, available through applications to competitive projects managed by CCDRs (Commissions for Coordination of Regional Development). In 2020 the government approved a €15 million package in the form of advance purchase of institutional advertising, intended to alleviate the declines suffered in advertising revenues and sales caused by the Covid-19 pandemic. This package was not renewed in 2021. A report prepared by ERC (2021b) indicates that more than 52% of media organisations continued to experience revenue contraction in the 1st quarter of 2021. The pandemic affected mostly regional and local press and radios, requiring specific policies to support the most fragile sectors. The Calouste Gulbenkian Foundation, a private cultural entity, announced in 2021 the end of the program of grants to support journalistic research, reducing initiatives to support investigative journalism. The low risk achieved by this indicator relates to the effective regulation of the transparency of institutional advertising, which ERC monitors.

The indicator **Independence of PSM Governance and Funding** indicates 3% - low risk, the same as last year. Audiovisual public service media (RTP) are sustainable, and the governance model is independent. The CGI (Independent General Council) is responsible for choosing the Board of Directors and monitoring the adequacy of its strategic project. RTP is financed by the CAV (Contribution to the Audiovisual Media), a €2.85 fee paid on the electricity bill, but the news agency Lusa depends on the approval of the budget law. Political instability in the country (fall of the government and early elections in January 2021) caused successive delays in the signing and approving of the public service concession contract (2022-2027), which has not yet entered into force. The state holds 50.14% of Lusa's capital, but the private shareholder Global Media and Páginas Civilizadas are part of the same business group and now hold a 45.71% share. This concentration on a private shareholder is unprecedented in the history of Lusa and requires monitoring.

### 3.4. Social Inclusiveness (59% - 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.



The **Social Inclusiveness** area is at medium risk, with 59%, 3 pts. higher than in the 2021 MPM report (56%).

The indicator **Access to Media for Minorities** presents a high risk (67%), scoring the same value as the 2021 MPM report. The problems identified in last year's report remain the same: the limited representation of social-cultural diversity, either in terms of news media coverage (despite sporadic cases of more in-depth news pieces around migrant workers – e.g., the exploitation of migrant workers in Odemira greenhouses), or in terms of the scarcity of programs that promote cultural diversity and the interests of minorities. Racism is also a structural problem in media which is reflected in the scarce presence of journalists from a racialized background (notoriously on TV) and the absence of racialized sources, experts, or commentators on other issues than racism itself. The political atmosphere has worsened the fair representation of minorities, namely because of the rise of the extreme-right populist party Chega. Concerning the sub-indicator on Access to media for people with disabilities, the legal framework and policy have appropriately addressed the accessibility to media, information, and services<sup>[1]</sup>. According to the Media Regulatory Body's Regulation Report concerning 2020 (ERC, 2021), the main open-signal TV channels offer accessibility for blind people and for people with hearing impairments, respecting their obligations.

The indicator **Access to Media for Local and Regional Communities and community media** scores medium risk (50%), the same score as last year's report. Community media is not foreseen in Portugal's



legal framework, although local media tend to be seen as proximity or community-based media. Some media initiatives are classified as community media, but, in fact, their independence, as well as one of the local media, is at risk, mainly due to financial and economic difficulties. Another risk arises from the fact that the audience and the actual impact on communities of these local media are not known or described. The danger of concentration of ownership and the diminishing value and sustainability of local media, despite several policy measures and State subsidies for local and regional media (nationally distributed), should be seen with concern.

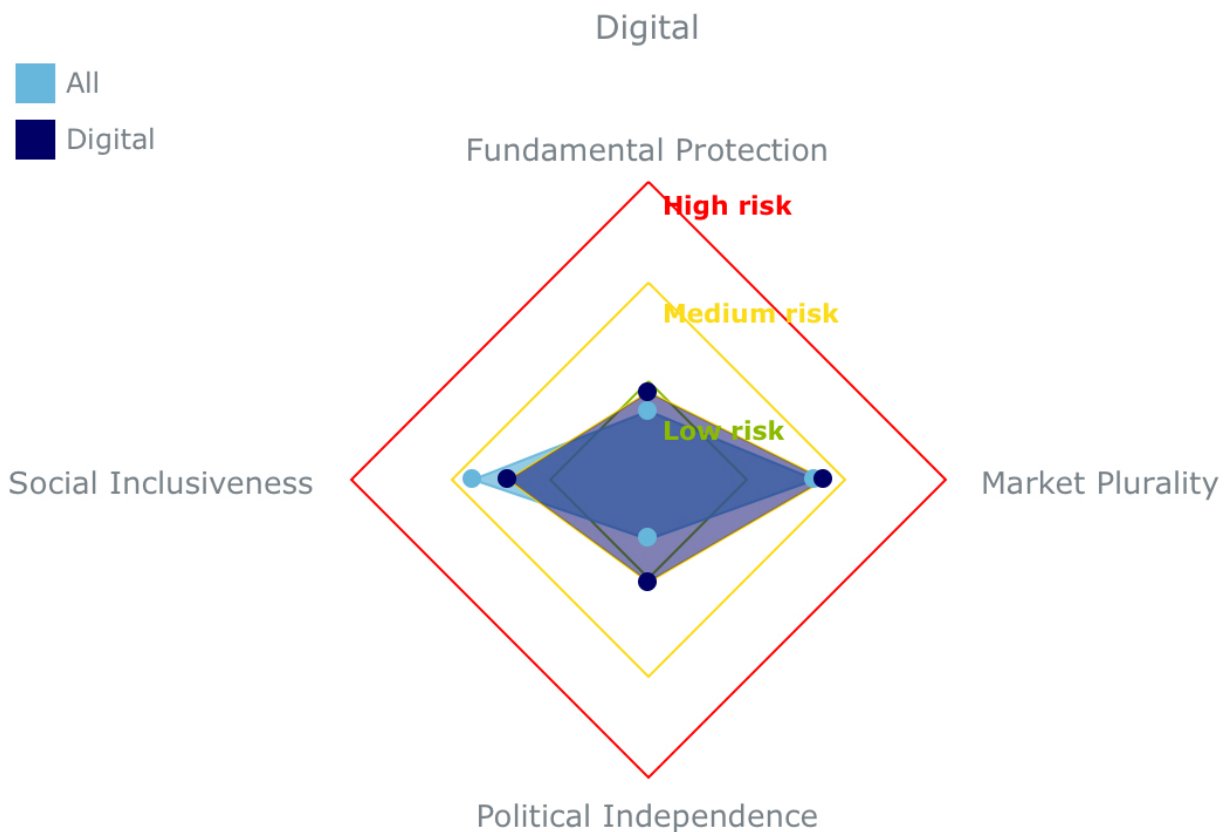
The indicator **Access to the Media for Women** scores medium-high risk (65%), maintaining the risk indicator found in the previous edition of the MPM. Gender imbalance regarding media representations (including misrepresentation and stereotypes), sourcing, expertise, and leadership positions has been pointed out systematically in previous MPM editions. The Global Media Monitoring Project Report 2020 concerning Portugal concluded that news that challenge gender stereotypes represent only 2% of the total news pieces analysed; also, female experts were barely present and heard as experts in the news (GMMP, 2021), a trend that is also identified by the Media Regulatory Body (ERC, 2021).

The indicator **Media Literacy** is at medium risk (42%), a stable percentage compared to last year's report. Civil society is increasingly active in what concerns the presence of media literacy in non-formal education. However, the dimension and diversity of these initiatives still lack coherence and a unified policy. Despite the existence of training programs on media education and digital citizenship for teachers, media literacy is only presented in a limited range in the education curricula, in possible relation to other areas, such as the work on journalistic texts and narratives.

The indicator **Protection against Illegal and Harmful Speech** presents a high risk (69%), with a rise of 13 pts, in reference to the previous report. The pandemic context is the main subject of disinformation in Portugal, and the biggest social issue fueled by disinformation. In 2021, and according to the experts interviewed for this report, disinformation looked more organized and managed to mobilize protests in the streets, even with a lower impact than in other European countries. The polarization created by the pandemic might be the basis for some negationist pseudo-experts to gain traction and space/time in the media, especially in more right-wing assumed ones (print and/or online), but also in the private TV channels (SIC and TVI/CNN Portugal), who use the freedom of speech and pluralism flags to justify the space/time given to those negationist commentators. All these issues are currently an object of ongoing research as part of transnational projects, such as H2020 Eumeplat or EDMO Iberifier. Hate speech is legally defined in the Penal Code (article 240). However, several actors have criticized the overly narrow definition of the criminalisation of hate speech, in addition to the fact that the vast majority of hate speech occurrences are not reported to the authorities (ECRI, 2018). In July 2021, the Government announced, in the context of the National Plan to Combat Racism and Discrimination 2021-2025, the commitment to evaluate a possible review of anti-discrimination and hate speech legislation, including the revision of article 240.

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

### Portugal: Media Pluralism Risk Areas



JS chart by amCharts



#### Fundamental Protection (29%)

In terms of the protection of freedom of expression online, there are safeguards clearly defined in law following international and regional human rights standards. In general, there are no restrictions on freedom of expression – online or offline. The legal framework and policies in the context of the pandemic have been 'proportional' considering the legitimate objective pursued. We refer in particular to the legislation on the "layoff" and on the fight against digital piracy<sup>[2]</sup>. There is no evidence of restrictions on legality. Regarding some measures of blocking, filtering, and removing Internet content, they have been oriented toward protecting intellectual property against online piracy, as it happens with illegal streaming of sports events (Memorando de Entendimento, 2015). Regarding Covid-19, some restrictions have always been proportionate to protecting public health aims (in terms of the Portuguese Constitution) (Cádima, 2021a).

Concerning the journalistic profession, standards, and protection, and specifically in terms of digital safety, there are lately some threats to the online safety of journalists. In fact, the situation has significantly changed with the ransomware attack on the newspaper Expresso and the TV channels of the Impresa group. Various sources also interpreted this attack as an attack on freedom of the press. On the other hand, thinking about possible attacks on women journalists, there are no or very few online threats and attacks against women journalists.

Regarding the Universal reach of traditional media and access to the Internet, the broadband coverage of Internet access remains at medium risk: 86% of the Portuguese population was covered by broadband (30

MBps) in 2020. Only about 82% of the households have access to broadband internet.

There are regulatory safeguards regarding internet neutrality in the country, implemented in practice. However, as far as the management of network traffic by internet service providers (ISPs) is concerned, some problems remain and this implies that there is medium risk in this regard (Anacom, 2020).

### **Market Plurality (59%)**

It can be hard to find updated information on the online media markets, as stated last year. The main Media Groups in Portugal are RTP (State Owned), Impresa, Media Capital and Cofina. In the last years, the laws that regulate ownership for the media groups have remained the same, not adapting to the digital reality of the media landscape.

In the digital environment, news consumption in Portugal is rarely made directly from news agencies, which causes the possibility of algorithmic influence and disinformation. According to this year's information data, 78% of the access to online news in Portugal occurs indirectly: news aggregator (5%), search engine (28%), social media (24%), email (8%), or mobile alerts (13%) (OBERCOM, 2021; REUTERS, 2021). Even though there is no plentiful information on this topic, Google and Facebook must partake in an estimated 60% to 75% of the online advertising revenue in Portugal.

It is worth mentioning that a new taxation of digital services is now a reality in Portugal, with a tax of 4.1% over commercial audiovisual communication on video-sharing platforms and subscriptions for video-on-demand services, effective since February. The EU Directive on Copyright in the Digital Single Market was not implemented this year, nonetheless, because of the government's falling in consequence of the disapproval of the Budget for 2022.

Although the Media Sector in Portugal has shown some signs of recovery compared to the previous year and the negative effect of the COVID-19 pandemic, the growth is still insufficient to cover the pandemic crisis impact, especially when the digital markets or the expansion of online media platforms are still not being taken into account, which is cause for concern.

### **Political Independence (34%)**

The risk assessment for the area of Digital Political Independence is 34%, higher than the 20% obtained in the overall score. This result can deteriorate if measures are not taken to strengthen the weakest aspects, namely:

- Increasing journalistic self-regulation mechanisms in social media. In the case of PSM, only RTP's ethical guide contemplates this dimension. None of the private media has an ethical reflection in this sense, which is also absent from the Journalist's Code of Ethics;
- Creating effective regulation of digital platforms concerning commercial advertising for political purposes during electoral campaigns. The current regulatory framework is ineffective in encompassing all the mechanisms of manipulating visibility and political representativeness on the internet. About digital natives, ERC applies the Press Law to websites, but this is a 1999 legislation. A legislative revision is urgently needed to clarify the journalism profession's limits and distinguish informative content from forms of strategic communication, including political advocacy.

- Guaranteeing universal access to independent information requires specific measures to support the sectors most affected by the pandemic, namely the regional and local media, and to continue to ensure the development of innovation and the fight against misinformation in the digital environment in PSM. In the case of the Lusa news agency, funding has been compromised by successive delays in the entry into force of the public service concession contract.

## **Social Inclusiveness (47%)**

Social Inclusiveness in the online environment presents a score of 46%, 6 pts higher than last year's report. According to Eurostat (2019), only 52% of the population has basic or above basic overall digital skills, and 22% have low overall digital skills.

There have been no effective changes regarding protection against hate speech on social media since last year's report. There is no concrete data nor statistics regarding online hate speech, for which its scale and dissemination is unknown. Also, there are not any relevant developments concerning the transposition of the European Parliament and Council Directive 2018/1808 to the national legislation (Law 74/2020), aiming to encourage streaming and sharing platforms to take adequate measures to protect the general public against hate incitement, violence, and terrorism. However, the National Plan to Combat Racism and Discrimination 2021-2025 includes measures such as promoting media literacy and developing accessible mechanisms for managing, recording, and reporting online hate speech and incitement to violence, strengthening support for the production of more knowledge about the phenomena of propagation of hate speech and incitement to hatred and violence, or the creation of the Independent Observatory on Hate Speech, Racism, and Xenophobia. In the course of 2021, and as stated in the Memorandum on combating racism and violence against women in Portugal, there were plans to launch an awareness-raising campaign on the dissemination of hatred online, with the participation of the Portuguese media regulatory authority (Council of Europe, 2021). However, this campaign has not been launched yet.

Concerning protection against disinformation, a legal framework for digital citizenship was discussed in the national parliament and approved (Portuguese Frame for the Human Rights in the Digital Era, Law 27/2021, May 17th). However, several items were questioned and broadly discussed after the approval because of censorship fears. Several public bodies (such as the regulatory body of journalists - CCPJ) asked the Constitutional Court to scrutinise the constitutionality of article 6 of The Portuguese Frame for the Human Rights in the Digital Era, published in *Diário da República* in May 2021. Public bodies and political parties have criticized article 6 for fears of arbitrary restrictions on freedom of expression, namely the power of the Media Regulatory Body (ERC) to evaluate potential disinformation and to sanction its creators or agents, or both. The Constitutional Court's final decision (following a request by the President to monitor the constitutionality of article 6) has not come out yet (as in April 2022).

## 5. Conclusions

### Fundamental Protection

Fundamental Protection is a non-critical area, nevertheless, it should be carefully monitored in its most sensitive points. We consider that it is necessary to reinforce the legitimacy of regulatory bodies, as well as their strict independence, which may come through the shared appointment of their members between the President of the Republic and the Assembly of the Republic (AR), and not exclusively by the AR.

It is essential to study the issue of the merger between ERC and Anacom (Cádima, 2022; CM, 2015; Ribeiro, 2015; Confraria, 2014; Rodrigues, 2002) as soon as possible, on the one hand, to avoid repeated situations of underfunding of the ERC and, on the other hand, to adapt the media system to a regulation model more in line with contemporary times and the new digital era. We are convinced that this will be the direction that can contribute to a more robust and more transparent model of regulation, less capturable or influenced by the regulated outlets or the most powerful media stakeholders, by the governments, and for a more scrutinized, plural, and consolidated media sector. We cannot forget that the Portuguese media system actually has three effective regulators (ERC, AdC for competition and Anacom for electronic communications and radiocommunications networks and services), which naturally does not speed up the regulation model.

The question of the precariousness of journalists and the strengthening of the autonomy and independence of newsrooms are essential issues to safeguard the pluralism and vitality of the media sector. Therefore, it is essential to gather as much effort as possible with professional associations of journalists, news media, and media companies to be more effective in guaranteeing editorial independence and respect for professional standards.

Recommendations for the **Fundamental Protection** area include:

- **The "Whistleblowing law" (Law No. 93/2021, of December 20) follows a transitional period of 180 days. It will only come into force on June 18, 2022. In particular, we recommend an assertive monitoring of the entry into force of this law to ensure that guarantees of confidentiality, anonymity and independence are safeguarded, with well-defined procedures, following up on complaints through the channels provided for by law.**
- **There must be an amendment to the Press Law to differentiate between "journalistic news media" and all other media that do not produce information through professional journalists. There is a consensus in the Journalism Advisory Board of the Journalists' Professional License Committee (CCPJ), which brings together, in addition to the CCPJ, the Portuguese Confederation of the Media (CPMCS), the Portuguese Press Association (API), and the Union of Journalists. This is also a strong recommendation from the MPM as it will contribute a lot to clarifying the sector.**
- **It is necessary to reinforce the legitimacy of regulatory bodies, as well as their strict independence, which may come through the shared appointment of their members between the President of the Republic and the Assembly of the Republic (AR), and not exclusively by AR**
- **Finally, we present some recommendations in the digital context. The first has to do with net**

neutrality and the need for regular public information on this matter concerning the monitoring of ISPs and Telcos. The same we deem necessary to public policies regarding the removal/filtering/blocking of online content by the State, ISPs and digital platforms. There must be clear and regular information on this matter. Also essential is the regulation of algorithms and blockchain, especially when associated with the media/new media and advertising sectors. We also recommend that the European Union urgently develop an assertive strategy for preserving news media content on the Web.

## **Market Plurality**

There are still some risks to media pluralism in Portugal since the laws regulating media groups' ownership have not changed in the last years. Four big companies own most media businesses, and this reality has not improved in the last decades. In addition to this, the level of transparency of these ownerships is not always as high as desirable, and journalism is sometimes exposed to commercial interests.

From an economic point of view, even though the media industry has shown some recovery from the impact of the COVID-19 crisis, it has not been enough, which indicates that the next years will still be challenging for the media business sustainability.

Recommendations for the **Market Plurality** area include:

- **The new service of digital taxation has been effective in Portugal with a tax for commercial audiovisual communication on video-sharing platforms and subscriptions for video-on-demand services. However, the laws that regulate ownership for the media groups do not show signs of adaptation to the new digital reality of the media landscape. There is still a lot to do regarding regulation for the digital markets.**
- **In terms of media policy, Portugal should continue to improve its system for controlling media transparency and ownership. It should also strengthen its legislation in cross-media concentration, taking into account the evolution of the digital market and the need to have total clarity in the industry.**

## **Political Independence**

The Political Independence area shows resilience to the depressive trends accelerated by the pandemic, namely the deterioration of job insecurity in journalism and the worsening economic contraction in local and regional media. The results derive from a regulatory framework protective of press freedom and the autonomy of journalists and inhibiting direct and indirect interference of political power in the media at the level of ownership and management in media companies. However, the news media sector has major structural weaknesses compromising pluralism, diversity, and journalistic content quality in the future. Regulation must be extended effectively to digital media and online platforms, ensuring transparency, and contributing to a less unequal distribution of advertising revenues. Several studies (Magna, 2021; ERGA,

2021) indicate that, in 2022, television and digital will capture almost all the investment in advertising, aggravating the crisis in traditional media. Investigative journalism and the quality of information have suffered erosion, reducing a fundamental resource of citizens for scrutiny of political and economic powers.

Recommendations for the **Political Independence** area include:

- **The State should provide a more continuous package of public policies to support the media, including measures to protect employment and develop project financing. Support measures to enhance the sector modernization should also be implemented, including direct subsidies and fiscal incentives. Fiscal benefits and other State incentives should target local and regional media companies. Non-reimbursable funds should be granted to support modernization, investigative journalism, media literacy, disinformation, and digital literacy.**
- **Legislative reform is needed to make the demands of media regulation and transparency compatible with the reality of the digital media universe. Digital media are subjected to political polarization and commercial monetization dynamics that are largely incompatible with the values of independence and impartiality required for journalists in Portugal.**
- **The professional journalism community should engage in a serious dialogue with the media regulators (CCPJ and ERC) and the sector representatives to strengthen self-regulation and promote a better understanding of the effective degree of political parallelism in information content.**

## **Social Inclusiveness**

This critical area requires multidimensional work, particularly in the indicators Access to Media for Minorities and Protection against Illegal and Harmful Speech, both presenting a high risk to media pluralism. Regarding access to media by women, an indicator with medium-high risk, this is a long-term imbalance that should be seriously addressed through policies directed to gender representations in media as a shared effort involving several institutions besides media ones.

Recommendations for the **Social Inclusiveness** area include:

- **Concerning access to media by minorities, we continue to recommend promoting policies focused on awareness-raising of a more diverse and non-stereotyped representation in the media, and specific policies directed to the recruitment of journalists from a racialized background. Also, provisions should be enacted to legitimize, encourage and protect local independent community media.**
- **We suggest implementing policies directed at effectively monitoring online hate speech and consolidating media literacy and digital citizenship as tools to counter hate speech and promote human rights.**

## 6. Notes

- [1] Regarding the Access to media for people for disabilities accessibility topic, the Law no 27/2007, from 30 July - Law on Television and On-Demand Audiovisual Services (<https://www.anacom.pt/render.jsp?contentId=979660>), and the legal European Directive 2010/13/EU from the European Parliament and the European Council, from 10 March 2010 (<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:095:0001:0024:EN:PDF>) are the main texts. In addition, the Decree Law No. 83/2018 of 19 October should provide an increased level of monitoring and enforcing which will, hopefully, lead to an increased accessibility of the Portuguese public administration website. In the coming years this trend should become pervasive across the different interactive products and services, as a consequence of the transposition of the EU Directive 2019/882 (of 17 April 2019) on the accessibility requirements for products and services. This Directive requires members to transpose its dispositions into national legislation until June 2022.
- [2] • Decreto n.º 3-A/2021, de 14 de janeiro. Regulamenta o estado de emergência decretado pelo Presidente da República. <https://data.dre.pt/eli/dec/3-a/2021/01/14/p/dre/pt/html> • Decreto-Lei n.º 46-A/2020, de 30 de julho. Cria o apoio extraordinário à retoma progressiva de atividade em empresas em situação de crise empresarial com redução temporária do período normal de trabalho. <https://data.dre.pt/eli/dec-lei/46-a/2020/07/30/p/dre/pt/html> • Decreto-Lei n.º 23-A/2021, de 24 de março. Estabelece medidas de apoio aos trabalhadores e empresas, no âmbito da pandemia da doença COVID-19. <https://data.dre.pt/eli/dec-lei/23-a/2021/03/24/p/dre/pt/html> • Lei n.º 82/2021, de 30 de Novembro. Fiscalização, controlo, remoção e impedimento do acesso em ambiente digital a conteúdos protegidos. [https://www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=3481&tabela=leis&ficha=1&pagina=1&so\\_miolo=](https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=3481&tabela=leis&ficha=1&pagina=1&so_miolo=)



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## INTERVIEWS

Ana Pinto Martinho and Miguel Crespo, researchers at MediaLab ISCTE-IUL and experts on disinformation. Carlos Duarte, assistant professor at the Faculdade de Ciências da Universidade de Lisboa and expert on accessibility.

Isabel Féris, associate professor at Universidade de Coimbra and expert on the relationship between media and ethnic minorities.

Maria José Brites, associate professor at Universidade Lusófona (Porto) and expert on media literacy.

## ANNEXE I. COUNTRY TEAM

First name	Last name	Position	Institution	MPM2022 CT Leader
<i>Francisco</i>	<i>Rui Nunes Cádima</i>	<i>Coordinator of the ICNOVA Diversity and Pluralism Observatory</i>	<i>ICNOVA - Nova Institute of Communication (FCSH - Universidade Nova de Lisboa)</i>	X
<i>Carla</i>	<i>Baptista</i>	<i>Researcher; Teacher</i>	<i>ICNOVA - Nova Institute of Communication (FCSH - Universidade Nova de Lisboa)</i>	
<i>Marisa</i>	<i>Torres Da Silva</i>	<i>Researcher; Teacher</i>	<i>ICNOVA - Nova Institute of Communication (FCSH - Universidade Nova de Lisboa)</i>	
<i>Patrícia</i>	<i>Abreu</i>	<i>PhD student</i>	<i>NOVA FCSH</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>Elsa</i>	<i>Costa e Silva</i>	<i>Researcher; Teacher</i>	<i>Communication and Society Research Center</i>
<i>Catarina</i>	<i>Burnay</i>	<i>Researcher; Teacher</i>	<i>CECC - Research Center for Communication and Culture</i>
<i>João</i>	<i>Palmeiro</i>	<i>API President</i>	<i>API - Associação Portuguesa de Imprensa</i>
<i>Pedro</i>	<i>Braumann</i>	<i>Member of the Board</i>	<i>CPMCS - CONFEDERAÇÃO PORTUGUESA DE MEIOS DE COMUNICAÇÃO SOCIAL</i>
<i>Carla</i>	<i>Martins</i>	<i>Head of Media Transparency Unit - ERC</i>	<i>ERC</i>
<i>Sofia</i>	<i>Branco</i>	<i>President</i>	<i>Sindicato dos Jornalistas - Union of Journalists</i>

<i>Margarida</i>	<i>Guerra</i>	<i>Partner</i>	<i>OhMyDigital</i>
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