

# MONITORING MEDIA PLURALISM IN THE DIGITAL ERA

## APPLICATION OF THE MEDIA PLURALISM MONITOR IN THE EUROPEAN UNION, ALBANIA, MONTENEGRO, REPUBLIC OF NORTH MACEDONIA, SERBIA & TURKEY IN THE YEAR 2022

Country report: Italy

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**Research Project Report**

Issue -  
June 2023



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Published by

European University Institute (EUI)

Via dei Roccettini 9, I-50014

San Domenico di Fiesole (FI)

Italy

ISBN:978-92-9466-444-0

doi:10.2870/904470



With the support of the Erasmus+ Programme of the European Union. The European Commission supports the EUI through the EU budget. This publication reflects the views only of the author(s) and the Commission cannot be held responsible for any use which may be made of the information contained therein.

# 1. About the project

## 1.1. Overview of the Project

*The Media Pluralism Monitor (MPM) is a research tool that is 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 that was carried out in 2022. The implementation was conducted in 27 EU Member States, as well as in Albania, Montenegro, The Republic of North Macedonia, Serbia and Turkey. This project, under a preparatory action of the European Parliament, was supported by a grant awarded by the European Commission to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.*

## 1.2. Methodological notes

### Authorship and Review

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

*In Italy the CMPF partnered with Roberta Carlini, Matteo Trevisan and Prof. Elda Brogi (Centre for Media Pluralism and Freedom, European University Institute), who conducted the data collection, scored and commented on the variables in the questionnaire and interviewed experts. The report was reviewed by the CMPF staff. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly evaluative questions (see Annexe II for the list of experts). For a list of selected countries, the final country report was peer-reviewed by an independent country expert.*

*Risks to media pluralism are examined in four main thematic areas: Fundamental Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area (see Table 1).*

| <b>Fundamental Protection</b>                                   | <b>Market Plurality</b>                                      | <b>Political Independence</b>                                 | <b>Social Inclusiveness</b>                       |
|---|--|---|---|
| Protection of freedom of expression                             | Transparency of media ownership                              | Political independence of the media                           | Representation of minorities                      |
| Protection of right to information                              | Plurality of media providers                                 | Editorial autonomy  | Local/regional and community media                |
| Journalistic profession, standards and protection               | Plurality in digital markets                                 | Audiovisual media, online platforms and elections             | Gender equality in the media                      |
| Independence and effectiveness of the media authority           | Media viability  | State regulation of resources and support to the media sector | Media Literacy                                    |
| Universal reach of traditional media and access to the Internet | Editorial independence from commercial and owners' influence | Independence of PSM   | Protection against disinformation and hate 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 digitally specific risk scores, and the report contains a specific analysis of the risks that 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 the Indicators, scores of 0 are rated as 3%, while scores of 100 are rated as 97%, by default, in order to avoid an assessment that offers a total absence, or certainty, of risk.

## **Methodological Changes**

For every edition of the MPM, the CMPF updates and fine-tunes the questionnaire, based on the evaluation of the tool after its implementation, the results of previous data collection and the existence of newly available data. For the MPM 2023, no major changes were made to the questionnaire, except for the Indicators Transparency of Media Ownership, Plurality in Digital Markets and Editorial Independence from Commercial and Owners Influence (Market Plurality area), and Protection Against Disinformation and Hate Speech (Social Inclusiveness area). The results obtained for these indicators are therefore not strictly comparable with those results obtained in the previous edition of the MPM. The methodological changes are explained on the CMPF website at <http://cmpf.eui.eu/media-pluralism-monitor/>.

In the Market Plurality area, the names of three Indicators have changed. The former indicator on "News Media Concentration" is now named "Plurality of Media Providers"; "Online Platforms and Competition Enforcement" has been renamed as "Plurality in Digital Markets"; "Commercial & Owners' Influence Over Editorial Content" has been renamed as "Editorial Independence from Commercial and Owner Influence".

**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 who carried out the data collection and authored the report. Due to updates and refinements in the questionnaire, MPM2023 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 MPM2023, which is available on: <http://cmpf.eui.eu/media-pluralism-monitor/>.

## 2. Introduction

- **Country overview.** Italy has a population of 58,851,000 residents, and a surface area of 301,338 square kms., from the Alps to the Mediterranean Sea. The declining trend of the population, which started in 2015, accelerated in 2020 due to the COVID 19 pandemic. In 2022, there were 713,000 deaths and 393,000 births, with the fertility rate at 1.24. The negative natural balance was only partially compensated for by the flow of immigration (+ 299,000, taking into account the immigration/emigration balance). As a result, a decrease of 179,000 residents was registered (minus 3% in comparison with the previous year). (ISTAT 2023)
- **Languages spoken.** Italian is the most spoken language. The Italian Constitution states that “the Republic guarantees, through specific laws, linguistic minorities” (Art. 6). Law no. 482/1999 states, in Art. 1, that “the official language of the republic is Italian”; according to the same law, the historical linguistic minorities recognised and protected by the law are: Albanian, Catalan, Germanic, Greek, Slovenian, Croatian, and populations speaking French, French Provençal, Ladin, Occitan and Sardinian.
- **Minorities in the country.** Foreigners resident in Italy number 5,050,000 (8.7% of the population). Their main nationalities are: Romanian (21.5% of total of foreigners resident), Moroccan (8.3%), Albanian (8.3%), Chinese (5.9%) and Ukrainian (4.4%).<sup>[1]</sup> Only historical linguistic minorities are recognised and protected as such. As the Annual Report by the National Institute of Statistics has synthesised, “It is possible to identify at least three phases in the history of immigration in Italy: an initial period of moderate immigration, in the 1970s and 1980s, a second phase of unexpected and extraordinary growth, in the following two decades and, finally, the most recent phase which has been characterised by the economic crisis and humanitarian emergencies, during which flows of new arrivals seeking international protection joined a foreign presence, which is now rooted in the territory and is fuelled by flows, mainly for family reasons” (ISTAT 2022, p. 175).
- **Economic situation.** Italy is the third largest economy in the European Union, with a Gross Domestic Product of €1,909,153 million in 2022. After the severe recession in 2020 and a sharp recovery in 2021, the past year has been characterised by the impact of the energy price increases and, more generally, by the economic slowdown that has followed the beginning of the war against Ukraine and the international economic uncertainty. In 2022, the GDP increased by 3.7%, showing a worsening of the trend in the second half of the year. A growing inflation rate (8.7% on average for the year) has severely impacted on the whole economy. Families' purchasing power decreased by 3.7%, and to maintain essential consumption the families had to reduce their savings. The household saving rate, which is traditionally high in Italy, decreased to 5.3% of their disposable income (it was 8.2% in the average 2010-2019). In Italy, in 2022, the unemployment rate was 8.1%, and the employment rate at 60.1; employment is much lower for women (51.1%) and young people (43.7% for those in the age range 15-34). Besides youth unemployment and underemployment, other structural problems historically characterise the Italian economy and society: government debt and deficit (respectively, 8% and 144.4% GDP in 2022); low productivity; high tax evasion (the tax gap has been officially estimated at €3.7 billion) (data from ISTAT and EUROSTAT; Ministero dell'Economia e delle Finanze, 2022; Banca d'Italia, 2023). Italy is the first beneficiary of the Next Generation EU programme, with €191.5 billion allocated through the Recovery and Resilience Facility for the years 2021-2026. In 2022, two tranches of the funds were allocated (€21 bn. each).<sup>[2]</sup> The transfer of the third instalment was postponed, following a request from the Italian government to the European Commission to amend the

original schedule. The official source of information on the implementation of the National Recovery and Resilience Plan is the platform ReGis, and, according to the independent Parliamentary Budget Office (UPB), the platform “has some limitations in terms of completeness and timeliness”.<sup>[3]</sup>

- **Political situation.** The year of assessment is characterised by the election of a new Parliament and a change of government. In July 2022, Mario Draghi resigned as Prime Minister when three of the parties in the coalition that supported the government (Movimento Cinque Stelle, Lega and Forza Italia) withdrew their confidence. With Draghi’s resignation the experience of a very large coalition (with all the parties in it, except the far right party, Fratelli d’Italia), and originated in February 2021 to face the extraordinary challenges that arose after the pandemic and the economic crisis, came to an end. The electoral campaign that followed was, in some ways, unprecedented in Italian history – it took place in the summer, and was quite short. In the elections that were held on 25th September, 2022, a new centre-right coalition won, led by Giorgia Meloni, the leader of Fratelli d’Italia, and this coalition was formed by her party (founded in 2012 as the heir to Alleanza Nazionale, which was, in turn, an evolution of the neo-fascist MSI) together with the Lega (the party born in 1991 from the secessionist claims of the North, which has, since 2013, been led by Matteo Salvini and is more focused on migration and security instances), Forza Italia (the party founded and led by the media mogul, Silvio Berlusconi) and Noi Moderati (a minor centrist party). In the European Parliament, the same group of parties, respectively, were present, with ID (Lega), EPP (Forza Italia) and ECR (Fratelli d’Italia). On 22nd October, 2022, the government, led by Giorgia Meloni, was appointed; it is the first government in which a woman has taken up the office of Prime Minister in Italy, and the first coalition led by a party with neo-fascist roots. In its investiture vote, the Meloni government obtained a large majority (58% in the Senate and 60% in the Chamber). In spite of different positions that have been taken in previous years by the parties that support it, the new government has not questioned Italian participation in European treaties and the resultant obligations. As happened in the past with other governments, the change of political majority had an impact on the PSM’s top management positions, with a process of reshuffling along political lines, which started soon after the election and was finalised in 2023.<sup>[4]</sup>
- **Media market.** After the great transformation of digitalisation, the features of the Italian media system can still be associated with the “Mediterranean or Polarised Pluralist Model” (according to the classification seen in the seminal study by Hallin and Mancini, 2004): low newspaper circulation and an elite and politically oriented press; high political parallelism; a parliamentary model of broadcast governance, a politics-over-broadcasting system, weaker professionalisation. Television is still the main source of information, as well as the main sub-market of the SIC (Integrated System of Communication, the widespread aggregate on which the Italian law bases the evaluation of concentration and pluralism). Nonetheless, digitalisation has impacted strongly on the way in which information is accessed, and on the market shares of the different actors. **In terms of consumption**, CENSIS (2022) reports that television remains stable (this result being caused by the effect of the opposite trends in the consumption of traditional tv, declining, and consumption via internet and mobile tv, which have increased sharply; satellite tv registers a small increase after a decline in recent years), radio is increasingly characterised by hybrid consumption, internet has overtaken television, in terms of the number of its users, while the declining share of newspapers in the mediatic diet has dropped to a new historical minimum. The survey, conducted in the country by the *Digital News Report* for 2022, confirms this trend, with internet and television, respectively at 75% and 70%, as sources of news (Cornia, 2022). **In terms of market shares**, the latest official evaluation of the SIC refers to the year 2020. It totals €16.5 billion (1% GDP). The main players in 2020 were, in terms of their shares in the SIC: Comcast/Sky (16.1%), RAI (14.4%), Fininvest/Mediaset (10.3%), Alphabet/Google (7.6%), Meta/Facebook (5.7%), Cairo Communication (4.1%), GEDI (3.2%), Netflix (2.5%), Amazon (2.3%),

DNI /Discovery (1.2%) (AGCOM 359/22/CONS). It should be noticed that this data refers to the broad aggregate of SIC, and these shares are made up of market shares. More detailed and updated data on the audience share are provided by AGCOM quarterly in its 'Focus on Communication' (AGCOM 2023a). In 2022, the leading tv (DVBT and SAT) broadcasters, by audience, were RAI (37.9% in the average day), Mediaset (36.8%), Warner Bros. Discovery (8.1%), Comcast/Sky (6.8%), Cairo Comm./La 7 (4%). In comparison with 2018, the average daily audience for DVBT and SAT tv declined by 11.2%. It can be said that, although it is demonstrating a declining trend, traditional television is still the most important segment of the market and it is still characterised at least in terms of audience by the “duopoly” between the public service media (RAI) and Mediaset, owned by the Berlusconi’s family. A high concentration also characterises the newspaper sector, which continues in its declining trend (minus 32.4% in terms of its sales between 2018 and 2022). In this sector, the Top4 players are GEDI, Cairo Comm., Monrif and Caltagirone ed., with the first two having cross-media participation (in tv and radio). On the internet, among the top ten media providers, the digital outlets of the legacy media prevail (again, Mediaset, GEDI, Cairo Comm., Caltagirone ed.); but the presence of two digital native media, Fanpage and Citynews, must be highlighted. Online platforms gain the largest share of the online advertising market: an 84.5% share, vs. the 15.5% that went to the publishers in 2021 (AGCOM 2022, p. 74).

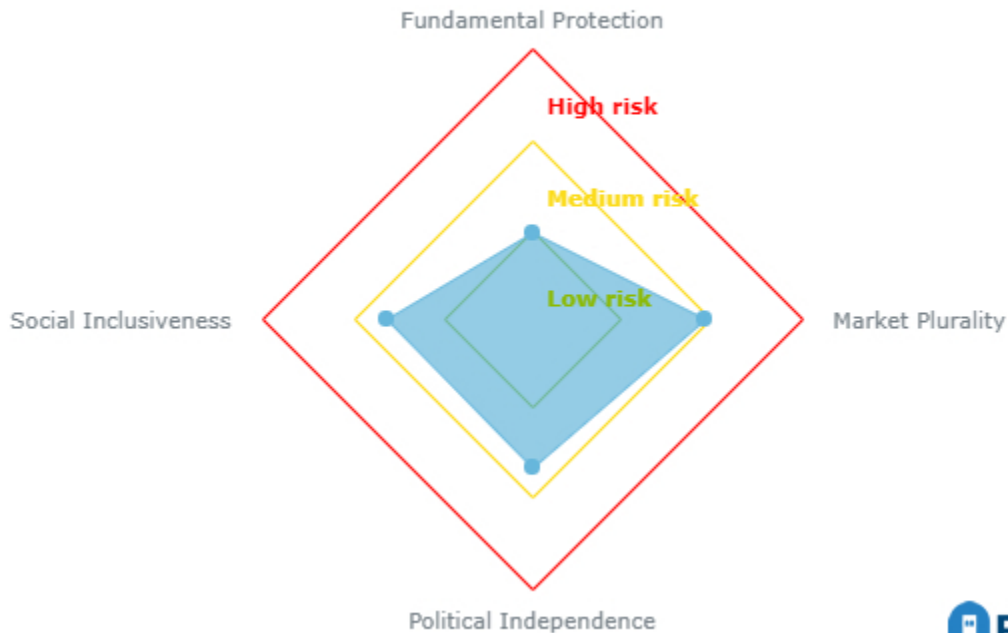
- **Regulatory environment.** Following the new legal framework on the protection of media pluralism (Art. 51 Legislative Decree 208/2021), AGCOM started to update the definition of all the relevant markets and of the Integrated Communication System (SIC), while proceeding with the process of identifying the guidelines to evaluate concentration in the media sector. The guidelines for the implementation of Art. 51, which set the criteria with which to evaluate the positions of significant market power, that were due in 2022, were published in April 2023 (AGCOM 94/23/CONS) and opened for stakeholders’ consultation. With Resolution 24/22/CONS, the ongoing procedure to evaluate the online advertising market was replaced by a new one, which is based on the resultant new criteria. On 12 October, 2022, the media authority finalised the evaluation of SIC for 2020 (Resolution no. 359/22/CONS). In January, 2023 (Resolution no. 3/23/CONS), AGCOM also issued the regulation on the fair remuneration from the platforms to the publishers, in the cases where copyright protected content is used (Resolution no. 3/23/CONS). On March 15, 2023, following a one year delay, the EU Directive 2019/1937 on the Protection of persons who report breaches of Union Law was transposed into Italian law (Legislative Decree no. 24 of March 10, 2023).
- **War in Ukraine.** The war began with the Russian attack on Ukraine in February, 2022, and it had a strong impact on Italian society. The economic consequences of the increasing energy prices and international trade uncertainty became visible in the second half of the year, and the results were worse than the previous forecasts on GDP, inflation, and employment. In the media environment: in March, 2022, Italian internet service providers (ISPs) and telecoms operators blocked access to a number of Russian State-owned websites, after the EU Council issued Regulation 2022/350, ordering Member States to “urgently suspend the broadcasting activities” of RT, Sputnik, RT France, RT Spanish, RT Germany and RT UK, within the EU, and to block their websites, because they “engaged in continuous and concerted propaganda actions targeted at civil society.” In June, 2022, after the coverage period, the EU adopted a new package of sanctions, which also included indications that the Member States should block additional media websites: Rossiya RTR/RTR Planeta, Rossiya 24/Russia 24, and TV Centre International.
- Pending the publication of this report, on June 12, 2023, Silvio Berlusconi, founder of the Fininvest group (controlled by his family), former prime minister, and leader of the centre-right party Forza Italia,



died at the age of 86.

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

#### Italy: Media Pluralism Risk Areas



JS chart by amCharts



In the **Fundamental Protection** area, Italy scores as low risk, at 32%, showing that the basic legal requisites for media freedom and media pluralism are respected. Although the risk level is the same as that in the previous MPM implementation, the average score results from opposing trends in the different indicators that compose this area, with some worrisome signals that are related to the conditions of journalists and their exposure to pressures and threats. The long awaited reform of the criminal law on defamation and the legal protection of journalists against SLAPPs, are still pending; in the meantime, the situation on the ground has worsened, with the increasing use of criminal and civil strategic lawsuits against journalists, by members of the government too; the economic vulnerability and the lack of guarantees for younger professionals who are not regularly employed in the newsrooms has contributed to increasing the risk to the safety of journalists; moreover, unjustified restrictions on access to information for judicial journalists have been reported. On a positive note, the independence of the media authority is guaranteed by the law; and the state of the basic infrastructure that is required in order to access information (both in terms of the traditional media and access to the internet) has registered improvement.

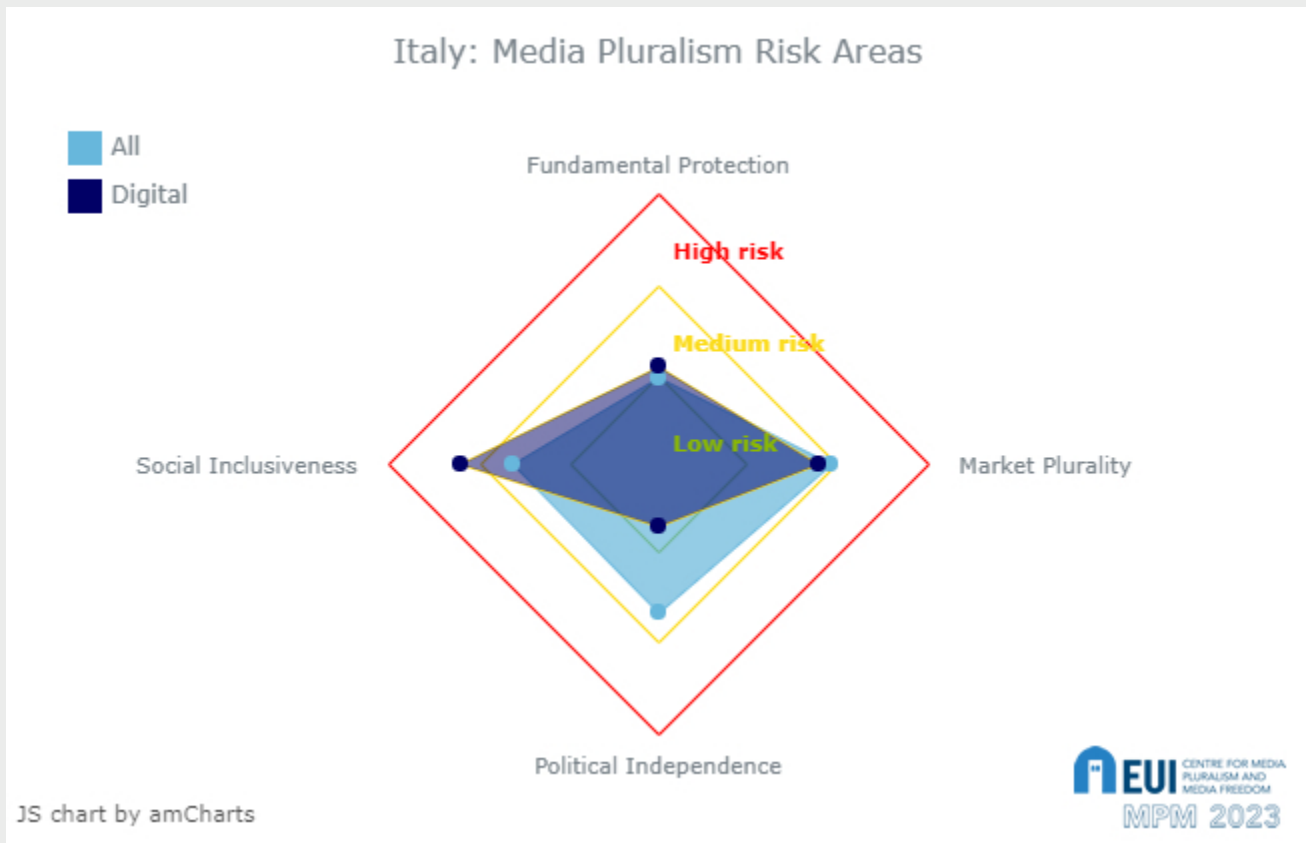
As happened in the past, the MPM implementation shows that the main risks to media pluralism in Italy come from the economic threats, menacing diversity and plurality of information, its economic sustainability and the editorial integrity. The area of **Market Plurality** scores as being at a medium risk for the year 2022, at 64%, quite close to the threshold of high risk. One of the indicators in the area, Media viability, shifts to high risk (from medium risk, in the previous implementation). The indicators on concentration are also at high risk, both in terms of media content provision and in the greater digital environment of the media. The worsening economic conditions, combined with high concentration, and also reflect a risk increase for the indicator of Editorial independence from commercial and owner influence, although this is still in the medium

risk band. Transparency of media ownership is regulated by a media-specific law which requires that the relevant information is provided to the regulator, although it is not fully and easily accessible. Overall, it can be said that a year of general economic slowdown has hit the media sector more than other businesses, freezing the moderate recovery that had followed the COVID 19 shock, and highlighting once more some of the structural deficiencies of the Italian media market.

The **Political Independence** area scores 55%, which is in the medium risk band. In this area, the indicator on Independence of Public Service Media remains at an alarmingly high risk level, while an increased risk characterises the indicators Political independence of the media and State regulation of resources and support to the media sector. No legal developments have taken place during the course of 2022 so as to safeguard the political independence of the media, something that has to be considered highly concerning, as some of the leading media are, directly or indirectly, controlled by politicians. Risks to editorial autonomy arise from the weakness of the regulatory safeguards for guaranteeing the autonomy of editors-in-chief, which thus allows interference in the process of their appointment and dismissal. The indicator on Audiovisual media, online platforms and elections remains at the medium risk level, scoring 35%. The main sources of concern are related to the fair representation of different groups of political actors and both the rules and practice of political advertising online. The indicator on State allocation of resources and support to the media sector is at medium risk, registering an increase in risk level, if compared with the previous implementation of the Monitor. Those risks are derived from a system of public subsidies that has flaws and shortcomings, in terms of transparency, effectiveness and internal consistency. Additionally, State advertising provisions do not apply to publicly owned companies. The indicator, Independence of public service media, scores the highest risk level in the Political Independence area, with 71%. The governance system of RAI continues to pose relevant concerns, since the appointment of the company's top management bodies involves direct influence from the government, as well as political bargaining between the Parties that are present in the Parliament.

In the **Social Inclusiveness** area (medium risk, at 54%), the most alarming signals come from the lack of gender equality in the media and from the low media literacy in the country. As regards the first, the high risk results from quantitative evidence on the presence of women in the governance of the media companies and in the higher positions in the newsrooms, and, from a qualitative perspective, it is related to the representation of women in the media. As for the latter, in MPM2023, the indicator on Media literacy shifts from medium to high risk, due to the low digital skills in Italy, and to the lack of comprehensive and effective policies to improve media literacy competencies and skills, both for adults and children. Linguistic minorities that are recognised by the law are protected in Italy, whereas the access to the media for other minorities and, in particular, for migrants and refugees, is disproportionate to their presence in society, and they are often segmented in regard to migration topics. The topics of disinformation and hate speech were particularly sensitive in the year of the assessment, and were characterised by the themes of the war and the electoral campaign; the medium risk, in this indicator, derives mainly from the fact that the fight against disinformation in Italy lacks a long term policy agenda that addresses the underlying causes of disinformation, underestimating the role of the legacy media and the pre-existing systemic weaknesses, such as the low media literacy and the low level of trust in the media.

## Focus on the digital environment

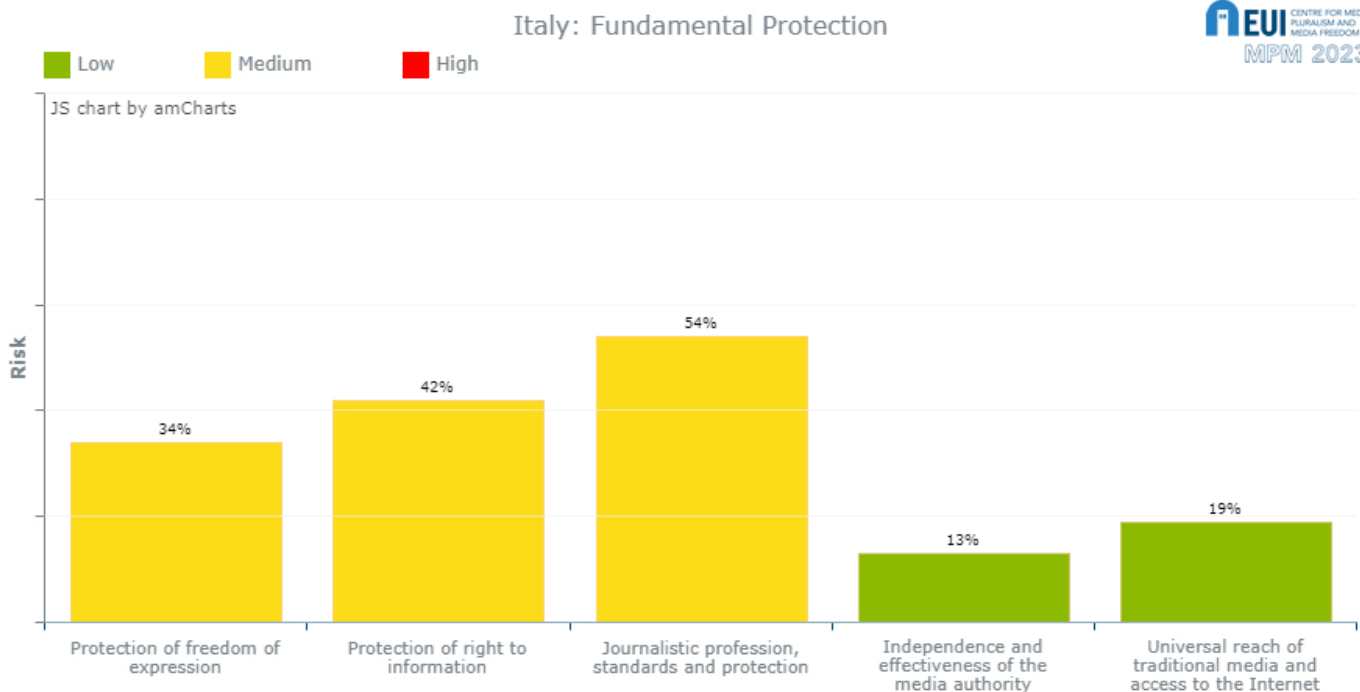


The digital dimension of media pluralism is at high risk in the Social Inclusiveness area (73%), at medium risk in the Fundamental Protection area (36%) and in the Market Plurality area (59%), and at low risk in the Political Independence area (23%). The difference in the comparison with the overall score is relevant in the Social Inclusiveness area (20 percentage points). These results must be read in a twofold way: on one hand, bearing in mind the fact that the country has "traditional" risks that pre-exist the digital evolution of the media, in terms of Editorial independence from political pressure in the PSM, and in the audiovisual commercial sector, and high ownership concentration; on the other hand, considering the amplifying role of the digital environment for some domains of risk and, in particular, when it comes to the vulnerability to disinformation, concentration in the digital markets, and threats to the safety of journalists.

From this perspective, the digital risks in the fundamental guarantees for media pluralism are higher in the indicator on Journalistic profession, standards and protection, due to the increased online threats, particularly for female journalists. In the Market Plurality area, the digital media providers are relatively less concentrated, but both legacy and digital media are threatened, in their economic sustainability, by the dominant role played by the online platforms, which act as intermediaries in the access to the news. In the Political Independence area, the main source of concern is found in the shortcomings of the general rules when it comes to electoral campaigns and political advertising online. In the Social Inclusiveness area, the high level of risk in regard to Media literacy, even if it reflects a more general and historical issue (which is related to an overall low level of literacy, which, in turn, undermines political and civic participation), and which is also strongly influenced by the low digital skills, resulting in increasing risks of vulnerability to disinformation and hate speech.

### 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 indicator on **Protection of freedom of expression** scores medium risk (34%), with an increase of the risk level in comparison with MPM2022, mostly related to the disproportionate use of libel and defamation legislation. Freedom of expression is explicitly recognized in the Constitution, which states, in Art. 21, that anyone has the right to freely express their thoughts in speech, writing and any other form of communication. The Italian legal framework respects the international standards, as restriction to freedom of expression must be prescribed by the law and must be proportionate to the aim pursued; citizens have legal remedies in the case of the infringement of their freedom of expression. Nonetheless, these remedies are not always effective, due to the slowness of the judiciary. Issues related to the effectiveness of legal remedies are amplified in the digital environment (see the digital focus below).

Although, in 2022, no violations of Art. 10(2) of the ECHR were declared by the European Court of Human Rights,<sup>[5]</sup> legal reforms and an improvement in the enforcement of the existing guarantees are needed (Article 19, 2022). In particular, the long-lasting issue of the criminal legal framework on defamation is still not solved. After several condemnations in the past by ECtHR, as a result of the provisions of the Press Law (n. 47/1948, Art. 13) and of the Criminal Code (Art. 595(3)), which provided for punishment by imprisonment for libel, the Italian Constitutional Court ruled twice on the matter, in 2020 and 2021 (Ordinance no. 132/2020 and Sentence no. 150/2021), intervening with an interpretative ruling to limit the prison sentence for defamation to cases of exceptional severity, and calling the Parliament to legislate for a comprehensive reform. Nonetheless, the criminal laws on defamation have not yet been amended. In the meantime, the use of defamation lawsuits against journalists have not decreased – and these are often used by powerful actors as a legal tool with which to trigger SLAPPs cases. The increase in the risk score in MPM2023 is due, on one hand, to the prolonged delay of the parliament in complying to the Constitutional

Court's ruling; and, on the other hand, to the worsening situation on the ground with members of the government, including the Prime Minister, acting as plaintiffs in lawsuits for defamation against journalists.<sup>[6]</sup> (Committee to Protect Journalists 2022; Pascoletti 2022; Safety of Journalism Platform 2022; Pen International 2022, Kelner 2022). A draft proposal to introduce an anti-SLAPPs law is still pending in the parliament.

The indicator, **Protection of the right to information**, scores 42%, a medium risk. Under this indicator, significant elements of risk are represented by the scarce effectiveness of the framework on access to information, some problems deriving from the transposition of the Directive on the protection of presumption of innocence, which, in the Italian version has introduced limitations on judicial journalists in regard to retrieving information on ongoing judicial investigations, and the shortcomings of the protection of whistleblowers.

The recognition of the right of access to Acts, documents, and information held by Public Administrations is defined by Legislative Decree n.97/16, which introduced two types of so-called civic access, the simple and the generalised. The latest data available from the monitoring that was carried out by the FOIA Competence Centre demonstrates an increase in the number of appeal requests that are related to alleged arbitrary denials, or a lack of answers from the Public Administration (Centro di Competenza FOIA, 2021), something that is corroborated by recent analysis that was carried out by the relevant civil society organisations (Transparency International Italy, 2019; Article 19, 2022; Openpolis, 2022). Open Polis, in particular, reports “a high level of litigation before both the ombudsman and the administrative judge, with a significant number of cases in which the request is accepted only after the proposal of an appeal against the refusal of access” (Open Polis, 2022) evidencing reticence from the institutional side in regard to releasing data. This has the direct effect of slowing down the process of policy evaluation by non-institutional actors. In this context, it should be reported that Italy has not ratified the Council of Europe’s Convention on Access to Official Documents (the so-called Tromsø Convention), as can be seen in the Council of Europe’s dedicated page. Concerns continued over the course of 2022, following the 2021 transposition of the European Directive on the Protection of Presumption of Innocence (Directive (EU) 2016/343): the Italian legislative transposition (Legislative Decree no. 188, 2021) caused difficulties for judicial journalists in retrieving information on ongoing judicial investigations, as some public prosecutors have interpreted the text in a very restrictive way. The National Federation of the Italian Press (FNSI) deemed the public prosecutors’ interpretation to be an infringement of the freedom of the press, and sent a formal protest to the European Commission on 22 February, 2022 (FNSI, 2022).<sup>[7]</sup>

As to the protection of whistleblowers, on March 15, 2023, Legislative Decree no. 24/2023, transposing EU Directive 2019/1937 on the Protection of Persons who Report Breaches of Union Law, has been published in *the Italian Official Gazette*. The draft of the legislative decree that was made to transpose the Directive was approved in December, 2022, during a general delay of a year with respect to the given deadline for transposition (which had been set for 17 December, 2021) (EU Whistleblowing Monitor, 2022). According to Transparency International Italia, “there has never been an involvement of external stakeholders, through consultations, hearings or working tables, letting the elaboration of the transposition bill go through its process so far in total darkness” (Transparency International Italy, 2022).

While the appropriateness and effectiveness of the newly transposed framework will be tested during the course of 2023, the MPM analysis for the year 2022 reflected and offered evidence for the shortcomings of the previous regulatory setting (Law no. 179/2017), and some slight improvement when it comes to the general awareness of the institution, leading to a final medium risk assessment in relation to the Sub-Indicator in question, as Law no. 179/2017 limited the protection of whistleblowers to the public administration and to companies working for the public sector.

General awareness of the available whistleblowers' protection, and its impact, has slightly improved, thanks

to the action of civil society organisations, which have raised several concerns about the postponing of the transposition, as well as the issuing of the new guidelines, which have dissolved several interpretative knots of the institution of whistleblowing. According to the latest ANAC report, this has meant that “civil servants actually report facts attributable to the notion of unlawful conduct, and therefore the reports were more responsive to the regulatory provisions (...). Furthermore, the role of the Responsible for corruption prevention and transparency (RPCTs) within the administrations has strengthened, with the consequence that, unlike a few years ago, today, civil servants also report internally” (ANAC, 2022). The type of notification and the method of protection were also redefined: something that, along with the improvement of the electronic platform that has to be accessed in order to enter reports on the offence, has had some positive outcomes (ANAC, 2022). At the same time, this proved to be insufficient: as reported by Valentina Lostorto from the National School of Administration, “for various reasons (cultural resistance, lack of knowledge, fear of misuse,) the institution of whistleblowing is still viewed with great distrust, both within administrations and in the public administration” (Lostorto, 2023). Importantly, arbitrary sanctioning of whistleblowing happens, and there is the suspicion that such cases are unreported, due to the limited capacities of the National Anti-Corruption Authority, ANAC, the body tasked with the adoption of specific regulations and guidelines on the subject, the receiving of whistleblowers' reports, and the body that is in charge of sanctioning. In 2022, 3 cases must be particularly signalled: while the first has demonstrated that there has been positive intervention by ANAC, the remaining two will have to be supervised over the course of 2023, in relation to the potential intervention of ANAC.<sup>[9]</sup> As Francesco Salvo argued on *Senza Filtro*, “the real problem concerns the total number of sanctioning procedures resulting [from reports of offences] which, compared to these figures, is frankly negligible. Only 21, in 2020 and, of these, just three were concluded with the imposition of sanctions. A potential free zone of impunity. (...). ANAC, for its part, defends itself by justifying the statistics with the long and in-depth investigation process that the institution is called to follow. Few, but significant, cases, in short, are managed by a staff with a shortage of personnel (...). However, the fact remains that, in the cases that were successful, (...) the pecuniary sanctions were little more than symbolic, around five thousand euros (the EU Directive now gives ANAC the possibility of reaching €50,000, but with the numbers listed above, the risk of paying is currently not that high)” (Salvo, 2022).

The indicator, **Journalistic profession, standards and protection**, increased to 54%, which is in the medium risk band. Within this domain, the main sources of risk fall in the sub-indicators that assess impunity and the legal situation related to SLAPPs and online threats which condition the safety of journalists, but relevant concerns are registered also when considering the Sub-Indicator assessing journalists' working conditions, which approached the high risk band.

The economic crisis in relation to advertising expenditure and, subsequently, to media revenues, coupled with the longstanding crisis in the legacy media – which has not been counterbalanced by the growth of the digital ones – have heavily impacted the profession: the number of journalists regularly employed in newsrooms has been declining for a decade, and, in the last year alone, it has decreased from 15,348 (2021) to 14,252 (2022), as per FNSI data<sup>[9]</sup>; at the same time, the number of freelancers and self-employed journalists has increased (FNSI, 2022). By specifically considering freelancers and self-employed journalists, the 2022 analysis evidenced how they continue to be scantily protected by social security schemes and general rules. In this context, the main collective contract for journalists (FIEG-FNSI) expired in 2016 and it has still to be renewed (while, in 2022, a new contract for local audiovisual media and radio was signed<sup>[10]</sup>; the implementation measures of Law no. 233/2012, on the “fair compensation” of freelancers, are still missing.<sup>[11]</sup> Furthermore, the emergency financial support to self-employed journalists because of COVID19 is no longer being given.

All this consequently increases the exposure of journalists to threats to their independence, as commercial

or political influences can be more easily exerted when strong safeguards and certainty are missing. In such a context, all the relevant associations (Ordine dei Giornalisti; trade unions; other grassroots associations providing advocacy, protection, mutual assistance, such as *Articolo 21* and *Ossigeno per l'informazione*), have proven to be active in advocating and defending journalists' rights, but the main issues that they address are related to defamation lawsuits, SLAPPs, physical threats and economic working conditions, whereas a less effective presence can be detected when it comes to guaranteeing the editorial independence and/or the respect for professional standards.

With specific regard to the physical safety of journalists, the analysis of this indicator has evidenced huge concerns that are related to a vast typology of threats. While there have been no cases of journalists being killed in the country, and no arbitrary arrests or imprisonments have been reported, physical attacks, death threats and other forms of intimidation have continued over the course of 2022, as evidenced by several sources.<sup>[12]</sup> No new and precise data are retrievable for 2022, in relation to the prosecution of crimes against journalists; however, available research on the vast range of attacks on, and threats against, journalists suggests a considerable level of impunity.

Considering the sub-indicator Positive obligations, no specific anti-SLAPP legislation is in place, and the use of strategic lawsuits to intimidate journalists, with disproportionate requests for damages, continues to pose a serious concern in Italy, as evidenced by the 2022 call, signed by 16 civil society organisations, evoking the most relevant and necessary points and steps that are required in order to face the issue.<sup>[13]</sup> The analysis evidences how the legal references that are most used to start a SLAPP case are not only criminal and civil lawsuits, but also the right to privacy and the right to be forgotten, while, often, “legal threats even precede the publication of the investigation, triggering self-censorship mechanisms”, as Susanna Ferro reported in *Transparency International Italy* (Ferro, 2022).

These dangers are aggravated by the fact that the reform of defamation has remained an area in which no decision has been made, while the use of defamation lawsuits against journalists and requests for civil damages – often used by powerful actors as a legal tool to trigger SLAPPs cases – has continued to spread. See the indicator, **Protection of freedom of expression**.

When it comes to the protection of journalistic sources, this is recognised, but only to a certain extent. As reported in the previous implementation, Law no.69/63 demands that the journalist protect the confidentiality of sources when it is required by their fiduciary character. The breach of confidentiality involves a disciplinary sanction (Law no. 69/1963, Art. 48). Italian journalists should refuse to provide the names of the persons from whom they had gathered news, even before judges. The obligation to retain secrecy with regard to the source of information can be removed only in a case where the disclosure of the source is essential in order to prove an offence in criminal proceedings. In this case, the Court can order the journalist to disclose the source of the information (Code of Criminal Procedure, Art. 200). Art. 200, mentioned above, refers only to professional journalists (publicists are not mentioned), as Zaccaria (2021) reports. In this domain, the year 2022 saw developments that were related to the wiretapping of several journalists in the so-called Luventa Case,<sup>[14]</sup> as well as to other cases that are related to the protection of journalists' sources and professional secrecy.<sup>[15]</sup> According to Giuseppe Sambataro, the Luventa Case illustrates that “although the Italian Code of Criminal Procedure provides limits to investigative powers to protect the confidentiality of sources, there is no express prohibition under Italian law against wiretapping journalists. It could possibly be argued that the act of investigation has bypassed the safeguards that have been provided by Articles 200 and 256 CPP and that have failed to comply with the principle of proportionality identified by the jurisprudence that has been developed on these standards. However, on a practical level, it should be noted that, since, in this case, the intercepted people are not under investigation, no internal remedy is provided to them to challenge the legitimacy of the investigations” (Sambataro, 2022).

Another source of risk in this indicator is related to the data retention provisions: the legal situation remains unchanged, if compared to 2021, with the problematic Art. 24 l. 167/2017, which was swiftly approved in



2017, with virtually no public or parliamentary debate on the Bill, despite civil society protests. The latest legal development occurred in 2021, when the rulings of the EU Court of Justice led the Italian legislator to amend Article 132 of the Privacy Code "in order to conform national law to the (at the time) most recent rulings of the Court, with specific reference to the need to insert a provision – not yet contemplated in the text of the law in force at the time – aimed at limiting the faculty of acquiring data relating to traffic, to ascertaining only "serious forms of crime" and that is subject to control by a "judge or an independent administrative authority" (Tartara, 2022, p. 176). Despite the unchanged legal situation, recent 2022 sentences from the Court of Justice of the European Union (the so-called Irish and French cases), have indirectly rejected the Italian provisions, that need to be urgently reformed.<sup>[16]</sup>

The indicator **Independence and effectiveness of the media authority**, scored a low risk of 13%, reflecting the general availability and functionality of the regulatory safeguards that are related to governance and budgetary independence, as well as rather positive action on the part of the Italian authority during 2022.

From a regulatory perspective, no significant developments occurred during the year in question, when it comes to the reality investigated within this Indicator. The appointment procedures, tasks and responsibilities of the media authority are defined in a clear manner by Law no. 249/1997. AGCOM's competences have been expanded in recent years, following the transposition of the AVMS Directive (EU) 2018/1808 (transposed with Legislative Decree no. 208/2021), the Copyright Directive (EU) 2019/790 (transposed with Legislative Decree no. 177/2021), as well as the new Electronic Communication Code (Legislative Decree 207/2021). Sanctioning powers and appeal mechanisms are in place: as to the first, the general rules envisaged for the public authorities apply (Art. 2, Paragraph 20, of Law no. 481 of 1995). Regarding the appeal mechanisms, AGCOM's measures of general application (not just those involving sanctions) can be challenged before the Lazio Regional Administrative Court (and, on appeal, before the Council of State). The procedures for the allocation of budgetary resources are fair and objective, leaving no room for arbitrary decisions by the government. Since 2013, the State contribution is no longer included in the Authority's budgets. The Authority is therefore financially supported through contributions from entities that are active in the electronic communications, media services and postal services' sections. Given this system, AGCOM is guaranteed financial stability and independence from political and economic pressures. The above-mentioned regulatory framework can be considered to be sufficiently effective, and the 2022 action of the Authority proved to be proactive and rather independent. Both in the electoral and non-electoral period, the Authority systematically carried out the activity of collecting and publishing data on airtime of political parties in television, although it must be highlighted that these data are difficult to consult and are not exhaustive.<sup>[17]</sup> With particular regard to political pluralism in the electoral period, frequent interventions from AGCOM have been registered in order to guarantee respect of the "*par condicio*" law, the fairness and impartiality of political information, as well as of electoral silence. However, the decision to deny the direct debate between the contenders: Giorgia Meloni and Enrico Letta, on the PSM, based on a literal application of the *par condicio law*, has sparked a debate, one that was even internal to AGCOM. Despite a generally well established and functional framework, some persistent issues need to be reported in this context: first, while the rules for governance independence generally comply with fundamental protections, they cannot be considered to be fully effective, as they do not prevent the possibility of political bargaining (Minervino e Piacentino; 2020). In this regard, the year has seen the appointment of a new member of AGCOM's Board, Massimiliano Capitanio (Presidential Decree of 22 April 2022), who, at the time, was a parliamentary member for the Lega. The direct passage from politics to a top management position of the media regulator, a circumstance that had already occurred in the past, exposes the composition of the Board to political bargaining, a risk that should also be carefully considered in the light of the increased competences of AGCOM in the evolving regulatory scenario. In relation to the effectiveness of

the action of the media authority, in the past, the long term delay in the assessment of the audiovisual media market has been interpreted as being the postponement of a decision that is politically sensitive (although, more recently, the postponement was also motivated by technical reasons, such as the reallocation of frequencies).

On a final note, it must be mentioned the tensions that had occurred in AGCOM's board in the past year, with a Commissioner, Elisa Giomi, complaining about the "erosion of [the] independence" of the Authority.<sup>[18]</sup>

A low risk characterises the indicator on the **Universal reach of traditional media and access to the Internet** (19%), reflecting the technological development in both fields. This indicator has constantly improved in the latest implementations of the MPM. Accessibility to the traditional broadcasting networks, and coverage of the PSM, are guaranteed. It must be noted that AGCOM, in its guidelines for the next Contratto di Servizio for the years 2023-2028, between RAI and the government, is to introduce obligations for further technological investments by the PSM in order to guarantee coverage of the whole national area in the transition to DVBT2 standards (Resolution no. 266/22/CONS). The new Contratto di Servizio has not, so far, been signed. (For the sub-indicator on access to the Internet see below, in the section on Digital Focus).

### Focus on the digital environment

In the Fundamental Protection area, the risks related to the digital dimension are higher, and the average score is at medium risk at 36%. This gap is mostly justified by the digital risks in the journalistic profession, standards and protection, whereas there is no substantial difference when it comes to the indicators on the basic legal guarantees of freedom of expression, and for the indicator on infrastructure to access the media.

**Freedom of expression online** is, overall, respected, and it can be limited or restricted by the State in the same types of cases as those that are provided for by the law relating to the offline environment. The State can intervene to filter or block internet content in cases that are indicated by the law: the violation of criminal law (terrorism; child sex abuse); unauthorised use of content that is protected by copyright; gambling; terrorism; some cases of unauthorised financial services. In all these cases there is an appeal mechanism to prevent the use of arbitrary power.

Decisions on the filtering and removal of online content are decided upon by the digital platforms according to the internal guidelines of the companies. There is no evidence of illegal or arbitrary removals by these platforms, nor is there detailed data on the amount, criteria and motivations for the blocking or the removals. This lack of transparent and disaggregated data is itself to be considered a risk.

Since 2017, the main digital platforms participate in a Technical Committee so as to guarantee pluralism and correct information online, and this was instituted by AGCOM. In a framework that is characterised by a self-regulatory and co-regulatory effort (promoted by the EU and the Italian State itself), the AGCOM Communication N. 299/22/CONS on the 2022 national elections must be registered. This communication promotes the application of the Code of Practice on Disinformation, which was signed by platforms and fact checkers, as a regulatory tool in social media and other online media service providers. Art. 42 of TUSMA also promotes the adoption of codes of conduct by video sharing platforms; their adequacy, effectiveness and enforcement will be monitored by AGCOM, thus promoting transparency and proportionality standards. However, specific guidelines on this point have not yet been issued, but might be a standard against which compliance can be evaluated by the law relating to the data published by the platforms. Additional regulatory changes related to the

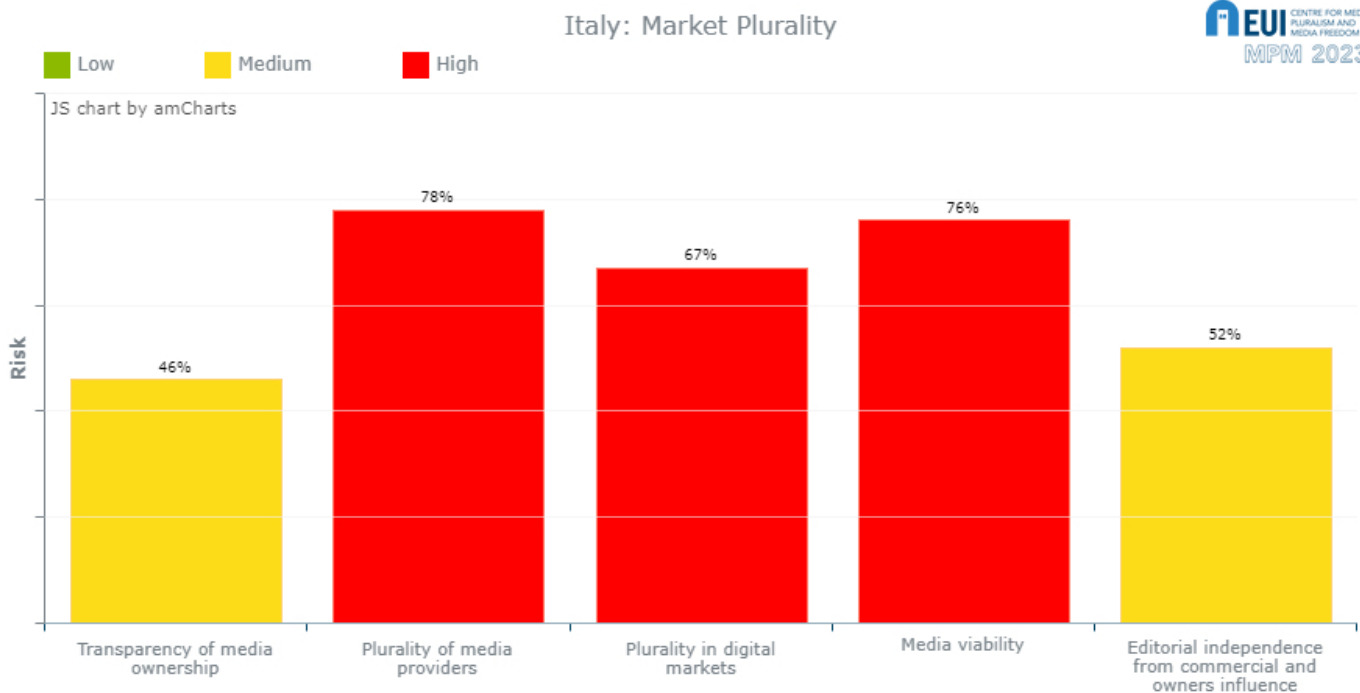
implementation of the DSA into the national framework should also be scrutinised in the future.

The indicator **Journalistic profession, standards and protection**, scores 63% in the digital domain. The sub indicator Digital safety, is the one of most concerning: while no cases of digital surveillance of journalists were reported during 2022, online threats conditioning the safety of journalists continue to pose serious concerns. According to the data provided by the Minister of the Interior, “with reference to the first 9 months of 2022, the Police Forces reported 84 intimidating episodes committed against journalists, and the acts consumed through the web are 24 (equal to 29% of the total). The matrix can be traced back to: 9 episodes in Organised Crime contexts (3 of which were made via the web), equal to 11%; 46 cases in socio-political contexts (of which 10 were made via the web), equal to 55%; 29 documents for other contexts (of which 11 were made via the web), equal to 34” (Servizio analisi criminale della Direzione centrale della Polizia criminale - Dipartimento della Pubblica sicurezza, 2022, p. 4). The semestral report from *Ossigeno per l'Informazione*, which has a different methodology, informs us that “between January and July 2022, 109 women journalists were threatened in Italy” (*Ossigeno per l'Informazione*, 2022). *Ossigeno's* analysis of 49 of these cases relating to women journalists showed that “the most frequent type of threat is the warning, equal to 67%, in the form of insults, comments and personal threats exerted for two thirds through social platforms” (*Ossigeno per l'Informazione*, 2022). This would suggest that there is a higher overall rate, compared to ministerial data.

**Access to the internet** improved in comparison with the previous MPM, following the improvement in the indicators on broadband coverage, subscriptions, and speed, as measured by the Digital Economy and Society Index provided by the European Commission. Nonetheless, this improvement on the supply side is not matched by a parallel improvement on the demand side, i.e., the use of digital networks and tools, as we will see in the indicator on Media Literacy (below).

### 3.2. Market Plurality (64% - medium risk)

The Market Plurality area considers the economic dimension of media pluralism, assessing the risks deriving from insufficient transparency in media ownership, the concentration of the market in terms of both production and distribution, the sustainability of media content production, and the influence of commercial interests and ownership on editorial content. The actors included in the assessment are media content providers, with indicators including Transparency of media ownership, Plurality of media providers, Media viability, Editorial independence from commercial and ownership influence, and digital intermediaries (with the indicator on Plurality in digital markets).



The medium risk of the indicator on **Transparency of media ownership** (46%) arises more from the practical implementation of the rules than from flaws in the regulation. In the Italian legal framework, the principle of financial transparency in the media sector is enshrined in the Constitution (Art. 21, co. 5). The relevant laws and acts implementing this principle are the Law on the Press (no. 47/1948, Art. 5); the new Consolidated Act on Audiovisual Media Services (TUSMA), Legislative Decree no. 208/2021 (Art. 29); and the Law instituting the national media regulator, AGCOM (Law 249/1997, Art. 1 § 6), which instituted the ROC (the Register of Communications Operators). The Register, as summarised on the AGCOM website, "aims to ensure the transparency and publicity of the ownership structures, the application of the rules concerning the anti-concentration discipline, the protection of information pluralism, and compliance with the limits established for the shareholdings of foreign companies". The list of operators obliged to register with the ROC includes: all the media providers (audiovisual, radio, newspaper, press agencies, digital), advertising concessionaires, electronic services providers, online search engines and online intermediation service providers (AGCOM Resolution no. 666/09/CONS, as amended by Resolution 200/21/CONS. For a case study on the ROC, see European Commission, 2022, pp. 359-365).

To enlist in the ROC, operators must give information on their shareholders and on their quotas and voting rights; moreover, they must indicate any fiduciary headings, interpositions of persons, or the existence of other limits that have a weight on the shares or quotas of the company. The Italian regulation also imposes financial transparency obligations: all the operators that are obliged to enlist in the ROC are also obliged to communicate yearly financial information to the AGCOM in the IES (Informativa Economica di Sistema). (AGCOM no. 303/11/CONS).

According to these rules, the public body (AGCOM) collects all the relevant information on media

ownership; the medium risk assessment for the indicator derives from the fact that the information is not fully and easily accessible to the public; the kinds of information that are easily available when accessing the ROC are only those that are related to name, business name, address, field of activity and ROC number. Other information which might help to track the beneficial owner is not directly accessible to the public.

In this regard, a novelty in the year 2022, is the general law, with the transposition of the EU Anti Money Laundering Directive 2018/843, with Decree no. 55/2022. Art. 7, states that information about the beneficial ownership of companies and juridical persons are reported in a specific section of the “Registro delle Imprese” and they are accessible to the public on request and without limitations. Some limitations are set for trusts (Art. 7 § 2). The persons indicated as being beneficial owners can oppose the request, in cases where it might expose them to the following risks: fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation. While it is too early to evaluate the effectiveness of the new rules (and also considering the impact of the Judgment of the CJEU),<sup>[19]</sup> it must be noted that they are not sector specific, as requested by international standards.<sup>[20]</sup> As was pointed out above, the Italian legislation complies with these standards, but lacks effectiveness. In addition, some specific rules that are even more stringent, requiring additional information, are set by the law for publishers and media providers who ask for public subsidies; but the public reports have not been updated since 2013.<sup>[21]</sup>

The indicator on **Plurality of media providers** scores as a high risk, at 78%, confirming that the Italian media market presents a high degree of concentration, historically born through the “duopoly” of the public and private broadcaster in the traditional television sector, and then confirmed – even if with different characteristics – with the digital evolution of the media environment. The main novelties in 2022 are related to some changes in the shares of the top players in the market and their undertakings, and, from a regulatory perspective, to the implementation of the new anti-concentration framework that was introduced in 2021 with the TUSMA.

Art. 51 §1 of the TUSMA states that “in the integrated communications system and in the markets that compose it, the establishment of significant positions of market power detrimental to pluralism is prohibited, in the market and in services of information”. The AGCOM thus has the task of assessing when such a situation occurs, by following criteria that have been set by the same regulation and the following implementing guidelines. Those guidelines, which introduce more flexibility and the consideration of the online environment in the evaluation of the position of significant market power, were not issued in the year of the assessment (they were published and opened for stakeholder consultation in April 2023). It can therefore be said that the new antitrust framework, reformed also to take into consideration the ruling of the CJEU in September 2020 (Judgment in Case C719/18), was still not effective in the year of this assessment. The evaluation of the SIC, following the new rules, was provided in October 2022, with the following results: Comcast/Sky (16.1%), RAI (14.4%), Fininvest (10.3%), Alphabet/Google (7.6%). (AGCOM Resolution no. 359/22/CONS). It must be noted that these shares refer to the whole SIC (see Introduction) and to the year 2020. In the past the broadness of the SIC has been seen as an obstacle to the effectiveness of the anti-concentration rules; at the same time, the assessment of a dominant position in the sub-markets has been affected by some delays in the evaluation of those sub-markets, specifically that of the audiovisual market (Venice Commission, 2005, § 98; Cappello, 2020, pp 73-90; Zaccaria et al., 2021, p. 424; Carlini et al., 2022, pp. 15-16). With the new criteria that were set in Art. 51 TUSMA, positions of power on the overall media market must still be evaluated on a broad aggregate: the SIC still has a broad perimeter, including cinema, online advertising, sponsorships, even though its composition has been slightly modified. As for the media pluralism assessment in the specific sectors, this will depend on their evaluation and the guidelines for the implementation of the new regime.

The results of the MPM2023 show that there is high concentration in all the sub-sectors. According to the

MPM methodology, risks in the sub-indicators on concentration, from a quantitative point of view, are assessed based on the Top4 index. The results in the current assessment show that the **audiovisual** sector is still the most concentrated. In terms of revenues, the first players are the public service media, RAI, with 30.1%, followed by Comcast/Sky (28.3%) and Fininvest/MFE (20.5%), and “online platforms” (10.7%) (AGCOM 2022). Here, some more details come from Mediobanca (2023), which estimates that Netflix is the 4th greatest operator, with almost 6% of the market. The growing share of streaming services in the audiovisual market comes mainly at the expense of the pay tv segment of the market (Comcast/Sky). When measured in terms of audience, RAI and Fininvest/Mediaset dominate (respectively, with 37.9 and 36.8%), followed by Warner Bros/Discovery with 7.9%, while Comcast/Sky is only fourth, with 7.3%, and the second private Italian broadcaster, Cairo Comm/La7, is fifth, with 4.3% (data on average daily audience, AGCOM 2023a) (The streaming services are not included in the measurement). These data, on the one hand, confirm the relevant role that the historical public/private duopoly has, in terms of the reach of public opinion; on the other hand, they call for updated and transparent methods of measurement of the audience, including tv via internet (see AGCOM 2022, p. 91).

A process of consolidation has characterised the **radio** sector in recent years, and the concentration indices have increased. The first two players are the same as in the television sector: RAI (23.5% of the revenues) and Fininvest/Mediaset (13.9), followed by GEDI (11.7%) and RTL (8.8%) (AGCOM 2022). GEDI, in turn, is the first player in the **newspaper** sector (20.7% in terms of market value); the second group here is Cairo/RCS (18%), which is also present in broadcasting; followed by Caltagirone ed. (8.8%) and Monrif (8.2%) (In this sector, the readership shares are quite similar to the market shares) (AGCOM 2023a, data on year 2022). The **digital news media** are more difficult to assess, due to the lack of market data. In terms of audience, they are dominated by the digital outlets of the traditional media, but this sector is less concentrated and shows interesting signals of an increasing role for the digital native news media (like Fanpage and Citynews, among the first top news sites, in terms of unique users) (see also, Cornia, 2022).

A perduring role of the legacy groups emerges, even though they demonstrated a declining trend. In 2022, the GEDI group sold the historical weekly magazine *L'Espresso*, two companies of its digital branch, and several local media outlets. It is also worth noting that tendencies to concentration and a reduction of the media offer at the local level have emerged, with an almost monopolistic situation in some regions. The overall scenario is characterised by a high degree of cross media concentration; as seen above, the same groups are active across different media sectors. In almost all of these cases, these groups are also present in the advertising market, and in non media businesses, ranging from the automotive business to finance, real estate, hospitals, health services, and construction.

The indicator on **Plurality in digital markets** also shows as being high risk, with a score of 71%. While the assessment of actual audience concentration in the online environment, which also includes the digital intermediaries for the news, is limited by the lack of data and of standardised and transparent methods of measurement, the very high concentration of the online advertising market is assessed by the AGCOM, which reports a Top4 index as high as 74% (which has constantly grown over the years). (AGCOM 2022). AGCOM has still to complete the evaluation of this sub-market. Relationships between media providers and digital intermediaries are strongly asymmetric in the market, and the implementation of the EU Copyright Directive has not, so far, produced a visible impact (see the Digital focus below).

The indicator on **Media viability** has shifted to high risk for 2022, at 76%. It was at medium risk in the previous assessment, at 64%. This result is based on provisional data on revenues from sales and advertising, which decreased in almost all sectors after the weak recovery that was registered in 2021; on the journalistic employment trend, which continues to be negative; and on the regime of public subsidies which, even if reinforced during the COVID 19 pandemic, falls short of compensating for the disruption of

the industry and in stimulating innovation and resilience.

In 2022, revenues from advertising decreased for all the media sectors except the digital; but in this case also, this increasing share of the online advertising market was not to the advantage of media content providers, for the greatest part benefitted the digital intermediaries (see the digital focus below). For the **audiovisual services**, Nielsen estimated that there was a decrease of 5.2% for linear, digital and sat tv (Primaonline, 2023). Other sources confirm this trend (see Mediobanca 2022, forecasting minus 5%; while WARC estimates minus 9%). The medium term trend shows a reduction of 10.4% in revenues for the three main Italian audiovisual groups between 2017 and 2021 (Rai, Fininvest/Mediaset, Comcast/Sky) (AGCOM 2023b). While the **radio** sector performed slightly better, the **newspapers'** trends show a deepening crisis, both in revenues from sales and from advertising. Daily sales were reduced by an average 9.4%, resulting from minus 9.9% for the physical sales and minus 6% for digital ones. The comparison with 2018 shows a decrease by 32.4% (in the period 2018-2022 this is the result of a reduction by 36.4% in physical copies, and an increase by 12.5% in digital copies). (AGCOM 2023b). Advertising revenues declined by 6.1% for the newspapers, according to Nielsen data. If the digital expansion of the newspapers is taken into account, to include the online advertising revenues, a lesser decrease emerges (according to WARC data, this is minus 3.4%).

The revenue trends for **local media** are also difficult to assess due to the lack of data. For the newspapers, AGCOM (2023a) reports a decline in sales by 9.8%, in comparison with 2021, and by almost 30% in comparison with 2018. The local chains of legacy media suffer most, and this is blatant in view of the announcements of closures/sales: this is the case for the Riffeser/Monti group and the GEDI group.

The disruption of the traditional business model, which is evident from the revenue trends, brings this sector to a high risk, which is not counterbalanced by the evolving trends in **innovation**, in terms of sources on revenues, products, and in the newsrooms. There are cases which go in this direction, but for the greatest part they interest small niche outlets, rather than the main players in the media industry. It must be noted that all the "new" experiences originated some years ago, while fewer cases can be reported in more recent times (see the digital focus). It is worth mentioning that the only novelties in recent years are very "traditional" ones: the newspaper *Domani*, founded in 2020 by the former publisher of *L'Espresso* and prominent Italian businessman, Carlo De Benedetti, and the daily newspaper *L'Essenziale*, published in November 2021 by the Internazionale group, which edits a weekly magazine, but which closed in June 2022, due to the economic difficulties (also) related to the impact of the war on advertising, sales and costs. In 2022, GEDI – the publisher of *la Repubblica*, which, in 1997, was the first newspaper to open a web newsroom, sold its branch dealing with digital investments and innovation.

As the editor-in-chief of *Internazionale*, Giovanni De Mauro, puts it, "innovation in methods and in organization in the newsrooms has been very limited, and this is due also to resistance from professional organisations of journalists. At the end of the day, the recent editorial novelties are all very traditional, including our own proposal. The fact that the main groups, those with the relevant financial capabilities, did not invest enough in digital innovation, or are even divesting themselves of it, is detrimental for all of the market" (interview conducted by MPM researchers).

The sub-indicator on **Employment and salary trends** is at high risk, as a result of the reduction in the number of journalists regularly employed, and the worsening conditions of the freelancers (see indicator on Working conditions in the Fundamental Protection area). The national, main collective contract for journalists has still to be renewed. It should also be noticed that the digital news media apply different contracts to journalists, ones that are often below the standards that are set for the main national contract.

**Public support to the media** is provided by the Italian government through direct and indirect subsidies, and these have been progressively reduced over the years; this decreasing trend has been inverted since 2020, with the COVID 19 crisis. The emergency support issued in 2020 continued in 2021 and 2022, when an extraordinary fund was established by the budget law (Law no. 234/2021 Art. 1 co. 376), which

complement the ordinary scheme (Law October 26, 2016, n. 198), instituting the Fund for Pluralism and Innovation of Information. From a quantitative perspective, it must be noticed that the amount of the resources devolved to the media is below the level of similar countries (Presidenza del Consiglio dei Ministri, 2021).

When it comes to its effectiveness, some limits arise from the fact that the Fund for Pluralism and Innovation, in its practical implementation, is not earmarked for the development of innovative tools, products and processes in the media industry. As regards the extraordinary funding, part of it is destined to support kiosks, paper costs and physical distribution. Incentives to technological innovation make up only a small part of the funding.<sup>[22]</sup> Formally, they are not excluded, but the design of the schemes favours the traditional media and does not foster innovation (see also the indicator State allocation of resources and support to media sector in the Political Independence area).

The indicator on **Editorial independence from commercial and owner influence** scores 52%, and it is thus at medium risk. Safeguards for journalists, in cases where there is a change in the ownership structure and/or in the editorial line, are not set by the law. There are some self-regulatory mechanisms, like the “conscience clause” (clausola di coscienza), according to which journalists can ask for the termination of their contract, without losing their economic rights (severance pay and indemnity for lack of notice), when there is a substantial change in the political orientation of the newspaper, or in the case of an emerging situation, due to the publisher's responsibility, which is incompatible with their professional dignity. This provision has a limited scope, one that does not cover the growing number of journalists who are working without a formal status or contract; and its effectiveness has been declining in the year, also because of the difficulties in finding a job in what is a shrinking labour market for journalists.

In relation to editorial integrity, other measures of self-regulation are issued by the code of journalists (“Testo unico dei doveri del giornalista”, 2016). Art. 2 states that journalists receive indications and orders only from editorial hierarchies (Art. 2 lett. d), and they do not receive gifts or donations from entities that might compromise their independence (Art. 2 lett. e). Art. 10 of the same code prohibits the journalist from using his/her name, voice or image for advertising initiatives. A specific code applies to economic journalism (Carta dei doveri dell'informazione economica e finanziaria), and it sets self-regulatory safeguards in relation to the veracity of information, to avoid the use of financial information for personal, or for other persons' profit, to avoid conflict of interest (personal and with owners' interests), to prohibit gifts, donations, etc.

In relation to internal rules in the newsrooms, some media companies adopt ethical codes, charters, policy documents. Specific complaint mechanisms for readers/users are not adopted.

Advertorials and disguised advertisements are prohibited, both by the general law (rules to protect the consumers) and by self-regulation in the journalistic sector. However, those measures are not completely effective. Loopholes are frequent, such as the use of dedicated folders for paid content like “guide” or “speciali”. Difficulties in implementation were noted in relation to the “influencer marketing” phenomenon online; native advertising is not always clearly indicated as being paid content.

The issue of conflict of interest with the owners – recently highlighted by the proposal for a European Media Freedom Act and the related Commission Recommendation 2022/1364 – is relevant in the Italian landscape, which is characterised by media owners that also have other non-media business. The Code of Journalists does not mention the issue of conflicts of interests with the owners. This is mentioned, indeed, for economic journalism (Carta dei doveri dell'informazione economica e finanziaria, Art. 7). The journalist must ensure an adequate standard of transparency on the editorial ownership of the media. It should particularly be remembered who the newspaper's publisher is, when a news article deals with economic and financial problems that directly concern him, or when they may, in some way, favour or damage him. Although, in several cases, this has been confirmed in the internal ethical codes of the main media



companies, this provision is not always respected.

Daily examples of commercial and owner influence can be seen in: 1) the lack of disclosure of potential conflicts of interest between the owners' interests and journalistic coverage/campaigns; 2) the not always clear separation between paid content and editorial content, both in the traditional media and in the native advertising in the digital realm; 3) the difficulties that arise for the self-regulatory bodies both to signal and prevent cases of economic pressure on the editorial decisions; 4) the under-reporting of news that has an impact on the interests of the owners. The lack of transparency and separation between editorial and commercial content caused protests by the editorial staffs in several newsrooms. (Garibaldi, 2022).

### Focus on the digital environment

The digital dimension of Market Plurality in Italy shows, on average, a risk that is lower than the overall risk (59 vs. 64%). This results, partially, from the fact that the “offline” risks are very high, due to the ownership concentration in the traditional media, as well as to weak safeguards against the influence of commercial and owners' interests on editorial independence. It is also related to the design of the regulatory framework, which includes the digital media providers, as well as to the fact that the digital native media are less concentrated and more economically sustainable than the legacy ones are. The main, and worrisome, risks in the digital environment of the media arise from the lower level of the effective transparency of the digital media, and by the dimension of the consumption of (and access to) the media content, of which the online platforms are overwhelmingly the intermediaries. This occurrence, although obviously not peculiar to the national situation, has strongly impacted on the Italian media business, which has historically been characterised by the dominant role of the duopolistic offer in the audiovisual services, and by a lower readership and a weaker press.

The rules on **Transparency of media ownership** extend to the digital news media; moreover, since 2021 (Law No. 178/2020), the obligation to register with the R.O.C. has been extended to online intermediation service providers and online search engines that, even if not geographically established in the national territory, still offer services in Italy. Even if this obligation is not yet fully effective, due to its appeal by some of the companies that were interested, this provision was a relevant novelty in the scenario of the regulation of the digital environment of the media. Nonetheless, shortcomings relating to the effectiveness of transparency of ownership (see above) are even more evident in the digital realm.

As synthesised above, the risks to **Plurality in digital markets** mainly arise from the growing share of the online advertising market in the overall advertising revenues, and in the media ecosystem. In Italy, the online advertising market is included in the evaluation of the Integrated System of Communication (SIC), and, in the final evaluation, it was estimated to make up almost a quarter of the economic value of the system (AGCOM, Resolution 359/22/CONS). In 2022, revenues from online advertising, for the first time, overtook the advertising revenues for television; while web advertising was the only segment of advertising that showed an increase (+ 3.9%), but this advantage went exclusively to the online platforms (social networks and search engines), whereas the online advertising revenues of digital media decreased (minus 3.2%) (data from Nielsen, reported in Primaonline, 2023). According to the estimate by the media regulator, the share of the platforms in the online advertising market is both dominant and growing: 84.5% of the market, vs. 15.5% that goes to the publishers (AGCOM 2022, p. 74). As mentioned above, the Top4 concentration index in the online advertising market was 74.4% in 2021, increasing from 73.2% in 2020, and 5 pp above the first estimate, which was made in 2015.

Regarding the economic relationships between platform and publishers, it must be added that the EU Directive 2019/790 on Copyright and Related Rights was transposed into the Italian legislation at the end of 2021 (Legislative Decree 177/2021), but was not implemented in the year of the assessment as a result of the delay in the approval of the regulation by AGCOM, an approval which was finally issued in January 2023 (Resolution 3/23/CONS). During the wait for the guidelines, several Italian publishers signed an agreement with Google to use the programme 'Google Showcase' for the dissemination of, and remuneration for, their content (according to news sources). With the lack of reporting on these agreements, it is not possible to evaluate their effective impact. For the future, in the framework designed by Legislative Decree no. 177/2021 and the AGCOM guidelines, if publishers and platforms do not agree on the remuneration within 30 days from the beginning of the negotiations, each of them can appeal to AGCOM, or to a Court, for its determination. Criteria are set to determine fair remuneration, that is based on the "value gap" (the difference between the advertising revenue earned by the platform for the online use of the publishers' content, and the revenues earned by the publisher for the traffic generated by the platform itself); on this basis, a rate of remuneration must be agreed upon, one of "up to 70%", and the criteria to calculate it depend on the number of users, the relevance of the publisher, the number of journalists, the years of activity, costs, and also – on the other side – the investments made by the platforms to comply with codes of conduct. The criteria caused some concerns as a result of their vagueness and the risk of discriminating against smaller and new publishers (Preta, 2023; see also, the considerations of the Italian Competition Authority, AGCM AS1789, Bulletin no. 38 September 27th, 2021)

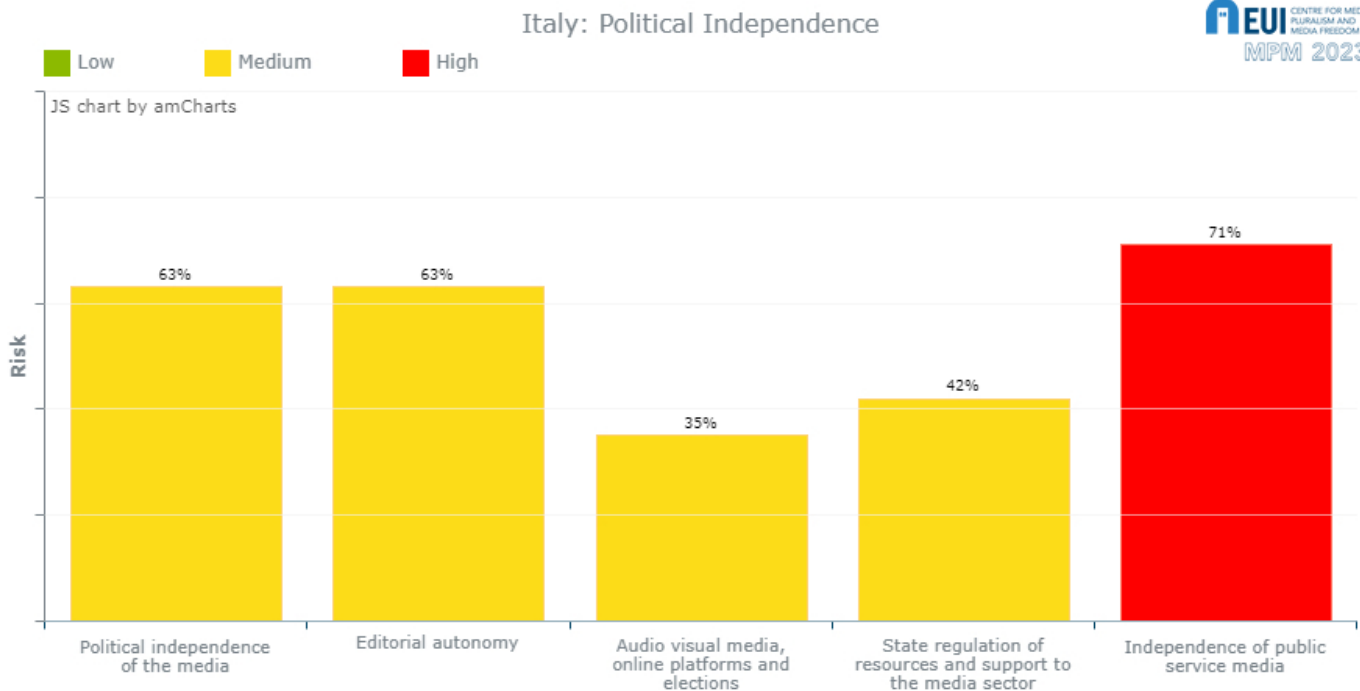
In the regulatory and competition framework, a novelty in 2022 is Art. 33 of the Annual Law on Competition (l. 118/2022), which states that "In the absence of proof to the contrary, economic dependence is presumed in the case where a firm uses the intermediary services provided by a digital platform that has a decisive role in reaching its users or suppliers, in terms also of the network effects or data availability". This definition of "economic dependence" was the basis of the intervention of the competition authority, in a case that might have interesting developments for the media sector too, in 2023, when a probe started in regard to the abuse of economic dependence by Meta on SIAE, the main Italian collection society for artists' rights (AGCM no. A559).

The digital score is lower in **Media viability** (at medium risk, 50%) due to the deeper crisis in the legacy media, on one hand, and to some signals of resilience in the digital native sector. It must be said that, for our assessment, we cannot rely on transparent and comprehensive data in this sector. Legacy media companies rarely provide details of digital costs/revenues; and the digital native media are many, and they are often of small size, and less monitored. Overall, signals from the online advertising market are negative, when the platforms are not included (minus 3.1%, according to Nielsen data, from 2021 to 2022). Nonetheless, there are successful examples of niche digital brands that are not based (or not exclusively based) on advertising, and some cases of resilience. As noticed in another part of this report, two digital native brands, Fanpage and Citynews, are among the main players in the online information ranking. For the MPM2023, we interviewed Luca Lani, the founder and CEO of Citynews. Founded in 2010, it is a network of local media that covers 53 cities. The business model is based on advertising. Luca Lani reports that, even though 2022 was a hard year, worse than the previous two, and their group had to struggle to collect advertising, they achieved an increase of 7% in their advertising revenue. This result was due to the fact that local advertising has been relatively less impacted than has national advertising; besides, while programmatic advertising is more and more affected by the privacy regulation, this impact affects this business, which is more locally based, only to a limited extent. Lani also stated that, although the website will continue to be free to access, a premium offer has been developed, with investigative journalism reportage, for paying subscribers.

There are also examples of digital news brands that are experimenting with alternative sources of revenue: e.g., *Valigia Blu*, *Il Post* (with a mixed model that is based on membership and subscription financing), and others. A recent niche innovative experience is *Chora*, a podcast company that was founded in 2020, which, in 2022, acquired another digital native start up, *Will Media*. *Chora's* business model is based on three streams of revenue: the sale of podcasts to platforms; the sale of other editorial products; branded content for companies and institutions. For the MPM2023, we interviewed Mario Calabresi, *Chora's* founder and editor-in-chief, who reports a "safe" economic situation. "Every year we have doubled the turnover. For *Will Media*, the budget has been positive since last year, *Chora's* budget will be in 2023. The labour force is around 90 persons for the two media, 1520 of them are on a permanent contract. Almost half the budget of *Chora* comes from branded content, which is realised by a separate staff". In Calabresi's opinion, this is proof of the fact that the high cost of journalism requires cross financing by other streams of revenue. Calabresi himself comes from years of experience in a legacy media group: "I had to deal with the decrease in sales and advertising, and I can testify that the only recipe was cutting the costs. Italian publishers arrived late at digital, and they were so used to the normal way of doing things that they didn't realize that they had to invest (or they didn't want to). On the other hand, it is very difficult to find financing, quite impossible to have loans from the banks, particularly for young people. with an idea". (for an interesting insight into the digital transition of the Italian media, see also: Tedeschini Lalli 2023).

### 3.3. Political Independence (55% - medium risk)

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



The indicator, **Political independence of the media**, increased to 63%, approaching the high risk area. No legal developments have taken place in the course of 2022: conflict of interest is still regulated by Law 215/2004 (the "Frattoni Law")<sup>[23]</sup>, and remains one of the main concerns in the area, as leading media in the audiovisual, radio and newspapers sectors are piloted by politicians who are in government, or their intermediaries. This element of risk provokes growing concerns in relation to political capture, as it is also linked to a process of media concentration that was observed at the local level, and the persisting inability to come up with an effective legislative reform on the subject.<sup>[24]</sup>

In the audiovisual and radio sectors, Berlusconi and his family control the *Media for Europe* broadcasting giant through the holding Fininvest, whose shares are split across several other companies. Although it has decreased with the relative decline of Forza Italia's electoral outcome, Berlusconi's political role, which had already been resumed in 2021 by the formation of Mario Draghi's government, has been further strengthened by the formation of Giorgia Meloni's, following the elections that were held on 25th September, 2022.

The formation of Meloni's government fostered additional concerns also in the newspaper sector, and, specifically, over the editorial activity of the entrepreneur, publisher and former member of Berlusconi's Forza Italia party, Antonio Angelucci, who has been reelected to the Italian Chamber with Salvini's Lega.<sup>[26]</sup> While Angelucci's case is a blatant example of how regulatory limitations concerning direct control can be easily circumvented through a regulatory void on indirect control, it also represents a phenomenon of concentration, with pronounced political nuances, in an environment where owning a newspaper can no longer be considered profitable.

When considering the leading digital native media, no signs of political control exerted via direct ownership,

or by indirect control via intermediaries, have been detected: the Italian digital native realm can count on a plurality of digital native publications, and appears to be consistently less subjected to political capture, at least when considering the ownership structure of the leading digital natives.

As per the news agencies, the indirect governmental control exerted by the government on AGI, through the State controlled national energy company ENI, continues to represent a source of risk.

The indicator **Editorial autonomy**, remained in the medium risk band, at 63%. The most concerning domain in this field is related to regulatory safeguards to guarantee the autonomy of editors-in-chief, which allow interference in the process of their appointment and dismissal. At the same time, self regulatory mechanisms can be considered to be only partially effective and implemented, falling short before the structural problems and biased practices.

The relationship between publishers and journalists is governed by the National Collective Agreement contracted by the National Federation of the Press (FNSI) and the Italian Federation of Newspaper Publishers (FIEG), about which there is a difficult discussion on its renewal. Aeranti Corallo and the National Federation of the Italian Press are in charge of contracting the renewal of the national collective agreement for subordinate journalistic work in companies in the local radio and television sector, which was signed on November 16th, 2022, along the Regulation for Coordinated and Continuous Collaboration Relationships (term contract, the so called co.co.co).

The postponement of the new National Journalism Contract is deemed to be highly concerning, as it governs the role of the editor-in-chief and its relationship with both publishers and journalists.<sup>[27]</sup> In the event of the termination of the journalist's permanent employment relationship, which is not determined by fact or by the fault of the journalist, the same has the right, as per Article 27, to an indemnity in lieu of notice of 8 months' salary (increased by one month for journalists with more than 20 years of service).

Specifically with regard to the editor-in-chief/publisher dynamics, the relationship with the editor-in-chief, the co-editor-in-chief and the deputy editor-in-chief can be interrupted by the company, even in the absence of a justified reason. In this case, an indemnity will be paid of up to a maximum of 12 months' salary, in addition to the indemnity in lieu of notice. It follows that the publisher can fire the editor-in-chief without justified dismissal for reasons other than circulation, editorial outcome, professional behaviour, as long as an economic bonus is paid (Zaccaria, Valastro and Alabanesi, 2021).

Apart from the traditional concerns regarding the governance of the Italian PSM (see the ad hoc indicator), for the current implementation, no direct signs of political influence have been detected during the data collection. However, the way in which the influence on commercial media is more indirect, and relates to the owner's potential influence on the editorial line, based on the developments in the political scenario, as evidenced in the previous MPM assessment, must be underlined (Carlini, Trevisan and Brogi, 2022).<sup>[28]</sup>

In considering self regulation, the main reference text is the Consolidated Text of the Journalist's Duties, which was approved by the National Council of the Order of Journalists in 2016, flanked by the codes of ethics of all of the major publishing groups. These self regulatory mechanisms, when related to editorial independence and respect for professional standards, are only partially respected and implemented, whereas the MPM analysis continues to register the lack of effectiveness of the sanctioning measures in cases of violation of ethical standards by journalists and, in some cases, the blatant dependency of editorial/decisional lines on the political activity of the owners/publishers which is exacerbated by the ineffectiveness of the law on conflict of interest, thus paving the way to a situation that is prone to political pressure. On a final note, the analysis also registered the not so effective presence of the relevant associations. As a matter of fact, OdG's competences, in respect of deontology, do not cover all the journalists.

The indicator **Audio visual media, online platforms and elections**, remains at the medium risk level,

scoring 35%. The main sources of concern are related to the fair representation of different groups of political actors, and both the rules and practice of political advertising online.

Rules aiming at impartiality in news and informative programmes on PSM channels and services are defined by Art. 6. of the TUSMA and Arts. 2 and 6 of the RAI Service Contract 2018-2022. Access to airtime on PSM channels and services for political actors during election campaigns is regulated by the Law no. 249 of 1997, the Legislative Decree 8 November 2021, no. 208 (TUSMA), Law 10 December 1993, n. 515 and the Law 22 February 2000, no. 28, as amended by Law 6 November 2003, no. 313, and the Decree of the Minister of Communications of 8 April 2004, which issued the self-regulation code for local radio and television broadcasting. Law no. 28/2000 (the so-called "*par condicio*" discipline) regulates access to information and political communication programmes, distinguishing between two different periods: non-electoral and electoral. AGCOM and the RAI Supervisory Commission are required to dictate the implementing provisions in each single electoral consultation, which are supervised by the same Communication Authority (at the national level), and by the CORECOMs (at the local level).

In 2022, the general election (September 25, 2022), the municipal elections and a referendum on justice (both on June 12, 2022, with a runoff round for the direct election of mayors), were held in Italy. In compliance with the regulation on the level playing field (Law no.28/2000), for all 3 electoral events, AGCOM has preventively deliberated the implementing provisions for the regulations on political communication and equal access to the information media (Delibera n. 299/22/CONS for the political elections, Delibera n. 134/22/CONS for local elections, and Delibera n. 135/22/CONS, for the referendum). As stated in the AGCOM press release, in addition to speaking time and news time, the regulation provides that "video sharing platforms are required to take any useful initiative that is aimed at ensuring compliance with the principles of protection of pluralism, freedom of expression, impartiality, independence and objectivity of information, as well as adopting measures to contrast the phenomena of disinformation also in compliance with the commitments undertaken by the platforms in the context of the Code of Practice on Disinformation" (AGCOM, 2022).

From a formal point of view, it can thus be claimed that competent authorities have complied with their obligations. However, when it comes to the effectiveness of the above mentioned regulation, the reality proved to be quite different: in the non-electoral period, some problems were detected, since the historical correspondence of RAI's main channels with the different political parties' lines, the "chicken-coop effect" in talk shows, as well as at least one case that sparked debate around the PSM's ability to offer diverse political viewpoints (the so-called Orsini Case). In spite of AGCOM's commitment to imposing proportionate remedies, their application appeared, all in all, to be non-incisive against the persisting deficiencies. Moreover, RAI's Supervisory Commission proved quite weak when drafting a five point resolution in the aftermath of the so-called "Orsini Case" (Di Giuseppe, 2022).

As to the electoral period, it can be stated that the concerns are related to the limits of the *Par Condicio* Law, which does not regulate the web, does not ensure inclusion of new and non parliamentary political actors, and "does not cover all the aspects of political presence in tv, being limited to a quantitative measurement of airtime", as underlined by one of the experts consulted during the MPM22 implementation. In such a context, AGCOM's growing interventionism appeared to be directly proportional to these regulatory gaps and consisted of several admonitions, resolutions and also sanctioning processes, that were initiated to ensure the respect of political pluralism in RAI's audiovisual services and also in the commercial sector.<sup>[29]</sup>

When specifically considering the reality behind political advertising, the *Par Condicio* Law does not oblige the parties, and other political actors, to detail their expenditure for political advertising online. The yearly parliamentary report on Political parties' transparency provides a formal assessment of their compliance, but it does not assess any of the details on the expenditure (by subject, media, type), and there is no special provision during electoral campaigns. In Italy, there have been discussions, working groups and

recommendations made, but no specific regulation has yet been implemented.<sup>[30]</sup>

As legislation on transparent reporting on campaign spending on online platforms does not exist, the only way to estimate the amount of expenditure on social media political campaigns is via the social media ad libraries. Despite mainstream platforms seeming to respect the three major criteria that are highlighted in this variable (requesting ads to be labelled as political ads, who paid for them, and the amounts spent) there are concerns that the overall system is not sufficiently transparent. Firstly, the annual transparency reports, which include information about political ads' transparency improvements that were agreed in the Code of Practice (2018), have not been released since 2019. Nevertheless, the new, Strengthened Code of Practice signed in 2022 requires to release more details on political advertisement so that more transparency is expected, albeit not for electoral campaigns (The first transparency reports covering 2022 have been released in January 2023). According to a recent large scale study on political ads on Facebook, current enforcement appears to be imprecise, the detection of performance is uneven across countries, and enforcement appears to be inadequate in preventing systematic violations of political advertising policies (Le Pochat et al., 2022). When searching for online ads on Meta there are also specific time frames to which one must stick (7, 30, 90 days) so that it is not possible, for example, to have a simple annual report from 1st January to 31st December. All in all, it seems that, despite general and apparent improvements to ensure transparency, there are still doubts about the overall effectiveness of the transparency measures of the mainstream social media platforms.

The indicator on **State allocation of resources and support to media sector** is at medium risk (42%), registering an increase of its risk level in comparison with the previous implementation of the Monitor. This year, the evaluation of the transparency and fairness in the distribution of State advertising to media outlets, has been conducted while taking into particular consideration the role of the State-owned companies, as requested by the MPM's methodology and confirmed by the definition of State advertising that is provided in the proposed European Media Freedom Act. State advertising is regulated by the law, in Art. 49 of Legislative Decree 208/2021, which confirmed the previous narrow definition, which is limited to the expenses of the public administration and which has set a general rule on its distribution; government departments and agencies that buy advertising on mass media must destine 15% of their expenditure to local radio and tv (operating in EU countries), and 50% to the press (daily newspapers and periodicals). Such expenditure must be communicated annually to AGCOM by government departments and public authorities. It is worth noting that the same provisions do not apply to publicly-owned companies, whose advertising expenditure – in a declining market – has acquired a growing role and may thus raise some concerns about political and commercial influence.

The system of public support to the private media is composed of both direct and indirect subsidies. The main law regulating the direct subsidies is no. 198/2016, which was implemented by Decree no. 70/2017. This law set up the Fund for Pluralism and Innovation in the media sector, and the criteria regulating their distribution. Media companies and outlets are entitled to direct contributions in the following cases: cooperatives of journalists, non-profit publishing companies, publishing companies whose main shareholder is a cooperative association, a foundation or a non-profit entity, newspapers and publishing companies for language minorities, newspapers and publishing companies for people with visual disabilities, publishing companies for newspapers that are published and distributed abroad.

This distribution is set by a decree annually. The last decree on the Fund's distribution was published in February 2023 (funds for the year 2021). Direct subsidies in 2021 were €88.4 million, with €71 million going to publishers of dailies and magazines that are distributed in Italy, 11 million to media outlets for minority languages. In 2021, the first 15 beneficiaries of the direct subsidies were: Dolomiten (€6.1 million), Famiglia Cristiana (€6 million), Avvenire (€5.5 million), Italia Oggi (€4 million), Gazzetta del Sud (€4 million), Libero Quotidiano (€3.8 million), Il Quotidiano del Sud (€3.6 million), il manifesto (€3.3 million), Corriere Romagna

(€2.2 million), Cronacaqui.it (€2.2 million), Il Foglio (€1.8 million), Primorski Dnevnik (€1.7 million), Il Cittadino (€1.4 million), Cronache di (Libra editrice) (€1.2 million), Quotidiano di Sicilia (€1.2 million). As may be noticed, the first beneficiary is a local media outlet which receives almost 8% of the total direct subsidies; the first 3 beneficiaries receive a total of 21% of the total direct subsidies.

The legislation on government subsidies to the media has been sanctioned for "internal inconsistency" by the Constitutional Court (Sentence no. 209/2019). According to the Court, "in a sector such as the one in question, characterised by the presence of a fundamental right, there is a need for the regulatory framework to be brought back to transparency and clarity, and, in particular, for the allocation of resources to meet certain criteria and aims". Since the sentencing of the Constitutional Court, the system has not been improved. Moreover, the eligibility criteria that the legislation sets are often respected only formally, and there are cases in which a cooperative has been created in order to access the fund, but the beneficial owner is a for profit company.<sup>[31]</sup> For the subsidies allocated to the protection of linguistic minorities, the law does not require eligibility criteria in terms of pluralism, nor other standards and criteria. The main beneficiary of the Fund is a local conglomerate of media and other economic activities (according to news reports, controlling 2/3 of the daily circulation of newspapers in the region).<sup>[32]</sup> When it comes to the effectiveness of public direct subsidies, although the direct support is supposed to finance Innovation, there is no direct control on the use of the resources, nor is there a direct link between the funds and the investments by the media.<sup>[33]</sup>

Since 2022, an Extraordinary Fund has been established, "Fondo straordinario di sostegno all'editoria". It aims "to encourage investments by publishing companies, including start-ups, oriented towards technological innovation and the digital transition, the entry of qualified young professionals into the field of new media, as well as to support corporate restructuring and social safety nets and to support the demand for information" (Art. 1 co. 375 Law 234/2021 - the budget law). The Fund was financed with €90 million in 2022, and €140 million in 2023. The 2022 Fund was distributed by the government by a Decree of 28th September, 2022, and it includes a set of direct and indirect subsidies. The majority of funds go to television, radio and legacy newspapers, and they are not earmarked for technological innovation (Santoro, 2022).

The indicator, **Independence of public service media**, scores the highest risk level in the **Political Independence** area, with 71%. The governance system of RAI continues to pose relevant concerns, with the appointment of each of the company's top management bodies involving both the political forces that are present in Parliament and in the Government.

The nomination process depends on the negotiation between the parties, based on the balance of power in the Parliament, with Reform 220/2015 practically failing to change the historically great dependence of the PSM board on political influence - the proposals filed in the Parliament amounted to nothing. In comparing the 2015 reform with previous legislation, Zaccaria (2019) highlighted a greater role for the government, as the appointment of the CEO is the responsibility of the Board of Directors, on the proposal of the Shareholders' Meeting, and is subject to designation by the Council of Ministers. Based on this system, it would be difficult (although possible) for the BoD to disregard the governmental proposal made via the Shareholders' Meeting. In turn, the main appointments, firstly, those of the first level managers, are dependent on the CEO, although, when it comes to network, channel or newspaper directors, the opinion of the Board of Directors is required (as regards the editorial directors, when the opinion is expressed by the majority of 2/3, it becomes binding) (Zaccaria et al., 2021).

As foreseeable, two weeks after the elections held in September 2022, the process of revolutionising the top management positions of RAI was already ongoing, as evidenced by several sources that are attached to this report (i.e., *Affari Italiani*; *Il Tempo*).

Funding procedures remained unaltered, if compared to the MPM2022 assessment. The Italian PSB is



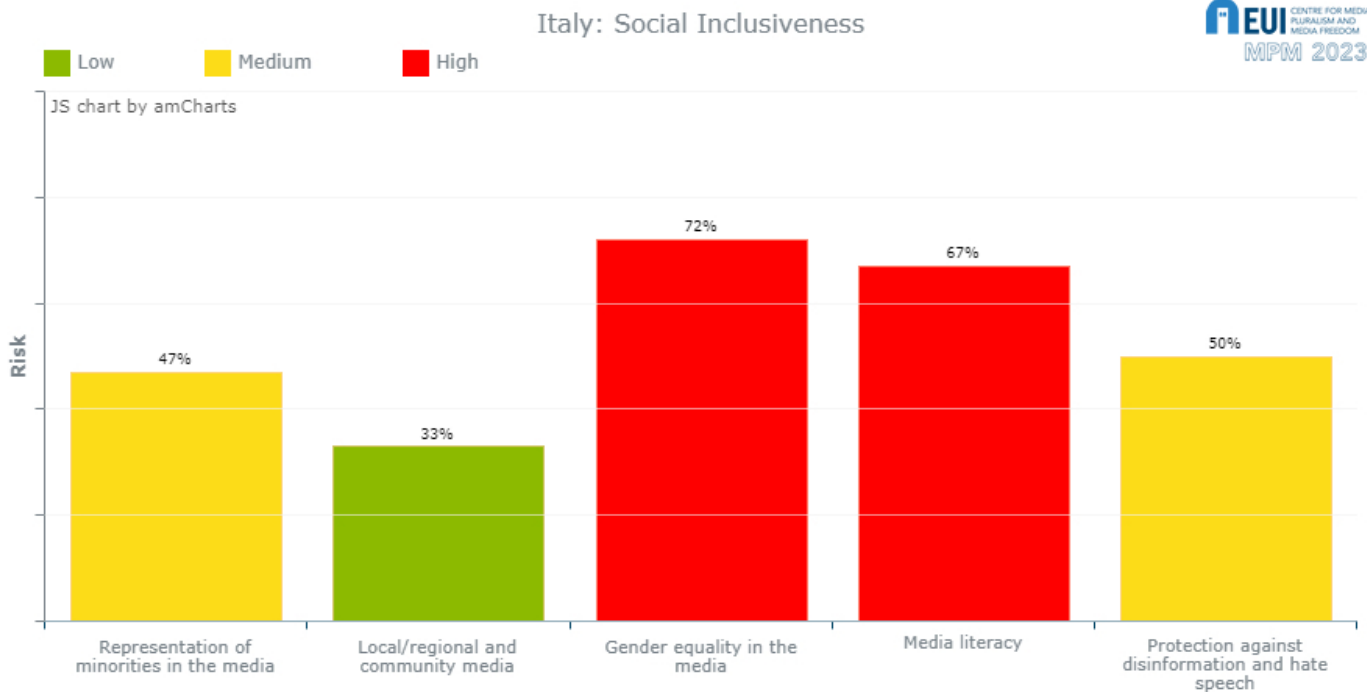
mainly funded by the license fee (the so-called Canone RAI), and only to a lesser extent by advertising revenues. In order to contrast the phenomenon of tax evasion, the 2015 Stability Law established the license fee to be incorporated into the electricity bill, causing a consequent increase in revenues and an effective recovery from fiscal evasion. In conjunction with the determination of the new collection method, the amount of the fee was initially reduced from €113.5 to €100 a year, finally settling at €90, far below the average of the major EU countries. While there's no risk of competition distortion, funding mechanisms are not sufficient to ensure the stability of the Italian PSM, nor are they effective in avoiding governmental discretionary power. As evidenced by the hearing of CEO Fuortes in the Senate, the Italian PSB is characterised by “decreasing and incongruous resources”, “too frequent interventions into the amount of the license fee”, and “difficulties in developing reliable economic planning”.<sup>[34]</sup>

### Focus on the digital environment

**Political Independence** scores 23% in the digital environment, which is a considerably better result, if compared to the overall assessment (55%). While the indicators **Political independence of the media** and **Independence of public service media** score as being low risk - since no signs of political control being exerted via direct ownership or indirect control via intermediaries were detected when considering leading digital native media, and no concerns are evidenced when it comes to the PSM's online mission - when looking at the indicator **Audio visual media, online platforms and elections** (63%, approaching the high risk band), the reality behind political advertising considerably increases concerns. This is directly depending on the outdated legislation on the subject (the *par condicio*). Since legislation on the transparent reporting on campaign spending on online platforms does not exist, as has already been shown in the general section, social media ad libraries are the only way to estimate the amount of expenditure in social media political campaigns. Political ads are generally labelled as such and, all in all, it is possible to know who paid for ads and the amounts paid. Nonetheless, the overall effectiveness of the transparency measures in relation to mainstream social media platforms is deemed to be insufficient.

### 3.4. Social Inclusiveness (54% - 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 disinformation and hate speech.



The Indicator, **Representation of Minorities in the Media**, scores 47%, which is a medium risk. As in the previous year, the analysis of this indicator evidences a consistent gap when it comes to the guarantees that are granted to the legally recognised and those that were not legally recognised. The 2023 implementation also shows that minorities' representation is better guaranteed in the PSM realm, while the private sphere continues to lack both legal obligations and a monitoring system, representing, in this context, the main sub-area of concern.

Legally recognised minorities are linguistic minorities that are protected by Art. 6 of the Italian Constitution. Their access to the PSM is guaranteed by Art.59 co 2/f of the new TUSMA and by the RAI service contract and, in this regard, it is possible to state that RAI has fulfilled the existing obligations, although it must be mentioned that AGCOM's data don't allow specific investigation, as "linguistic and ethnic minorities" are measured together with other "social actors" in the monthly published reports. Nevertheless, the low risk in this regard has been confirmed, both by the Group of Experts and by AGCOM's representatives, who were consulted for the scope of this study. National news in recognized minority languages is available on a regular basis. The principal programme broadcasted by regional branches of RAI in minority language is the bilingual news-casts. According to programming schedules, news is clearly present in Rai Alto Adige and Friuli Venezia Giulia, while there is less clear evidence for Val D'Aosta<sup>[35]</sup>, while Sardu was excluded in the context of the Rai 2015 reform. It can therefore be stated that PSM is broadcasting national news in most of the legally recognised minority languages.

Contrarily, non-legally recognised minorities are not guaranteed the same treatment in PSM services: the RAI Service Contract obliges RAI to respect non-discrimination principles and to promote minorities' inclusion (Art. 2, comma 3, lett. d-e), while the new TUSMA includes the non-discriminatory principle and the safeguarding of ethnic diversity among the general principles of the audiovisual media system (Art. 4, Legislative Decree 208/2021). However, most of the minorities which are not legally recognised do not have

access to airtime in the PSM, or this access is not proportional to the size of their populations in the country.<sup>[36]</sup>

Unlike the PSM, the commercial audiovisual media are not obliged to give access to legally recognised minorities, and AGCOM has no obligation to monitor the situation, even though local broadcasting monitoring is provided by CORECOMs. Nevertheless, it is worth highlighting how public funding and incentives set up by the regions have, in some cases, supported programmes and/or radio and tv that are dedicated to linguistic minorities.

Finally, when it comes to media accessibility for people with disabilities, there is a developed framework (Art. 3 of Law 220/2016 Rules on Audiovisual and Cinema, co. 1/g; Art. 10 and 25 h of the RAI Service Contract), but there is room for improvement when it comes to implementation, both in the PSM and the commercial media.

The indicator **Local/regional and community media**, scores 33%, thus approaching the medium risk band. The main source of risk, in this realm, comes from the legal provisions on community media, as there is no provision regulating their independence and no specific provision granting access to platforms (although they are granted access in case they range in the definition of local media), while some risk is also detected in regard to State support, in this context. Another source of risk is due to the only partial effectiveness and transparency of the State subsidies that are distributed to local media, in the audiovisual, radio and print sectors.

The law grants regional or local media access to media platforms. Art. 4, co. 7-8, Legislative Decree 208/2021, which defines that the National Frequencies Plan (PNAF) adopted by AGCOM must guarantee to local operators a share of transmission capacity and, specifically, UHF frequencies, on which they can run networks; at least one of which must cover 90% of the population in the area. PSM effectively keeps local branches and correspondents, as defined by Art 59, Co. 1/p, Legislative Decree 208/2021 (TUSMA).

The State supports regional and local media, with a specific fund for local tv and radio, which is administered by the Ministry of Enterprises and Made in Italy. This is called the Fondo per il pluralismo e l'innovazione dell'informazione. The Fund's shares are set annually by the government. With specific regard to funds attributed to local television and radio, the decisions issued by the Consiglio di Stato in 2022 give further sources for concern: on the one hand, they confirm that the set of criteria are often obscure, leaving room for interpretation; on the other, the decision to reopen the distribution that has already been completed in the past risks jeopardising the economic environment of the local media (Consiglio di Stato, 2022).

As for local newspapers, they receive support through the Fondo per l'editoria, if they fulfil the requirements stated by the general law, which earmark part of the subsidies for the media, which are an expression of linguistic minorities. The distribution of subsidies is set on an annual basis, and there are some issues in relation to the effectiveness and fairness of the distribution (as seen in the previous chapters, on **Market Plurality** and on **Political Independence**). The main beneficiary of the public direct support is *Dolomiten*, which is owned by a local monopoly, Athesia, which controls 2/3 of the daily circulation in Trentino Alto Adige. The growing tendency to media concentration at the local level had already been analysed by the media authority some years ago (AGCOM 2019).

In relation to community media, while there is no specific provision granting access to them, Art. 4, co. 7-8, Legislative Decree 208/2021 is effective if they fall within the definition of local media. Moreover, although no specific legal safeguards are available in regard to their independence, but they proved to be rather independent.

The indicator on **Gender equality in the media** scores 72%, which means it is at high risk, as it was in the previous MPM implementations. The average assessment in this Indicator results from quantitative evidence on the presence of women in the governance of the media companies and in the top positions in

the newsrooms; and from a qualitative perspective, it is related to the representation of women in the media. Across the years, there has been an increase in reflection on the issue and sensitivity to the topic, as well as some steps forward regarding gender balance in the governance, whereas very little improvement occurred in relation to the way in which the media represent women.

As far as governance is concerned, the PSM perform better than the private media companies. This result is related to the appointments that have occurred in 2021, with 3 women (from 7 positions) in RAI's management board (to be renewed in 2023, N.B.). In the year of assessment (2022), the president of RAI was a woman. Nonetheless, it must be noted that the president does not have executive power, and in the PSM a female CEO has never been appointed. Similarly, in the main private media companies the presence of women has increased on their boards, but not in the top executive role. When it comes to the newsrooms, the situation worsens, with just one editor-in-chief – again, in the PSM – in the leading news media in the country (this has been calculated by considering the top two outlets for each media sector). Digital native media, despite being more recent institutions, do not perform better in this regard.

In this indicator, the sub-indicator at highest risk is the one on representation of women. The media authority, who has the task of monitoring social and political pluralism, provides data on the presence of women as political actors in news and current affairs in the audiovisual sector (public and private). The latest data show that less than a 1/5 of these actors were women in 2021 (AGCOM 2022 Annual Report, p. 67). The last implementation of the *Global Media Monitoring Project* (GMMP 2021) found that “[the number of] women has grown, in terms of overall visibility, arguably more thanks to their greater presence and participation in institutions and businesses than as the result of a greater news media commitment to equality”; nonetheless, “... as for their function in the news, women are 24% of news subjects, which is the most frequent function and continues to be a man's domain”. Another source of concern is the low presence of women as experts: in its social report, the PSM reports on the presence of women as opinion makers (30.1%) and experts (22.8%), whereas the GMMP data show a situation that is even worse, if the private media are taken into consideration: in 2021, if compared to the *GMMP Monitor for 2015*, women appear more often as spokespersons, since the figure has risen from 13% to 30%, but their presence as experts has decreased meaningfully, from 18% to 12%.

The low level of the presence of women as experts and actors in the news cannot be related to a scarcity of female experts, considering that the gender gap in education is, in Italy, in favour of women – the country has a higher percentage of female graduates and of women in higher education, than men.

In January 2022, RAI's president, Marinella Soldi, signed the *Memorandum of Understanding* "No women, no panel", to promote a gender balanced representation in the PSM's communication activities. According to the MoU, RAI is committed, amongst other things, to organising gender balanced panels "as much as possible". This obligation adds, with more specific commitment, to the provisions of the Contract of Service with the PSM.

The year has been characterised by the general political elections that were held in September. The media authority clarified that gender balance was among the criteria to be respected in the electoral information and debates (Resolution 299/22/CONS, Art. 7/2), in spite of this regulation, an overwhelming presence of male politicians and commentators characterised political information and talk shows, as was highlighted by AGCOM in its Resolutions 300/22/CONS, in which the media authority called for the media to respect the “par condicio” regulation, including the rules on correct gender representation.

As regards the press, male commentators are still predominant in the front pages, and female columnists/experts are often segregated to the "women's issues" section, with some exceptions. The situation improves when it comes to the representation of women in the digital media outlets. According to GMMP (2021), the digital media perform slightly better than the press, radio and TV in relation to the language used to speak about women, as noticed by making reference to a set of “special questions” that were included in the project framework: in online news, professional titles are used for both women and

men, and their grammatical articulation is gender sensitive in almost all cases. On the contrary, the legacy media perform worse than the newer media, in terms of the language and the ways in which women and men are spoken of. A wide gap remains as far as introducing subjects by both name and surname, and the making of explicit references to their titles, and professional affiliations.

The indicator on **Media literacy** shifts from medium to high risk in MPM2023 implementation, with a score of 67%. This worrisome result is due to the fact that no effective policy initiatives were undertaken to improve overall media literacy competencies and skills, both for adults and kids, and to Italy's poor position in the European indicators on digital skills.

It is worth framing the issue of media literacy in the broader scenario: Italy is dramatically low in terms of literacy competences as a whole. The latest international survey on adult competencies reported that Italy was below the OECD average in literacy skills (the ability to read and comprehend a written text) (OECD 2019). As regards students, Italy is below the OECD average in the PISA literacy test, and in the specific Indicators relating to media, which ask about the ability to distinguish fact from opinions, and training in the schools on how to detect biased information and misinformation (OECD PISA 2018). According to INVALSI (the national system for the evaluation of Italian students), 44% of pupils in the last year of high school do not fulfil the minimum standard set by the same national tests for literacy. For MPM2023, we interviewed Christian Tarchi, Associate Professor, University of Florence, Professor in developmental and educational psychology, and an expert in media literacy. "Existing data confirm that there is a general issue regarding literacy in Italy, particularly in regard to a high level of reading. After the publication of the OECD PISA results, some initiatives were undertaken, mostly at the regional level, to ameliorate reading competences in the primary schools, but those programmes are not specifically focused on media literacy. The digital skills, for which other programmes are earmarked, are mainly related to machinery and tools for the schools, not to the programmes and teachers' training". The main risks in the Italian situation are related to the lack of a common national policy, with random initiatives by the regions, which result in the risk of the underperforming of the regions in which there would be most need for intervention; to the fact that the training for teachers on this topic is almost absent, and, finally, to the tendency to address this issue by financing digital infrastructure without changing the pedagogical tools and methods, as Tarchi points out.

In 2022, part of the EU funds provided with the programme NGEU, for the educational system, are earmarked for the digital transition (€95 million). Schools can apply for funds to migrate onto the cloud and to create/improve their websites. As in the past, the investment in tools and technology is prioritised, whereas less attention is given to the competences and the curriculum.

Initiatives by universities, civil society organisations and associations are lively, but they are not widespread and they risk leaving behind the children and the population with less information and fewer social networks.

The indicator on **Protection against disinformation and harmful speech** scores as being at medium risk (50%). Whereas the main drivers of risk, in comparison with last year's assessment, have not changed, in MPM2023 a new variable is taken into consideration, which aims to assess whether there are some civil society and non-governmental initiatives to counter disinformation, passes from high to medium risk. We have identified some occasional initiatives that have been conducted by civil society to fight disinformation. Furthermore, it is important to stress that disinformation in Italy cannot be attributed exclusively to the digital environment. False or inaccurate news often originates from, or is amplified by, the legacy media, and is then disseminated on the web (often coming back into the legacy media itself), thus forming a vicious circle. One of the main issues that needs to be addressed for there to be an effective fight against disinformation in Italy is the severe lack of trust in the media. The overall media trust score, according to Eurobarometer, is 59%, a decrease from 62% in 2021 and approaching the high risk band (*Standard Eurobarometer 94*).

Similarly, the Oxford Reuters Institute confirms that the overall trust score in relation to the news media in Italy remains low, and it has declined in 2022 from 40% to 35% (Cornia, 2022). Importantly, the level of Italians' perception of the danger of disinformation is still low, if compared to the rest of Europe. This may sound counterintuitive because of, as highlighted in previous years, the relatively low level of media literacy in Italy, as well as the demographic profile of the population, which naturally make the country more vulnerable to disinformation and harmful speech.

### Focus on the digital environment

In the digital sphere, the main drivers of risk in the Social Inclusiveness area are related to the indicators on Media literacy and on Protection against disinformation and harmful speech. Media literacy scores the highest risk level in the digital dimension. This is because, in assessing the risk for this indicator, a relevant increase in the risk is due to the numeric variable on the percentage of population that has basic, or above basic, digital skills, which, for Italy, is 45% (EU = 54%). The improvement in the physical infrastructure and connectivity, which is shown by the indicator on Access to the internet, as seen in the Fundamental Protection area, did not come with a parallel improvement in the individual skills in using (and taking advantage of) technological developments.

Italy does not have specific laws aimed at counteracting disinformation, but relies on laws regulating the journalistic profession, criminal law, and the European legislative framework. Following the EU digital strategy development, there have also been self-regulatory initiatives that have been carried out by the media authority. The most notable one is the Technical Committee that was created in 2017 to guarantee pluralism and reliable information online. This relevant initiative, however, did not include the relevant stakeholders, and it was not long lasting (the last document released dates from June 26, 2020). Considering the rapid pace of media evolution in the digital environment, and the consequent need to constantly adapt tools and approaches, efforts to develop an effective strategy could be questioned seriously in this context. This is also true in relation to the fight against harmful speech. Federico Faloppa, the coordinator of the Italian National Network to Combat Hate Speech and Hate Crime, in an interview for MPM2023, argued that, despite gradual improvements, especially from civil society, which is particularly vibrant in raising awareness and advocacy, and there is a lack of a national strategy to fight hate speech, in particular, a vision for the midterm. And yet, according to the little empirical data that is publicly available, online hate speech remains a widespread phenomenon in Italy, if compared to other EU countries.

The Ukraine War has inevitably worsened the spread of disinformation. Indeed, new disinformation techniques, such as synthetic media and deepfakes have also often been deployed for the purpose of war propaganda (Mastrolonardo, 2022). Another relevant event for Italy, in 2022, was the general election that was held in September. This was also accompanied by polarizing disinformation (Stati, 2022). What is most concerning is that politicians also spread disinformation, especially on COVID, the Ukraine War, and climate change. Indeed, it is not rare for news of the like to be disseminated via politicians' social network's accounts. Even electoral promises are overwhelmingly nonfactual (96%), because politicians normally do not disclose financial coverage (*Pagella Politica*, 2022).

In recent years, factchecking initiatives have emerged as a fundamental tool with which to fight against disinformation and harmful speech. In Italy, there are generally two types of factchecking organisations: independent factcheckers, such as *Pagella Politica*, *Facta*, *Butac*, and *Bufale*, and journalistic factcheckers who are affiliated with, or who exist within, a media organisation, such as *Open*, *Iavoce.info*, and *Blasting News*. There are also some initiatives by independent bodies, like *IDMO*, the Italian branch of the project *EDMO*, which publishes a monthly report on the main topics of

disinformation in Italy, with anecdotal evidence collected by a network of factcheckers. Some of these factcheckers (*Pagella Politica*, *Facta*, *Open*, and *lavoce.info*) have signed the new European Code of Standards for Independent FactChecking Organisations. Overall, most of these organisations have high ethical and professional standards, and their funding is generally adequate and transparent. Although the informational landscape in Italy might benefit from a greater "pluralism of fact-checkers". *Pagella Politica* and *Facta* are indeed part of the same organisation, whereas *Butac*, *lavoce.info* and *Blasting News* are not very active, as they publish no more (and often less) than one fact-check per day.

## 4. Conclusions

In a year that was characterised by the parliamentary elections and the subsequent change of government, by the widespread impact of the war in Ukraine, and by a deteriorating economic scenario (with low growth and high inflation), the situation with regard to media pluralism in Italy did not improve, on average, and, in some aspects, it worsened. The developments of the legal framework that was initiated in 2021 – mainly with the new Consolidated Act of Audiovisual Services – have not yet produced effects, in the wait of the implementation of the regulation. Other long awaited reforms that have an impact on the fundamental protection of media pluralism are still pending, while a worrying deterioration in the situation on the ground is highlighted by the MPM exercise, in particular, with regard to the protection of journalists against intimidation, the threats to independence and editorial integrity, and the economic sustainability of media providers. The main drivers of risk for Italy in the MPM2023 implementation, as in the past, may be found in: the high concentration and mixed interests of the media industry; the lack of independence of the PSM; political influence on the private media; the low level of media literacy and the gender inequality in the media.

In the **Fundamental Protection** area, Italy still scores at the highest border of the low risk band (32%). Here, the indicator on the **Protection of freedom of expression** has shifted from low to medium risk, and the indicator on **Journalistic profession, standards and protection** also registered an increase in risk, even though it remained in the range of medium risk. These negative developments were compensated for by a decrease in the risk level of other indicators in this area and, in particular, the legal framework to guarantee the independence of the media authority, and the infrastructural conditions of access to the media and to the internet have improved. Even though, in Italy, the basic conditions of freedom of expression are respected, in line with international standards, several factors emerge from the MPM2023's implementation, and these should be taken into consideration. The combined effect of the criminal law on defamation and the lack of anti-SLAPPs legislation, exposes the journalists to intimidation, often by powerful actors, and there is a growing use of criminal and civil lawsuits that are, in the majority of cases, not successful, but that may have a chilling effect. A growing number of journalists work for low salaries and without a regular contract, and they are therefore more vulnerable to threats. Protection of sources and the right to information are not fully guaranteed; new legislation on the presumption of innocence came into effect, causing restrictions on access to information for judicial journalists. Protection of whistle-blowers is still limited in scope and effectiveness; it could be strengthened in the future by the transposition of the EU Directive 2019/1937 on the Protection of Persons who Report Breaches of Union Law – which was approved in December, 2022, with a delay of 1 year with respect to the given deadline, and it did not come into effect in the year of the assessment.

### Recommendations:

- To the State: to approve a comprehensive reform of the criminal law on defamation, complying with the requests by the ECHR and the Constitutional Court; to introduce anti-SLAPPs legislation; to guarantee an enabling environment for journalists, taking into consideration the growing role of independent professionals; to effectively implement the protection of whistle-blowers; to avoid unjustified restrictions on access to information for journalists; to strengthen the independence of the media authority, in view of its increased competencies, providing transparent and open procedures for the appointment of the members of its Board.
- to the Members of Parliament, and of the government, to avoid the abuse of criminal and civil lawsuits



against journalists;

- to the media companies and journalistic associations: to promote cooperative tools and funds to support journalists, including freelancers, against SLAPPs
- to the journalistic associations and councils: to monitor the respect of professional standards and editorial autonomy, including the freelancers and self-employed journalists; to adopt more effective tools to sanction their violation
- to the media authority: to promote, in the self-regulatory and coregulatory framework, transparent monitoring and reporting of the filtering and removal of media content by the digital intermediaries

In the **Market Plurality** area, Italy presents a medium risk score, close to the border of high risk (64%). As described in this report, the economic threats to media pluralism are, in part, a legacy of the past – arising from high concentration, the existence of conglomerates that merge media and non media businesses, a lack of effectiveness in relation to the media specific anti concentration framework, low paid demand for media and, in part, new ones, in particular, those deriving from the deterioration of the economic sustainability of the media industry, the delays in the digital transition, and the digital intermediaries' dominance in relation to access to (and the monetisation of) the news. The indicator on Media viability shifted to high risk in the year of assessment, and the employment conditions of journalists worsened, with a high amount of precarity and low compensation for the freelancers. Innovation of business models, and in the newsroom, lags behind, in spite of some niche experiences that have been successful. All these conditions aggravate the risks of commercial and owner influence over editorial content, as the independence of journalists is protected only by an old and scarcely effective self regulatory framework. Transparency of media ownership is guaranteed, on paper, but the public's access to information is not guaranteed.

### **Recommendations:**

- to the media authority: to guarantee the full access of the public to the relevant information on media ownership, up to, and as far as, the beneficial owner; specifically, to guarantee detailed information on ownership of those media that receive public support; to implement the new anti-concentration rules which set the principle that, in the media sector, positions of market power detrimental to pluralism are prohibited
- to the State: to reform the system of public support for the media, to sustain independent journalism, and earmark funds for innovation in the process and distribution, and also for innovative products.
- to the competent authorities: to cooperate, in the new regulatory framework for digital services and digital markets, to foster an enabling environment for media provision and distribution, particularly in the markets for data and online advertising
- to the State, the media authority, the industry and the digital platforms: to guarantee that the economic agreements on the use of copyright protected content are transparent and effective, and that they include all the media providers, not penalising pluralism and diversity.
- to the media companies and journalistic associations: strengthen and implement the self-regulation

rules regarding advertising, with a full and visible disclosure of paid content in the evolving digital offer as well, for instance, in the case of influencers.

The **Political Independence** area scores 55%, which is in the medium risk band. There are strong concerns in regard to the political control that is exerted via ownership, as leading media in both the audiovisual, radio and newspaper sectors are piloted by politicians in government, or by their intermediaries. As already mentioned, in this context, concerns in relation to political capture are increasingly linked to a process of media concentration that is observed at the local level. When it comes to **Editorial autonomy**, regulatory safeguards allow interference in the process of their appointment and dismissal of editors-in-chief, while self-regulatory mechanisms fall short before structural problems and biased practice. Transparency of political advertising online is another relevant risk that has emerged under the indicator **Audiovisual media, online platforms and elections**, while the indicator on **State allocation of resources and support to the media sector** demonstrated a system of public subsidies that is characterised by flaws and shortcomings, in terms of transparency, effectiveness and internal consistency. Additionally, State advertising provisions do not apply to publicly owned companies, whose advertising expenditure – in a declining market – is acquiring a growing role and may raise some concerns in relation to political and commercial influence. Finally, the governance system of RAI continues to pose relevant concerns.

#### **Recommendations:**

- to the State: to reform the discipline of conflict of interest, in order to free the system from political control and from intertwined commercial and political influences.
- to the State: to strengthen the rules on political communication in electoral periods, and to extend them to the online sphere; to put in place an obligation for parties and other political actors to detail their expenditure on political advertising online. In the wait for such reform, the political parties should voluntarily disclose details of their expenditure on advertising
- to the State: to revise the system of public support for the media, in order to ensure transparency and effectiveness when it comes to their distribution; and to include the publicly owned companies among the range of actors who are subject to the rules on transparency that apply to State advertising
- to the State: to reform the governance and the funding system of RAI, in order to guarantee the full independence of the PSM from political interference
- to the State, the media and journalistic associations: to strengthen regulatory and self-regulatory safeguards so as to impede interference in the process of the appointment and the dismissal of editors-in-chief, and to guarantee editorial independence
- to the media authority and to the data protection authority: to cooperate to prevent the abuse of microtargeting practices during electoral campaigns; data published by platforms might be crosschecked with reports that are presented by candidates.

**Social Inclusiveness** area scores at medium risk, at 54%. In the MPM2023's assessment the worst result in this area is still due, as in the previous years, to the indicator on Gender equality in the media. The slow improvements in the score of this indicator reveals some steps forward in the presence of the women in the

top management of the media industry, no substantial changes as regards the top positions in the newsrooms, and a presence of women in the news that is often stereotyped and segmented in the topics that are traditionally considered “feminine”. The second highest risk indicator in this area is that on Media literacy, whose score reflects the lack of a national strategy in the educational curriculum, the lack of effectiveness in the existing programmes, and the low digital skills of the overall population. The poor result in media literacy also influences the vulnerability to disinformation and hate speech. Access to the media is not guaranteed for those minorities that are not legally recognised.

### **Recommendations:**

- to the State, the PSM and the private media: to promote gender equality in the governance of the media companies, and in the top positions in the newsrooms; to promote a representation of women that is proportionate to their presence in all sectors of society, the economy and education, and to tackle gender stereotypes.
- to the State: to design and implement media literacy policies, in schools and among adults; to use the funds provided by NGEU’s digital strategy to increase digital competences (not limiting the financing to the digital infrastructure)
- to the State: to adopt holistic and multi-stakeholder policies with which to tackle disinformation and hate speech, both on- and offline, that may implement and complement the EU’s efforts in this field for policymakers: to make sure that the emerging European regulatory framework on platform governance and content moderation (i.e., the DSA) is implemented and enforced effectively; that its impact on the media environment is carefully evaluated in order to foster the dissemination of quality journalistic content online; and that the insightful data coming from new social media’s information disclosures will better inform national policies.

## 5. Notes

- [1] Data from dati.istat.it, “Stranieri residenti al 1 gennaio 2022”. This data refers to the foreign inhabitants who are officially residents. During 2022, a relevant number of Ukrainian refugees have been added to the historical presence of a Ukrainian community in Italy since the beginning of the war in Ukraine. As of mid- 2022, the Ukrainian refugees in Italy numbered 132,000 (ISTAT 2022, p. 155).
- [2] See the communication by the Ministry of the Economy, [here](#).
- [3] UPB, [Audizione della presidente dell’Ufficio Parlamentare di Bilancio nell’ambito delle audizioni preliminari all’esame del Documento di economia e finanza per il 2023](#). Commissioni congiunte 5a del Senato della Repubblica (Programmazione economica, bilancio) e V della Camera dei deputati (Bilancio, tesoro e programmazione), p. 34. Independent monitoring is carried out also by civil society organizations and watchdogs, e.g. [Openpolis](#).
- [4] On 8th May, 2023, RAI's CEO, Carlos Fuertes, resigned, affirming "since the beginning of 2023, a political clash has opened on my role, and this contributes to the weakening of RAI". (ANSA, [https://www.ansa.it/sito/notizie/cultura/tv/2023/05/08/carlo-fuertes-nellinteresse-della-rai-rimetto-il-mandato\\_9f53e5b0-8413-4c67-b139-64a085c1dd7a.html](https://www.ansa.it/sito/notizie/cultura/tv/2023/05/08/carlo-fuertes-nellinteresse-della-rai-rimetto-il-mandato_9f53e5b0-8413-4c67-b139-64a085c1dd7a.html))
- [5] see ECtHR Country profile Italy, [https://echr.coe.int/Documents/CP\\_Italy\\_ENG.pdf](https://echr.coe.int/Documents/CP_Italy_ENG.pdf)
- [6] Some examples can be mentioned. In Autumn 2022, after the legislative elections, the new Head of Government, Giorgia Meloni, decided to go ahead with several lawsuits that she had initiated when she was a Member of Parliament: one of these is against the journalist and writer, Roberto Saviano; another is against Emiliano Fittipaldi and Stefano Feltri, a journalist and (at that time) the editor-in-chief of the daily newspaper *Il Domani*. In both cases, the defamation lawsuit was initiated when Meloni was not the Head of Government. Another case which involved Saviano, is the lawsuit initiated by Matteo Salvini when he was Minister of the Interior (in 2018). It is worth noting that, in the past, the same situation had occurred, at the initiative of the members of other political parties.
- [7] On November 8, 2022, the FNSI and the National Order of Journalists took to the streets alongside Roman reporters, calling for a “a correct reading by the competent ministries through new explanatory circulars that do not jeopardise (as it is happening) the right to report” and an “immediate restoration of an adequate exchange of information that responds, at the least, to common sense, rather than to the fallacious and misleading transposition of a European standard, whose spirit (which we share), has been widely misrepresented in the Italian legislative adoption” (Ordine dei Giornalisti, 2022)
- [8] See <https://www.anticorruzione.it/denunciaillecitinellaaslesubisceritorsioniintervienelanac>, <http://www.ilfattoquotidiano.it/inedicola/articoli/2023/02/22/diamantimpstilwhistleblowerischiailavoroepuredifiniresottoprocesso/7073532/> and [https://espresso.repubblica.it/inchieste/2023/01/30/news/caso\\_dipendente\\_atm385224095/](https://espresso.repubblica.it/inchieste/2023/01/30/news/caso_dipendente_atm385224095/).
- [9] See FNSI: <https://www.fnsi.it/upload/1f/1f0e3dad99908345f7439f8ffabdfc4/c1fa908f0af37d6bbf13e69cc4d789f1.pdf>.
- [10] See: <https://www.fnsi.it/aeranticorralloefnsifirmatoilrinnovodelcontrattonazionaledilavorogiornalisticonellemittenzalocale#:~:text=Il nuovo contratto entrerà in,marzo 2023 e marzo 2024.>
- [11] See: <https://www.senzabavaglio.info/2022/11/26/nicolettamorabitoincapitasindacalesullavicendaequocompenso/>.
- [12] The Council of Europe’s Platform to promote the protection of journalism and safety, the specialised Coordination Centre on the Phenomenon of Acts of Intimidation towards Journalists, Chaired by the Ministry of the Interior; *Ossigeno per l’Informazione; Media Freedom Rapid Response*.
- [13] See: <https://www.ecpmf.eu/callforitalianpoliticalforcetotakeastandagainstslapps/>.
- [14] A case began when prosecutors in Trapani wiretapped hundreds of phone conversations involving at

least 15 journalists who report on migration in the central Mediterranean, including conversations with confidential sources and legal representatives. See Sambataro (2022)

- [15] See the 2022 decision of the Rome Public Prosecutor's Office to acquire the telephone records of two journalists from *Report*, the RAI investigative program:  
<https://www.ossigeno.info/reportigiornalistieildebolescudodelsegretoprofessionale/>.
- [16] The ECJ sentences reiterated that the generalised and indiscriminate conservation of data on telephone and telematic traffic is incompatible with the European Regulation on Privacy in Electronic Communications.
- [17] As underlined by Zaccaria (2021) there is no possibility of downloading and aggregating data, no summary, nor information on individual politicians.
- [18] See: <https://www.key4biz.it/egiomiagcommonmenefacciounaragionedenunciolerosionedindipendenzadellautorita/421364/>.
- [19] The judgment invalidated the provision of art. 1(15)(c) of EU directive 2018/843 in the point requiring that information is accessible in any cases to any member of the general public (Case C-37/20, Judgment ECLI:EU:C:2022:912)
- [20] See the Commission Recommendation 16.9.2022 on internal safeguards for editorial independence and ownership transparency in the media sector.
- [21] See AGCOM website: <https://www.agcom.it/asseti-proprietari-dichiarati-dalle-imprese-richiedenti-i-contributi>.
- [22] Alberto Barachini, Undersecretary of State for the Presidency of the Council of Ministers with responsibility for information and publishing, implicitly admitted this issue, announcing that in the future also digital media should have access to the public funds. See: <https://www.primaonline.it/2023/01/24/370842/editoria-barachini-finanziamenti-settore/>
- [23] The Frattini law has been deemed ineffective by the Venice Commission since 2005, see: [https://www.venice.coe.int/WebForms/documents/default.aspx?pdffile=CDL-AD\(2005\)017-ita](https://www.venice.coe.int/WebForms/documents/default.aspx?pdffile=CDL-AD(2005)017-ita)
- [24] The 2020 unified text for the reform of the discipline had not been approved before the end of the XVIII mandate of the Parliament, which expired in September 2022
- [25] Angelucci has been appointed in Commissione Cultura, which has (among other tasks) competencies in the publishing industry. Through the holding Tosinvest (from a formal point of view the CEO is the son Giampaolo), the Angeluccis control Editoriale Libero S.r.l. (the publisher of Libero Quotidiano), TMS Edizioni S.r.l. and Il Tempo S.r.l., publisher de Il Tempo. At the end of 2022, Tosinvest sold 100% of the Group Corriere S.r.l.'s (publisher of several local editions) capital to Polimedia; see <https://www.engage.it/media-industry/tosinvest-angelucci-vende-il-100-di-gruppo-corriere-a-polimedia.aspx>
- [26] On a very important note, 2023 has seen the buyout of Il Giornale (previously owned by Paolo Berlusconi, Silvio's brother) by the same Angeluccis, de facto creating a center-right pole of newspapers (Il Giornale, Libero and Il Tempo). See: [https://www.repubblica.it/politica/2023/04/28/news/angelucci\\_berlusconi\\_accordo\\_giornale-398011154/](https://www.repubblica.it/politica/2023/04/28/news/angelucci_berlusconi_accordo_giornale-398011154/)
- [27] Specifically, art. 6 of the contract attributes to the editor-in-chief of the newspaper the exclusive power of proposal regarding the dismissal of journalists, and it is excluded that the publisher, the general manager and the administrative director, can substitute the editor-in-chief in this regard. See: <http://www.di-elle.it/giurisprudenza/80-giornalisti/708-cessazione-del-rapporto>
- [28] A potential case of commercial influence over L'Espresso has to be reported, after the sale of the historical newsmagazine from the GEDI Group to the entrepreneur Danilo Iervolino - an ownership change that in itself already provoked the resignations of the former Director Marco Damilano (see in the attached sources his farewell), finally replaced by Lirio Abbate. The case is indeed related to the recent dismissal of the same Lirio Abbate, allegedly dismissed because of content disliked by some

- advertisers; see Il Post, <https://www.ilpost.it/charlie/il-licenziamento-del-direttore-dellespresso/>
- [29] see AGCOM's electoral archives: <https://www.agcom.it/elezioni-camera-dei-deputati-e-senato-della-repubblica>
- [30] With resolution 299/22/CONS, the AGCOM has released additional recommendations (in particular, Titolo VI, Art. 28 - Tutela del pluralismo sulle piattaforme di condivisione di video)
- [31] See the case of Libero, whose ultimate owner is an industrial group (medical sector), formally published by a Foundation based in Luxembourg, whose members are officially unknown. A case emerged when Libero's editor-in-chief has been punished by AGCOM for hate speech
- [32] The owner of Dolomiten, Athesia, controls several print newspapers, radio, advertising, plus other economic activities in the region). AGCOM recently authorized further mergers and acquisitions, stating that the final market share of the group would be under the threshold set by TUSMA. These thresholds, however, refer to the whole market and at national level
- [33] See il Post: [https://www.ilpost.it/2023/02/03/finanziamento-pubblico-giornali-2021/?dmc\\_cid=3683&cv\\_id=83784&dmc\\_gid=353772928&dmc\\_ch=email&dmc\\_mid=355223856&dmc\\_uid=3878333670&uc701=3878333670&utm\\_source=Iscritti&utm\\_medium=email&utm\\_campaign=Charlie&utm\\_content=Charlie%20323&id=3878333670](https://www.ilpost.it/2023/02/03/finanziamento-pubblico-giornali-2021/?dmc_cid=3683&cv_id=83784&dmc_gid=353772928&dmc_ch=email&dmc_mid=355223856&dmc_uid=3878333670&uc701=3878333670&utm_source=Iscritti&utm_medium=email&utm_campaign=Charlie&utm_content=Charlie%20323&id=3878333670); and Governo Italiano - Dipartimento per l'informazione e l'editoria: <https://www.informazioneeditoria.gov.it/it/il-sostegno-al-editoria-nei-principali-paesi-deuropa/prefazione/>
- [34] See <https://confindustriaradiotv.it/raiiverticiinaudizionealsenatosulleproposediriformadelserviziopubblico/>
- [35] Latest readable data are from 2015 for this region.
- [36] For the scope of the current assessment, it is worth highlighting that the consistent flow of refugees from Ukraine to Italy originated a sharp increase of the presence of migrants having voice in the news, which jumped to 20% (from 6-7%), in all the television programs and particularly on PSM (Carta di Roma, 2022); something that, however, it is not enough to decrease the risk in this context.

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## ANNEXE I. COUNTRY TEAM

| First name     | Last name       | Position                             | Institution  | MPM2023 CT Leader |
|----------------|-----------------|--------------------------------------|--|-------------------|
| <i>Roberta</i> | <i>Carlini</i>  | <i>Assistant Part-time Professor</i> | <i>Centre for Media Pluralism and Freedom, European University Institute</i>       | X                 |
| <i>Matteo</i>  | <i>Trevisan</i> | <i>Research Associate</i>            | <i>Centre for Media Pluralism and Freedom, European University Institute</i>       |                   |
| <i>Elda</i>    | <i>Brogi</i>    | <i>Part-time Professor</i>           | <i>Centre for Media Pluralism and Freedom, European University Institute</i>       |                   |
| <i>Urbano</i>  | <i>Reviglio</i> | <i>Research Associate</i>            | <i>Centre for Media Pluralism and Freedom, European University Institute</i>       |                   |
| <i>Sofia</i>   | <i>Verza</i>    | <i>Research Associate</i>            | <i>Centre for Media Pluralism and Media Freedom, European University Institute</i> |                   |

## ANNEXE II. GROUP OF EXPERTS

The Group of Experts is composed of specialists with a substantial knowledge and experience in the field of media. The role of the Group of Experts was to review especially sensitive/subjective evaluations drafted by the Country Team in order to maximize the objectivity of the replies given, ensuring the accuracy of the final results.

| First name      | Last name          | Position   | Institution   |
|-----------------|--------------------|--|---|
| <i>Isabella</i> | <i>Splendore</i>   | <i>Head of Legal and International Department</i>                      | <i>Federazione italiana editori giornali (FIEG)</i>                                     |
| <i>Marina</i>   | <i>Pietrangelo</i> | <i>Researcher</i>  | <i>Institute of Legal Information Theory and Techniques - National Research Council</i> |
| <i>Tommaso</i>  | <i>Canetta</i>     | <i>Deputy Editor in Chief</i>  | <i>Pagella Politica</i>   |
| <i>Lorenzo</i>  | <i>Chiriatti</i>   | <i>Group General Counsel</i>   | <i>Register S.p.A.</i>  |
| <i>Elena</i>    | <i>Cappuccio</i>   | <i>Communication officer</i>   | <i>Confindustria Radio Televisioni</i>  |
| <i>Carlo</i>    | <i>Bartoli</i>     | <i>Presidente del Consiglio nazionale dell'Ordine dei giornalisti.</i> | <i>Ordine dei giornalisti</i>   |
| <i>Giorgio</i>  | <i>Greppi</i>      | <i>Director - Direzione Servizi Media</i>                              | <i>AGCOM</i>  |

**Research Project Report**

Issue -

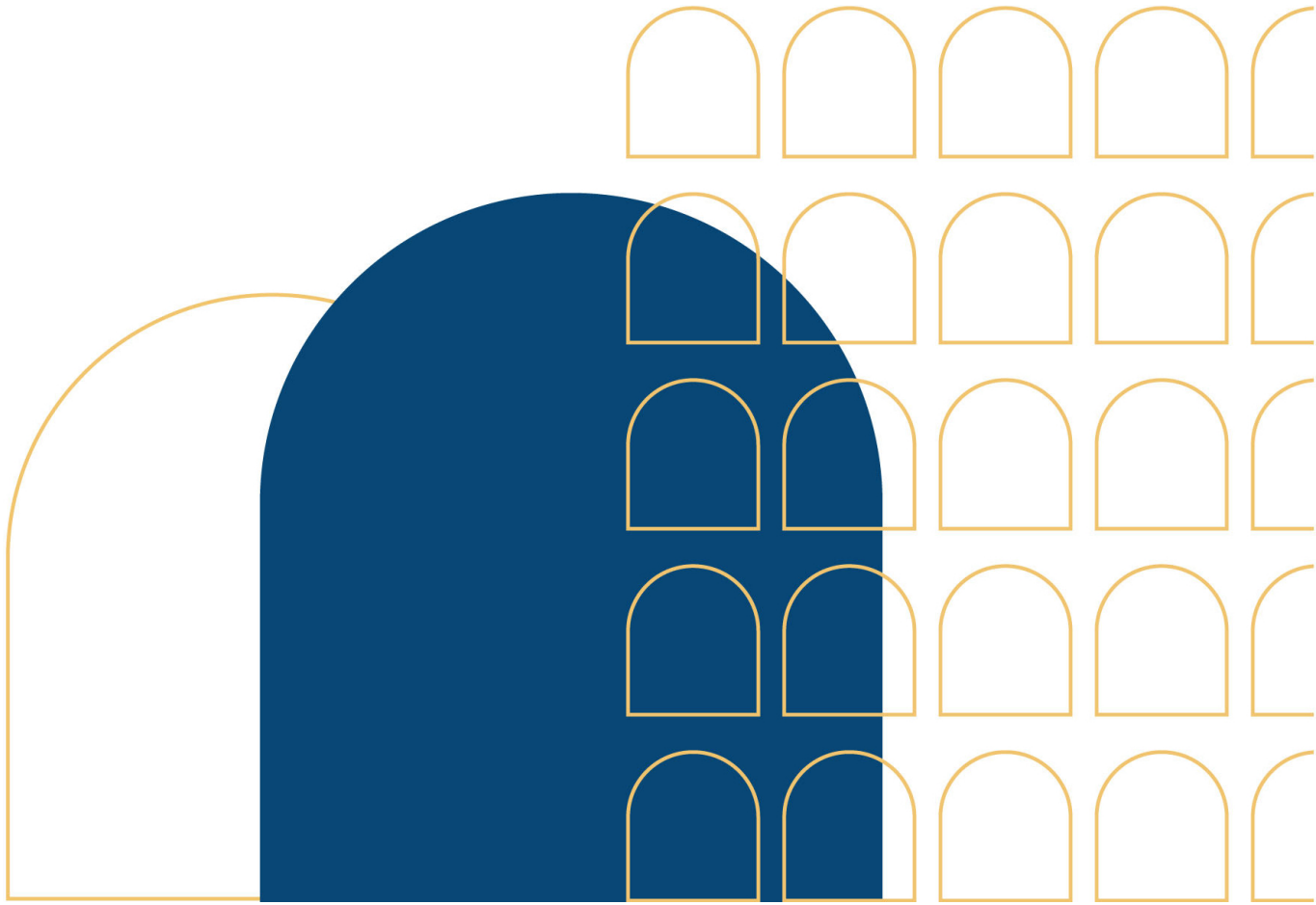
June 2023

doi:10.2870/904470

ISBN:978-92-9466-444-0

QM-04-23-668-EN-N





■ Publications Office  
of the European Union